

Ibu Kota Nusantara: General Overview on IKN Public – Private Partnership and Business Opportunities

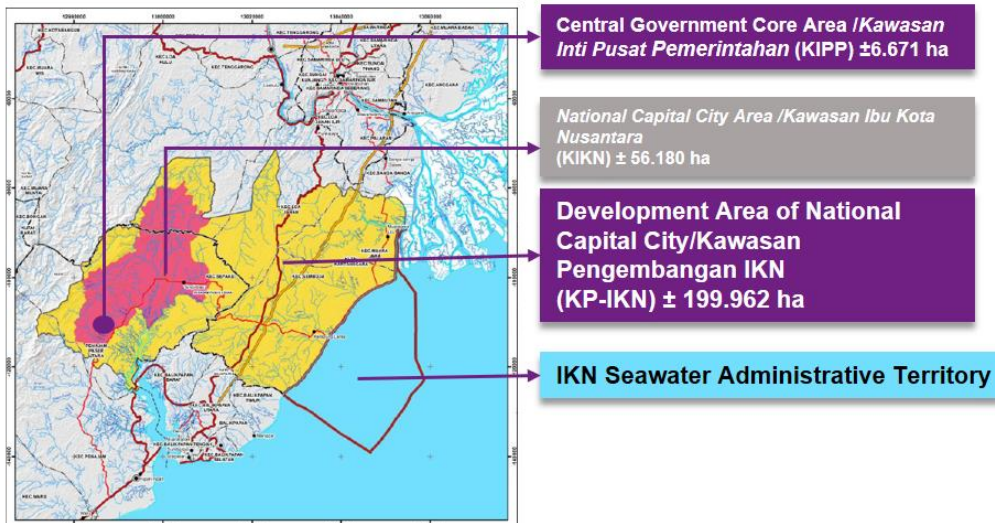
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Introduction to Nusantara Capital City

Upon the promulgation of Law 3/2022, Nusantara Capital City ("IKN") officially became the Capital of the Republic of Indonesia, and the IKN Authority ("OIKN") was established as a ministry-level organization that has the authority to exercise State Capital Regional Governance although DKI Jakarta's authority as a Special Capital Region will remain until the President issues a Presidential Decree that officializes the transition from DKI Jakarta to IKN.

IKN Administrative Territory



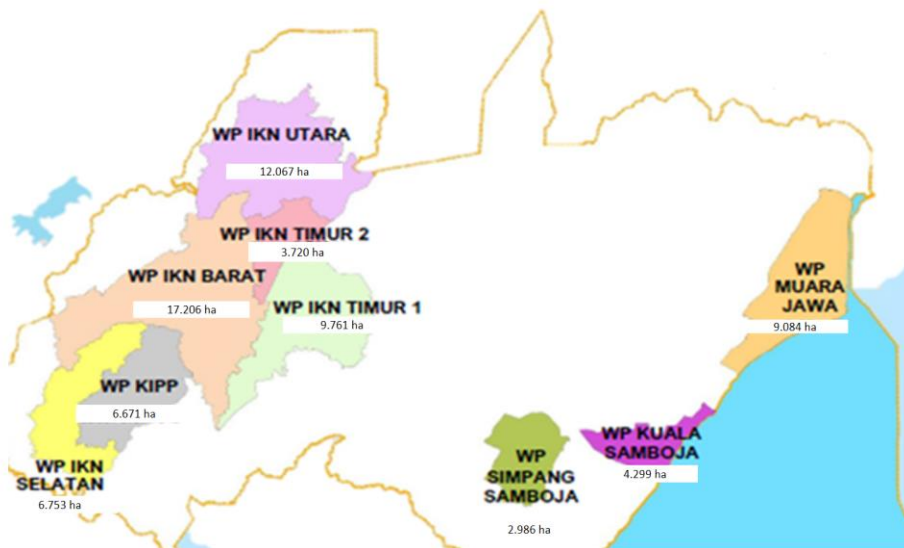
Source: Delineation Map of IKN as issued in the Appendix of Law 3/2022 & Appendix to the Head of OIKN Circular Letter: 01/SE/Head of IKN Authority/X/2022 on the Promulgation of One Map, One Planning, One Policy (1 MPP)

