

Navigating Reopening Opportunities in Reclaimed Mining Areas: Legal Insights and Pathways for Business in Indonesia

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In Indonesia, holders of a Mining Business License (*Izin Usaha Pertambangan* or “IUP”) or Special Mining Business License (*Izin Usaha Pertambangan Khusus* or “IUPK”) (“Mining License Holders”) are required to manage and restore any environmental damage or pollution during mining operations, as outlined in Minister of Energy and Mineral Resources (“MEMR”) Regulation Number 26 of 2018 on the Implementation of Good Mining Principles and the Supervision of Minerals and Coal Mining. A key part of this responsibility is reclamation. This means restoring and improving the land and environment that was affected by mining, bringing it back to its original state or making it usable for its intended functions. IUP and IUPK holders must follow strict environmental rules, which include submitting reclamation reports and proof a reclamation guarantee has been obtained. Additionally, Government Regulation Number 78 of 2010 on Reclamation and Post-Mining requires IUP and IUPK holders to hand over the reclaimed land to the relevant government authorities.

The issuance of Minister of Energy and Mineral Resources Decree Number 111.K/MB.01/MEM.B/2024 on Guidelines for Application, Evaluation, and Approval of Reopening of Reclaimed Areas in Mineral and Coal Mining Business Activities (“MEMR Decree 111/2024”) now permits IUP and IUPK holders to reopen previously reclaimed areas under specific conditions. This article covers the regulatory framework under MEMR Decree 111/2024 regarding the reopening of reclaimed areas in the mineral and coal mining sectors, offering insights for business actors interested in exploring these opportunities.

Provision of Replacement Land

Once Mining License Holders complete the mandatory reclamation of a mined area (“Reclaimed Area”), they may reopen it for further mining activities. However, they must meet specific requirements before doing so.

The key requirement is preparing replacement land that is at least three times the size of the Reclaimed Area. This process involves two main steps:

1. Preparation of Replacement Land: The replacement land must be three times the size of the Reclaimed Area and include:

- a. an area equal to one times the Reclaimed Area within the IUP/IUPK area. The reclamation plan for this replacement land must either be added to or amend the existing reclamation plan for the production operation stage; and
- b. an additional area equal to two times the Reclaimed Area outside the IUP/IUPK area. This land will be used for reclamation activities such as re-vegetation and/or land rehabilitation, which must be coordinated with the relevant government authorities.

2. Alternative Replacement Land Requirements: If the required land one times area of Reclaimed Area within the IUP/IUPK area is unavailable, the replacement land requirement equal to three times the Reclaimed Area must be provided outside the IUP/IUPK area. This reclamation must involve re-vegetation and/or land rehabilitation in coordination with the relevant authorities.

Provision for the Reopening Plan for Reclaimed Area

In consideration of the above requirements, the mining license holder must develop a comprehensive and detailed reopening plan to proceed with the reopening of the Reclaimed Area. This plan must address several key elements to ensure that the reopening is conducted in compliance with regulatory standards, environmental sustainability, and safety protocols, which include:

- 1. Background**

This section should explain the conditions that warrant the reopening of reclaimed areas, which may relate to issues such as mining safety, environmental protection, compliance with obligations, or the optimization of mineral and coal resources. Additionally, it must outline the urgency of reopening the area, analyzing the implications if reopening is not pursued and whether alternative solutions exist. It should also justify the selection of specific reclaimed areas for reopening and prioritize them if multiple areas are involved.
- 2. Reclamation Area Reopening Plan**

Details about the location, size, reclamation year, and status of the reclaimed area to be reopened must be provided. This includes data on the current condition of the reclamation, such as vegetation, planting distances, and reclamation success evaluations. A technical review of the proposed reopening plan should also be included, along with a detailed timeline for its execution.
- 3. Operational Plan**

If approval is granted, this section should outline the intended use of the reopened area, such as mining, stockpiling, or construction. It should provide technical studies, including geotechnical and hydrological assessments, as well as a schedule for utilization.
- 4. Re-reclamation Plan**

This part must describe the area to be re-reclaimed each year, covering land use, re-vegetation, and maintenance activities. A cost estimation for the re-reclamation process is also required.
- 5. Replacement Land Plan**

The replacement land program must specify the location, size, and timeline for reclamation. If the replacement land is outside the IUP/IUPK area, it must be supported by letters from relevant authorities and accompanied by maps and a commitment to carry out re-vegetation or land rehabilitation.

- 6. Environmental Economic Valuation**

Calculation of environmental benefits like erosion control, oxygen production, and carbon absorption.
- 7. Economic Feasibility**

A cost-benefit analysis covering prior reclamation losses, reopening costs, re-reclamation, and replacement land expenses, as well as potential gains.
- 8. Supporting Data**

Relevant maps, drone images, and designs.

Procedures for Reclaimed Area Reopening

Submission of Application to MEMR (through Directorate General of Mineral and Coal/governor)

Include: reopening plan of reclaimed area (as elaborated above), statement related to the reopening of reclaimed area, support letter re: re-vegetation and/or rehabilitation; and commitment letter for implementing re-vegetation and/or rehabilitation of replacement land outside the IUP/IUPK area.

Evaluation and Drafting of Approval

The evaluator conducts an assessment to ensure compliance with requirements. If the application meets the criteria, the evaluator prepares a draft approval letter; otherwise, a draft rejection letter is prepared.

Evaluator prepares final draft approval letter, which includes reopening plan summary and support letter re: re-vegetation and/or rehabilitation; and commitment letter for implementing re-vegetation and/or rehabilitation of replacement land outside the IUP/IUPK area.

Issuance of Approval

The Director General of Mineral and Coal reviews and signs the final approval letter. This letter, along with the summary of the reopening plan and any supporting documentation, is then officially issued to the applicant as confirmation of approval

Conclusion

Reopening Reclaimed Areas in Indonesia might present new opportunities for mining companies, provided they navigate the process with precision and compliance. Successful applications require a detailed reopening plan, covering aspects such as replacement land commitments, environmental rehabilitation, and cost-benefit analyses to demonstrate economic feasibility. The thorough evaluation process ensures that qualified applicants who meet these regulatory standards can advance their projects while upholding environmental stewardship. This regulatory framework ultimately supports responsible expansion in the mining sector, enabling businesses to optimize resources sustainably and strengthen their operational footprint.

As the regulatory framework supports responsible growth in the mining sector, how will your business leverage these opportunities to optimize resources sustainably? Are you prepared to strengthen your operational footprint while balancing economic gains and environmental responsibilities?

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The article above was prepared by Dentons HPRP's lawyers

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