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## The Newly Issued Procedure for the Settlement of Discrepancy in Spatial Areas

To simplify the general requirements for business licensing as well as to provide certainty and convenience for business actors in spatial utilization activities, Law No. 11 of 2020 on Job Creation (the “**Omnibus Law**”) amends certain provisions of Law No. 26 of 2007 on Spatial Planning (“**Law 26/2007**”). The amendments made by the Omnibus Law to Law 26/2007 include, among others, requirements that the national spatial plan, provincial national plans and regency/municipal spatial plans are to be drawn up to complement each other and the settlement of discrepancies between the spatial patterns of spatial plans and of forest areas, permits and/or land rights and this will be governed by a government regulation.

As mandated by the Omnibus Law, Government Regulation No. 43 of 2021 on The Settlement of Discrepancies between Spatial Plans, Forestry Areas, Permits and/or Land Rights (“**GR 43/2021**”) was issued on 2 February 2021. GR 43/2021 provides the procedure for the settlement of discrepancies related to spatial plans as mandated by the Omnibus Law. GR 43/2021 is the implementing regulation of Article 17.2 of the Omnibus Law. In this advisory, we explain some of the notable provisions provided by GR 43/2021.

Under GR 43/2021, the regional borders determined by the regulation of the Minister of Home Affairs will be the reference for the settlement of discrepancies. For this, Provincial Spatial Plans (*Rencana Tata Ruang Wilayah Provinsi* – “**RTRWP**”) and/or Municipal/Regency Spatial Plans (*Rencana Tata Ruang Wilayah Kabupaten/Kota* – “**RTRWK**”) will be adjusted to the determined regional borders.

For the settlement of discrepancies between RTRWP or RTRWK and forestry areas determined before the RTRWP or RTRWK was issued, the RTRWP or RTRWK will be adjusted according to the latest determined forestry area. Meanwhile, if the RTRWP or RTRWK was issued before the forestry area was determined, the determination of the borders and confirmation of the forestry area will take into account the RTRWP or RTRWK.

A discrepancy between an RTRWP and an RTRWK will be settled by adjusting the RTRWP. During the above adjustments, the issuance of all permits and concessions will be suspended for the area affected by the discrepancy, until the RTRWP or RTRWK has been adjusted.

GR 43/2021 also introduces the concept of *previousness (keterlanjuran)*, which is a situation in which a permit, concession, land right or controlling right was issued according to the prevailing laws and regulations at that time, but now has become no longer compliant with the current applicable laws and regulations. GR 43/2021 provides the procedures for the settlement of certain discrepancy related to *previousness* and for resolving discrepancies between marine activity licenses and spatial plans. Under GR 43/2021, if a discrepancy is not settled in accordance with the prevailing laws and regulations, certain administrative sanctions will be imposed.

Any discrepancy in a spatial plan, forestry area, license, concession, land right or management right will be set out in an Indicative Map of Overlapping Spatial Utilization (*Peta Indikatif Tumpang Tindih Pemanfaatan Ruang* – “**PITTI**”) issued by the Coordinating Minister of Economic Affairs. The discrepancy set out in the PITTI will be the basis for the resolution of discrepancies under GR 43/2021. It remains to be seen if PITTI will effectively settle the discrepancy in the spatial utilization.



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