In accordance with Law 3/2022 and Presidential Regulation 63/2022, IKN has a total area of 324.332 hectares, including 256.143 hectares of land and 68.189 hectares of sea. The IKN land area is divided into the Nusantara Capital Development Area ("KPIKN") comprising 199.962 hectares, the Nusantara Capital Area ("KIKN") comprising 56.180 hectares, and the Central Government Core Area ("KIPP") comprising 6.670 hectares. As a region, it shares the following borders with other regions:

- **Northern Border:** Loa Kulu Subdistrict, Loa Janan Subdistrict, and Sanga-Sanga Subdistrict, and Kutai Kartanegara Regency;
- **Southern Border:** Penajam Subdistrict, Northern Penajam Paser Regency, Bay of Balikpapan, Western Balikpapan Subdistrict, Northern Balikpapan Regency, and Eastern Balikpapan Subdistrict, Balikpapan City;
- **Eastern Border:** Makassar Strait; and
- **Western Border:** Loa Kulu Subdistrict, Kutai Kartanegara Regency and Sepaku Subdistrict, Penajam Paser Utara Regency.

Furthermore, Presidential Regulation 62/2022 distributes the IKN planning area as follows in relation to the development of the IKN:

IKN PLANNING AREA (WILAYAH PERENCANAAN/WP)



Source: Presidential Regulation 64/2022 & Appendix to the Head of OIKN Circular Letter: 01/SE/Head of IKN Authority/X/2022 on the Promulgation of One Map, One Planning, One Policy (1 MPP)

Based on the above map, Presidential Regulation 64/2022 outlines the following development plans for each WP:

IKN AREA DEVELOPMENT PLAN

Planning Area	Development Plan
WP KIPP	National Government Center (state palace, ministry office, diplomatic compound, etc.)
	Defense and Security
	Housing
WP IKN Selatan	Renewable Energy
	Rural Settlement
	Defense and Security
WP IKN Barat	Economic, business and financial center
	Nature tourism
	Health services
	Higher education services
	Defense and Security
WP IKN Timur 1	Entertainment center (International Amusement Park), Sports Center
	Tourism
	Trade & Services
	Higher education services
	Defense and Security
WP IKN Timur 2	Higher education services
	Research & innovation center
	Trade & Services
	Office Center
	Health services
WP IKN Utara	Research & innovation center
	Higher education services
	Office Center
	Tourism

Planning Area	Development Plan
WP IKN Simpang Samboja	Regional commodity distribution & trading center
	Housing
WP Kuala Samboja	Center for agro-industry and food industry
	Housing
WP Muara Jawa	Public service center
	Agriculture & fisheries-based activity centers
	Housing

Source: Presidential Regulation 64/2022 & Appendix to the Head of OIKN Circular Letter: 01/SE/Head of IKN Authority/X/2022 on the Promulgation of One Map, One Planning, One Policy (1 MPP)

Land Status and Transfer of Land Rights

Land ownership and rights are one of the most essential factors to consider when making an investment. In this regard, the Indonesian government has issued Presidential Regulation 65/2022, which regulates the acquisition and administration of land in IKN. In accordance with Presidential Regulation 65/2022, the acquisition of land in IKN is carried out through the mechanism of releasing forest areas and/or land acquisition, which is implemented in accordance with statutory regulations. Land acquired in IKN through the releasing of forest areas and/or land acquisition is designated as state-owned assets ("*Barang Milik Negara/BMN*") and/or assets under authority possession ("*Aset Dalam Penguasaan/ADP*").

Land in IKN that is designated as BMN is land related to government administration and the Right of Use is granted to OIKN and/or ministries or institutions for an indefinite period of time and according to its designation.

Meanwhile, for land in IKN that is designated as ADP, the Right to Manage ("*Hak Pengelolaan/HPL*") is given to OIKN, whereby OIKN, as the holder of HPL, is granted the authority, including authority regarding the use and utilization of all or part of the HPL land for its own use or in collaboration with other parties. HPL where the use and utilization of all or part of the land is subject to cooperation with other parties can be attached to Land Rights in the form of Right to Cultivate ("*Hak Guna Usaha/HGU*"), Right to Build ("*Hak Guna Bangunan/HGB*"), or Right of Use ("*Hak Pakai/HP*") on HPL based on land utilization agreements in accordance with statutory provisions. In light of the preceding, GR 12/2023 contains the following provisions regarding the granting of Land Rights on OIKN's HPL:

GENERAL PROVISIONS REGARDING THE GRANT OF LAND RIGHTS IN IKN

LAND RIGHTS	DESCRIPTION	PERIOD	OTHER PROVISIONS
HGU	the right to cultivate land directly controlled by the State, for agricultural, fishery, or livestock enterprises	<p>A maximum of 95 years through the first cycle with stages:</p> <p>a) Granting of rights, for a maximum of 35 years;</p> <p>b) Extension of rights for a maximum of 25 years; and</p> <p>c) Renewal of rights for a maximum of 35 years</p> <p>Within the 10 years prior to the end of the first HGU cycle, business actors may apply for the HGU to be re-granted for a second cycle, with a maximum period of 95 years.</p>	<ul style="list-style-type: none"> The granting of Land Rights in the form of HGU is subject to Duty on the Acquisition of Land and Building Rights (<i>Bea Peralihan Hak atas tanah dan Bangunan/BPHTB</i>) at a rate of 0% (zero per cent) of the acquisition value for a certain period of time that will be further provided for in an OIKN regulation. Land Rights in the form of HGU can be transferred, inherited, or encumbered with mortgage rights after obtaining approval from OIKN. Parties who obtain the transfer of land rights referred to above must pay BPHTB at a rate of 0% (zero per cent) for a certain period of time that will be further provided for in an OIKN regulation.

LAND RIGHTS	DESCRIPTION	PERIOD	OTHER PROVISIONS
HGB	the right to construct a building on land without ownership of the land	<p>A maximum of 80 years through the first cycle with stages:</p> <ol style="list-style-type: none"> Granting of rights for a maximum of 30 years; Extension of rights for a maximum of 20 years; and Renewal of rights for a maximum of 30 years <p>In the event that the period for HGB granted for the first cycle expires, the HGB may be granted again for a second cycle if it is agreed upon.</p>	<ul style="list-style-type: none"> The granting of Land Rights in the form of HGB is subject to BPHTB at a rate of 0% (zero per cent) of the acquisition value for a certain period of time that will be further provided for in an OIKN regulation. Land Rights in the form of HGB can be transferred, inherited, or encumbered with mortgage rights after obtaining approval from OIKN. Parties who obtain the transfer of land rights referred to above must pay BPHTB at a rate of 0% (zero per cent) for a certain period of time that will be further provided for in an OIKN regulation. In the event that the HGB land is built on in the form of a residential property and a transfer is made to the public, the following provisions apply: <ol style="list-style-type: none"> For a landed house, the HGB may be upgraded to right of ownership; or For vertical housing, the right of ownership for the vertical housing unit is granted, <p>after obtaining approval from OIKN</p>
HP	-	<p>A maximum of 80 years through the first cycle with stages:</p> <ol style="list-style-type: none"> Granting of rights for a maximum of 30 years; Extension of rights for a maximum of 20 years; and Renewal of rights for a maximum of 30 years <p>In the event that the period for HP granted for the first cycle expires, the HP may be granted again for a second cycle if it is agreed.</p>	<ul style="list-style-type: none"> The granting of Land Rights in the form of HP is subject to BPHTB at a rate of 0% (zero per cent) of the acquisition value for a certain period of time that will be further provided for in an OIKN regulation. Land Rights in the form of HP can be transferred, inherited, or encumbered with mortgage rights after obtaining approval from OIKN. Parties who obtain the transfer of land rights referred to above must pay BPHTB at a rate of 0% (zero per cent) for a certain period of time that will be further provided for in an OIKN regulation.

In addition, Presidential Regulation 65/2022 provides that, in order to control the transfer of land rights in IKN, OIKN has the right to be given priority in the purchase of land in IKN, and that any transfer of land through sale and purchase must be approved by the head of OIKN.

In connection with the above, the Governor of East Kalimantan has issued Decree of the Governor of East Kalimantan Number 590/K.771/2022 dated November 10, 2022, concerning the Determination of the Location of Land Acquisition for Infrastructure Development of the National Capital City Phase 1 in Sepaku Sub-district, North Penajam Paser Regency, East Kalimantan Province, with an area of approximately 345.81 hectares, which is divided into Bukit Raya Village and Bumi Harapan Village.

