

Investing in Ibu Kota Nusantara (IKN): Indonesia’s New Capital City

The ambitious plans made by the Government of the Republic of Indonesia (the “**Government**”) to build a new capital city in East Kalimantan is in full-swing. The new capital city, to be named *Ibu Kota Nusantara* (Nusantara Capital City or “**IKN**”) is being developed in 5 stages, aiming to begin the process of transferring selected government offices in 2024 and finally completing the city in all aspects by 2045.

5 Stages		
1.	2022-2024	Initiate transfer of selected government offices, where by 2024 IKN should be a fully functional city ecosystem.
2.	2025-2029	Strengthen Nusantara’s core areas by expanding: (i) housing, (ii) office, and (iii) commercial zones
3.	2030-2034	Develop education and health sectors and high-tech industry
4.	2035-2039	Build the infrastructure and three-city ecosystem to accelerate Kalimantan’s development
5.	2040-2045	Establish a reputation as ‘The World City for All’

To support this effort, the government has issued and released various policies to increase investment into IKN and support its development through the enactment of various laws and regulations such as:

1. Law No. 3 of 2022 on the Capital of the State (the “**IKN Law**”);
2. Presidential Regulation No. 62 of 2022 on the Nusantara Capital City Authority (the “**IKN Authority Regulation**”);
3. Government Regulation No. 12 of 2023 on the Granting of Business Licenses, Ease of Doing Business, and Investment Facilities for Business Actors in Nusantara Capital City (the “**IKN Business Regulations**”).

(Collectively, the “**IKN Regulations**”)

This Client Alert will provide a broad overview of the general legal framework enacted thus far in order to incentivize and support further investment into IKN.

IKN Priority Sectors

The Government is actively focused in developing the IKN in order to turn it into a livable, world-class city. As such, based on the official information we have received, the Government has set out a number of ‘priority sectors’, the development of which the Government has planned to focus on.

Top Priority Fields		
Energy	Transportation and Connectivity	Water Treatment
Telecommunications	Housing	Waste Management
High Priority Fields		
Township Management	Technology	Medical Facilities
Commercial Buildings	Schools and Universities	Industrial Areas

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IKN Authority and their Powers

As part of IKN Regulations, the Government has established the IKN Authority (*Otorita Ibu Kota Nusantara*) to execute the planning, development, and transfer of the Indonesian capital, and to later administer the IKN as its local government. The IKN Law has also given the IKN Authority special powers and authority compared to those of local governments in general. For example:

1. Agrarian Law: The IKN Authority has been given land titles over all state lands (*Hak Pakai* or *Hak Pengelolaan*) within the IKN Area. Additionally, they have been given the authority to enter into agreements regarding land entitlements with all other parties in regards to such lands, and to provide guarantees regarding the extension or renewal of land entitlements issued on top of such state lands. Finally, all transfers of land entitlements in the IKN Area must first receive approval from the IKN Authority.
2. Environmental Law: The IKN Authority has been given the authority to carry out function related to the protection and management of the environment within the IKN Area, including the supervision, control, and evaluation of the quality of environment in the IKN.
3. Permits and Licensing: The IKN Authority has been given the authority to issue various permits and licenses usually issued by other institutions in the country. These permits and licenses will still be issued through the Online Single Submission (OSS) System usually used throughout Indonesia, the IKN Authority has the authority to consider and evaluation applications for these licenses and permits. The IKN Authority has been given authority to issue the following licenses:
 - a. Zoning Permits (*Persetujuan Kesesuaian Kegiatan Pemanfaatan Ruang*);
 - b. Environmental Permits (*Persetujuan Lingkungan*);
 - c. Building Approvals (*Persetujuan Bangunan Gedung*);
 - d. Certificates of Occupancy (*Sertifikat Laik Fungsi*);

As well as sectoral business licenses over the following priority fields:

Priority Fields			
Marine and Fisheries	Agriculture	Forestry and the Environment	Energy and Minerals
Electricity	Industry	Trade	Public Works and Housing
Transportation	Medicine, Health, and Food	Education and Culture	Tourism
Post Office, telecommunications, broadcasting, and electronic systems and transactions	Defense and Security	Finance	Other priority fields as determined by the IKN Authority

Furthermore, in order to encourage investment in IKN, business actors do not have to confirm their tax payer status with the IKN Authority before beginning business activities in IKN.