IKN PUBLIC-PRIVATE PARTNERSHIP

Article 3 of GR 17/2022 provides that funding for the preparation, development, and relocation of the National Capital City and the Implementation of Special Regional Government of the IKN may come from: (i) the State Budget ("**APBN**"); and/or (ii) other legal sources in accordance with the provisions of applicable laws and regulations. The above-mentioned funding scheme derived from the APBN and other legal sources comprises:

- Funding schemes derived from:
 - BMN utilization and/or ADP utilization;
 - Use of PPP or IKN PPP schemes; and
 - Participation of other parties, including the assignment of business entities whose shares are partially or wholly owned by the state, strengthening the role of state-owned legal entities, and creative financing.

a. Funding schemes other than those referred to above.

In relation to the above, OIKN as a Government Contracting Agency (“GCA”) may enter into cooperation with business entities for the provision of infrastructure, which can be carried out through: (i) a PPP scheme in accordance with the provisions of laws and regulations; or (ii) an IKN PPP based on the provisions and procedures stipulated in GR 17/2022.

PPP IKN is implemented in the following stages:

- a) Planning;
- b) Preparation;
- c) Transaction; and
- d) Implementation of the Cooperation Agreement.

The Government of the Republic of Indonesia has issued laws and regulations as derivatives of GR 17/2022 in order to implement the PPP IKN scheme, this includes Bappenas Regulation 6/2022, Ministry of Finance Regulation 220/2022, and National Procurement Agency Regulation 1/2023. The implementation of the IKN PPP scheme deviates from conventional PPP in numerous key aspects, including the following:

KEY DIFFERENCES OF IKN PPP AND CONVENTIONAL PPP

Aspect	IKN PPP	Conventional PPP
Government Contracting Agency	<ul style="list-style-type: none"> Minister/ Head of State Institutions/ Head of Regional Government; President Director of State/ Regional Owned Enterprises; or Head of Nusantara State Capital Authority, <p>According to their respective functions</p>	<ul style="list-style-type: none"> Minister/ Head of State Institutions/ Head of Regional Government; or President Director of State/ Regional Owned Enterprises <p>subject to provision within sectoral regulation.</p>
Scope of Infrastructure available to be financed	Based on IKN Masterplan and Details of IKN Masterplan (Law 3/2022 and PR 63/2022)	Limited to sectors based on Bappenas Regulation 4/2015 in conjunction with Bappenas Regulation 2/2020
Return on Investment Scheme	<ul style="list-style-type: none"> Availability Payment User Charge Other form of return on investment unrelated to services provided. <p>IKN PPP allows a combination of AP with other forms of return on investment scheme and government support (e.g., AP + VGF or AP + Tariff)</p>	<ul style="list-style-type: none"> Availability Payment User Charge Other form of return on investment.
Implementation timeline	Procedures conducted in a short timeline, e.g., financial close must be achieved at least 4 months (with extension of 2 months) after the PPP agreement signed.	In comparison, financial close in Conventional PPP must be achieved at least 12 months (with extension of 6 months) after the PPP agreement signed.
Government Guarantee	<ul style="list-style-type: none"> The guarantee is carried out by the Minister of Finance together with the Infrastructure Guarantee Business Entity. The determination of the guarantee method, guarantee needs, and guarantee value will be carried out through the IKN Government Support Determination Meeting. 	The provision of guarantees is provided in accordance with the GCA's proposal and is carried out separately from the submission of other required support.
Viability Gap Funds (“VGF”)	There are simplifications in the provision of VGF, including through: <ol style="list-style-type: none"> a) Amount Approval; and b) VGF Letter. 	Proposal for VGF is carried out through several stages, including: <ol style="list-style-type: none"> a) Principle Approval; b) Amount Approval; c) Final Approval; and d) VGF Letter
Procurement of the Implementing Business Entity	<p>Solicited: May be implemented through a one-stage tender, two-stage tender, or Merger of Prequalification and Tender process.</p> <p>Unsolicited: May be implemented through a one-stage tender, Merger of Prequalification and Tender process, Swiss Challenge, or Direct Appointment schemes.</p>	May be implemented through a prequalification mechanism followed by a one-stage tender, two-stage tender, or a direct appointment.

NUSANTARA CAPITAL CITY BUSINESS OPPORTUNITIES

The IKN Master Plan provides that the stages of the process take into account the development goals and all necessary processes, including the readiness of the location and resources required for IKN development. In general, the population increase in IKN is centered in KIKN. According to the IKN timeline, the IKN development period started in 2022, and in the long-term IKN planning period, it is projected until 2045. The development is divided into five stages, as follows:

- a) Stage 1 (2022 – 2024);
- b) Stage 2 (2025 – 2029);
- c) Stage 3 (2030 – 2034);
- d) Stage 4 (2035 – 2039); and
- e) Stage 5 (2040 – 2045).