Funding Schemes for IKN

The Government has aimed for only 20% of the costs required to develop IKN to come from the state budget, with the remaining 80% coming from outside the state budget. To encourage further investment into the IKN, the Government has issued a number of regulations setting out the funding schemes available for investing in IKN.

In order to support financing of IKN, private actors may participate through Public-Private Partnerships (“PPP”) with the Government, which may be done through the following:

1. **PPP with User Payments:** In this scheme, the return on investment will be given to investors from payments from users. In order to support bankability, the Government may provide support from the state budget, through infrastructure guarantees, support for a part of the construction, and support through viability gap funding.
2. **PPP with Availability Payments:** In this scheme, the return on investment will be through availability payments. the Government may provide support from the state budget, through infrastructure guarantees, support for a part of the construction, and support through viability gap funding.

PPP schemes will be prioritized mainly for infrastructure projects in the IKN.

Other schemes are available allowing investment from state-owned enterprises and other private organizations, from international financing organizations, as well as ‘creative financing’ schemes such as crowd funding, carbon trading, blended financing and philanthropical grants.

Furthermore, funding for IKN will also be raised from state-owned property, through:

1. **Rents:** Rents collected from the leasing of state-owned property for a particular period of time.
2. **Utilization Cooperation:** When the Government provides land for a particular use, while the construction and operation of the building or facility built on top of such land by developers shall be a form of return on investment.
3. **Build-Operate-Transfer:** Similar to the above, except with a transfer of the assets to the Government after construction period of operations.

Exclusion from Foreign Ownership Restrictions

As a general rule, certain business sectors in Indonesia may be subject to foreign ownership restrictions, as set out in the ‘Positive Investment List’ under Presidential Regulation No. 10 of 2021 on Investment Business Fields as amended by Presidential Regulation No. 49 of 2021, as well as various other regulations. However, under GR 12/2023, certain business fields in the IKN may be excluded from foreign ownership restrictions that generally apply in Indonesia.

While it is not yet known which business fields will specifically be excluded from foreign ownership restrictions, the exclusion should allow greater access for foreign investors into the Indonesian market through IKN. Further implementing regulations regarding this will likely be promulgated in the near future.

Special Land Entitlements

The IKN Business Regulation also allows longer terms for land entitlements in the IKN as compared to the terms generally applicable in Indonesia when investing as set out in Law No. 25 of 2007 on Investment as amended by Presidential Regulation in Lieu of Law No. 2 of 2022 and Constitutional Court Decision No. 21-22/PUU-V/2007 (“**Investment Law**”).

Under the IKN Business Regulations, businesses may obtain land titles in the form of a Right to Cultivate (*Hak Guna Usaha* or “**HGU**”), Right to Build (*Hak Guna Bangunan* or “**HGB**”), or a Right to Use (*Hak Pakai* or “**HP**”) on top of the lands the IKN Authority possesses in the form of a Right to Manage (*Hak Pengelolaan* or “**HPL**”). The terms provided for under the IKN Business Regulation is as follows:

Type of Land Entitlements	General Terms under Investment Law	Term In IKN	
		First Term	Second Term
HGU on top of HPL	60 years, which may be renewed for 35 years.	One cycle, which consists of <ol style="list-style-type: none"> 1. The granting of the right for 35 years 2. Extended for 25 years 3. Renewed for 35 years. (95 years total)	Land owners entitled to apply for one additional cycle.
HGB on top of HPL	50 years which may be renewed for 20 years.	One cycle, which consists of <ol style="list-style-type: none"> 1. The granting of the right for 30 years 2. Extended for 20 years 3. renewed for 30 years. (80 years total)	Land owners allowed for one additional cycle, if agreed between land owner and IKN Authority.
HP on top of HPL	45 years which may be renewed for 25 years.	One cycle, which consists of <ol style="list-style-type: none"> 1. The granting of the right for 30 years 2. Extended for 20 years 3. renewed for 30 years. (80 years total)	Land owners entitled for one additional cycle, if agreed between land owner and IKN Authority.

Furthermore, under the IKN Regulations, the granting and transfer of these land titles is subject to a 0% Acquisition of Land and Building Duty (*Bea Perolehan Hak atas Tanah dan Bangunan* or “**BPHTB**”) for a period of time which shall later be decided by the Head of the IKN Authority.

Use of Foreign Workers (*Tenaga Kerja Asing*)

The IKN Business Regulation has also relaxed the requirements for the use for foreign workers based in IKN compared with the generally applicable regulations regarding foreign workers in Indonesia.