The details of the IKN Master Plan outline that Stage 1 of the development of the IKN in 2022–2024 is the initial stage of the development and relocation of the national capital. In the first stage, the transfer of ASN, TNI, and police will begin in the IKN. The relocation of the representation of the executive, legislative, and judiciary, as well as ASN and TNI/Polri will be carried out in 2024. In Stage 1, government offices, ASN, TNI, and police housing will be built, along with all environmental infrastructure, public facilities, and social facilities. Facilities and infrastructure for accommodation, food, and beverages will also be prepared for construction workers, as will defense and security elements for site security. Development in the IKN in Stage 1 is focused on KIPP with the main infrastructure and transportation routes still under construction and targeted to be utilized in 2024 when ASN starts moving to the IKN.

In relation to investment potential opportunities, the detailed IKN Master Plan outlines several infrastructure development plans that can be carried out with the IKN PPP scheme, including the following:

PPP IKN PROJECT OPPORTUNITY

Sectors	Description	Location	Indicated implementation Year
Government Offices and Housing	Several government offices (including vertical and landed housing) is open to be funded through PPP scheme.	KIPP – WP 1A, WP 2, WP 4, and WP 5	2024
Health Infrastructure	<ul style="list-style-type: none"> • International standard hospital; • Laboratory with Bio Safety Level of 3 and could be upgraded to 4; • Improvement of existing health care facilities. 	KIPP and KIKN	2023 & 2024
Electricity	Development of electricity infrastructure including but not limited to solar panels, solar farm, energy reserve and storage, gas insulated substation, distribution and transmission unit	KIPP, KIKN, and KPIKN	2024
Waste Treatment	Waste treatment infrastructure for, including but not limited to, household waste, industrial waste, hazardous waste, and waste to energy.	Integrated Waste Management Sites for KIPP service areas	2024
Domestic Water Waste Treatment	Subject to further development of IKN.	KIPP	2024
Drinking Water System	drinking water treatment plant and distribution unit	Outside KIPP (near the Sepaku River intake)	2024
Roads	Partial development of roads within KIPP and toll roads to connect KIPP with supporting cities.	KIPP	2024

If a business entity wishes to become the initiator in the aforementioned initiatives, it may submit an Expression of Interest in accordance with the stages outlined in Bappenas Regulation 6/2022. In order to provide adequate information to all potential investors planning to invest in IKN, OIKN has issued Head of OIKN Circular Letter Number 02/SE/Head of IKN Authority/XI/2022, which outlines interim guidelines for the transmission of information to prospective investors.

Additionally, in order to provide certainty for the implementation of IKN and provide confidence in the investment potential of business actors in IKN, the Government of the Republic of Indonesia has included a Bill on the Amendment of Law 3/2022 in the Priority National Legislation Program. On the basis of publicly available information, the Bill on the Amendment of Law 3/2022 will regulate the OIKN special authority, structure of government, land and transfer of land rights, and certainty of IKN development.

Key Takeaways

1. GR 17/2022 has provided opportunities for business entities to invest in IKN projects, one of which can be done with the IKN PPP scheme.
2. OIKN has the right to be given priority in the purchase of land in IKN, and any transfer of land through sale and purchase must be approved by the head of OIKN; however, by cooperating with the OIKN/Ministry/Institution that possesses the BMN and/or ADP (as applicable), the current regulation enables business actors to utilize land that is either BMN or ADP.
3. The government has issued a set of regulations governing the procedures for implementing IKN PPP, by which arrangements, the government of the Republic of Indonesia has provided special features that differ from conventional PPP arrangements, including those related to PPP procedures in general, the form of return on investment of business entities, and forms of government support and application procedures, which are expected to provide added value for potential investors to invest in IKN through the IKN PPP scheme.
4. The IKN Master Plan and Details of the IKN Master Plan outline the types of infrastructure projects that are eligible for cooperation under the IKN PPP scheme, particularly in Stage I (2022–2024), and if a business entity is interested in becoming an IKN PPP project initiator, it may apply to become a project initiator in accordance with the stages outlined in Bappenas Regulation 6/2022.

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The article above was prepared by Dentons HPRP's lawyers

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