In general, foreign workers may only be employed pursuant to a Use of Foreign Workers Plan (*Rencana Penggunaan Tenaga Kerja Asing* or “**RPTKA**”) which has to then be approved by the Ministry of Manpower, usually for a period of 2 years, which may be extended. However, under the IKN Business Regulations, approvals of RPTKA’s for foreign workers in IKN may be made for 10 year periods, which may also be extended. As such, foreign workers in IKN may also secure residency permits for a maximum period of 10 years, which may be extended in accordance with the validity periods of the relevant employment agreement for the foreign worker. The residency permits of any foreign shareholders also holding position in a company’s management may also be granted for as long as that person holds such a position.

Finally, in contrast with the rest of Indonesia, business actors operating within IKN, including those that are engaging in strategic project work for the government within the IKN, are exempted from the

obligation to pay into compensation funds for the use of foreign workers for a certain period, to be further decided in implementing regulations.

These provisions will make employing foreign workers in IKN easier, as the IKN Business Regulations simplifies the process for employing foreign workers as well as reduces the amount business must pay in order to employ such workers.

Tax Incentives and Facilities

The IKN Business Regulation has also provided for various tax incentives and facilities for Businesses in the IKN, as follows:

Types	Tax Incentives	Period of Time
Income Tax (<i>Pajak Penghasilan</i>)	Corporate domestic taxpayers investing at least IDR 10,000,000,000 into IKN in the following business fields: a. infrastructure and general services; b. economic developments; and c. certain other business fields may enjoy a 100% reduction in corporate income tax owed.	10 – 30 years depending on the business field and question and when the investment is made.
	Corporate domestic taxpayers investing at least IDR 10,000,000,000 into IKN 'partner areas' in infrastructure and general services may enjoy a 100% reduction in corporate income tax owed.	15 – 25 years depending on when the investment is made.
	Corporate domestic taxpayers in the financial services sector conducting business in the IKN Financial Center may enjoy and 85% - 100% reduction in corporate income tax depending on the business, source of income, and the use of the income.	20-25 years depending on the business, source of income, and the use of the income.
	Foreign tax subjects may enjoy exemption from income tax on income generated from investments into the IKN Financial Center.	10 years from the time the investment is made.
	Foreign tax subjects that establish or transfers a central office or regional office to the IKN fulfilling the following conditions: a. possesses 2 affiliates outside of Indonesia b. maintains an economic presence in IKN; and c. establishes an Indonesian-incorporated legal entity may enjoy a 100% reduction in corporate income tax owed for the first 10 years, and a 50% reduction for the next 10 years.	20 years in total, and in any event not beyond 2045.
	Domestic tax payers that establish a central office or regional office in the IKN fulfilling the following conditions: a. maintains an economic presence in IKN; and b. establishes an Indonesian-incorporated legal entity may enjoy a 100% reduction in corporate income tax owed from income generated in the IKN for the first 10 years, and a 50% reduction for the next 10 years.	20 years in total, and in any event not beyond 2045.

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	Domestic corporate tax payers carrying out or joining certain human resources development activities (i.e. job training, education, internships) in the IKN may deduct up to 250% of any such expenses.	Until 2035.
	Domestic corporate taxpayers based on or doing business in the IKN carrying out certain research and development activities may deduct up to 350% of such expenses.	Until 2035.
	Domestic taxpayers giving charitable or non-profit donations in public, social and other facilities in the IKN may deduct up to 200% of such expenses.	Until 2035.
	Personal income tax (Article 21 Income Tax) on income earned or obtained by employees: a. receiving or obtaining income from certain employers; b. lives in IKN; and c. possesses a Tax Identification Number (<i>Nomor Pokok Wajib Pajak</i> or “ NPWP ”) registered in a tax office in IKN. that generally must be withheld by employers will now be borne by the Government.	Until 2035.
	Micro, Small, and Medium Businesses fulfilling certain conditions investing less than 10.000.000.000 in IKN may enjoy a 0% income tax.	Until 2035.
	Taxpayers transferring a land title in the IKN may enjoy a 100% reduction of income tax due on income generated from such transfers of land titles.	Until 2035
Value Added Tax (“ VAT ”) (<i>Pajak Penambahan Nilai</i>)	VAT will not be collected on: a. ‘strategic’ goods and services; and b. The import of ‘strategic’ goods.	Until 2035
Luxury Goods & Sales Tax (<i>Pajak Penjualan Barang Mewah</i>)	Luxury Goods & Sales Tax will be exempted for the sale of luxury houses to other persons, entities, or institutions that are based on, posted to, or doing business in IKN.	Until 2035
Customs (<i>Kepabean</i>)	Import duty will be exempted for: a. capital goods imported for the development of industry in IKN and partner areas; and b. goods and materials for the development of industry in IKN and partner areas. For the following industries: a. electrical power plants, including renewable energies; b. toll roads; c. seaports; d. airports; and e. clean water.	2-4 years depending on various factors.
	Import duty will be exempted for goods imported by the central or regional governments for the public interest in IKN or partner areas.	N/A
Special Tax and Revenue Facilities	The IKN Authority may provide: a. incentives in the form of reduction, relief, or exemption for IKN special taxes;	N/A

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	<p>b. incentives in the form of reduction, relief, and exemption from special revenue of IKN in accordance with the priorities as set by the IKN Authority.</p>	
	<p>The IKN Authority may provide facilities, land, and infrastructure for investment into IKN through:</p> <ul style="list-style-type: none"> a. providing land or locations for businesses; b. providing infrastructure; c. providing security for investment; and d. providing ease of access to labor. <p>in accordance with the priorities as set by the IKN Authority.</p>	N/A

Conclusion

The IKN Regulations provide for a favorable investment climate for investors interested in investing in IKN. Investors may enjoy relaxed requirements for the foreign ownership, licensing and permits, use of foreign workers, and also various tax incentives and facilities. Further details regarding these relaxed requirements and incentives will depend on the further implementing regulations to be issued, especially by the recently created IKN Authority. In any event, the IKN Regulations promises to increase investment and development in IKN, which interested actors may take note of.

This client brief is not intended to serve as and should not be relied on as legal advice or as a substitute for legal advice in individual cases. If you have any questions or concerns about any of the above issues, or wish to procure advice and assistance regarding investment into IKN or related matters, please reach out to Yohanes Masengi at yohanes.masengi@lawghp.com or Raushan Aljufri at raushan.aljufri@lawghp.com to obtain specific advice.

About Our Firm



Since the firm started in 2016, GHP law firm has been focused on building one of the only few truly full-service law firms in Indonesia, providing the utmost personalized and quality service across industries and sectors. Our clients include well-known SMEs, MNCs, corporates and high-profile individuals.

Our vision is to establish ourselves as the leading full-service law firm, renowned globally for delivering exceptional outcomes and defining the future of the legal industry. Our mission is to offer comprehensive and customized legal solutions to our clients, surpassing their expectations through a dedication to excellence, integrity, and innovation. Our goal is to be a trusted advisor for our clients, providing them with the highest quality legal services and navigating complex legal challenges with a focus on delivering results that meet their unique needs and goals. We believe that our commitment to excellence, integrity, and innovation is the cornerstone of our success, and we will continue to invest in these values to ensure that we remain at the forefront of the legal industry.

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Yohanes Masengi is a Partner in the Mega Project & SOE, Projects and Infrastructure, and Corporate and Commercial group with extensive experience in investment, infrastructure, power projects, ports, mergers and acquisitions, joint ventures, employment and corporate restructuring.

He has represented prominent companies in a variety of proceedings and transactions, including merger and acquisitions, land acquisitions, project financing, and natural resources and energy. These include, among others, representing independent power producers in the development of various large-scale power projects in Indonesia, representing the employer in the settlement of labor disputes and mass terminations due to redundancy and closure involving more than 300 employees on one occasion, representing a state owned enterprise related to Arbitration in the Badan Arbitrase Nasional Indonesia (BANI) in a dispute over a construction insurance claim with one of the local insurance companies, providing legal assistance in the renegotiation of concessions and contracts with state owned enterprises, providing legal assistance in the acquisition of land with an area of approximately 85 hectares for infrastructure projects, providing legal assistance in various joint ventures and the establishment of companies in Indonesia, and advising on various matters related to their concession and business activities.



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Raushan earned his Bachelor of Laws from Universitas Indonesia, specializing in Private International Law. While at university, Raushan was active in various international competitions, having represented Universitas Indonesia at the 2018 The European International Model United Nations held in the Hague as well as in the 2021 International Criminal Court Moot Court Competition, also held in the Hague.