



THE CONVERSION OF THE PAJANG BEACH BORDER AREA INTO A PUBLIC FACILITY IS REVIEWED FROM THE BENGKULU CITY RTRW REGULATION NUMBER 4 OF 2021

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ABSTRACT

The coastal border zone is a protected area that plays a vital ecological role in maintaining coastal stability, preventing abrasion, and protecting coastal ecosystems. Pajang Beach, located in Bengkulu City, faces significant pressure from function conversion due to the permanent construction of public facilities in an area legally designated as a local protection zone. This study aims to analyze the conformity of the conversion of the Pajang Beach border zone with the provisions of Bengkulu City Regional Regulation Number 4 of 2021 on the Regional Spatial Planning (RTRW) of Bengkulu City for 2021–2041, and to examine the legal consequences arising from such violations. The method employed is normative legal research using a statute approach and a conceptual approach. The results indicate that the construction of public facilities in the Pajang Beach border zone is contrary to Bengkulu City RTRW Regional Regulation Number 4 of 2021 and Presidential Regulation Number 51 of 2016 on Coastal Border Limits. Legal consequences include the nullification of spatial use permits by operation of law, the obligation to restore the zone, administrative sanctions, criminal penalties, and environmental rehabilitation obligations under the polluter pays principle.

Keywords: Function Conversion; Coastal Border; Public Facilities; RTRW Bengkulu City; Regional Regulation No. 4 of 2021

INTRODUCTION

Indonesia as an archipelagic country has a coastline length of more than 99,000 kilometers, making it one of the countries with the largest coastal area in the world. Coastal and coastal areas are high-value natural resources, both from ecological, economic, and social aspects. However, the increasing pressure of development has led to serious degradation of coastal areas in various regions of Indonesia, including in the city of Bengkulu which is directly adjacent to the Indian Ocean.

The coastal border area is one of the protected areas that receives special attention in the Indonesian legal system. Based on Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands as amended by Law Number 11 of 2020 concerning Job Creation, coastal border areas are defined as certain areas along the coast that have important benefits to maintain the sustainability of coastal functions.¹ The protection function includes ecological aspects such as protection from abrasion and tidal waves, hydrological aspects related to water absorption, and socio-cultural aspects related to the local wisdom of coastal communities.

¹ Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands as amended by Law Number 11 of 2020 concerning Job Creation, Article 1 number 23.



Presidential Regulation Number 51 of 2016 concerning Coastal Boundaries expressly defines coastal boundaries as local protection areas along the coast that have important benefits to maintain the sustainability of beach functions.² The determination of coastal boundaries takes into account various technical and ecological factors, including vulnerability to natural disasters, the existence of mangrove ecosystems, beach types, and land slopes. Coastal boundary boundaries can vary from 30 meters to more than 100 meters from the highest tide point towards land, depending on the physical characteristics of the coastal area in question.

The city of Bengkulu has a coastal area that extends along the west coast of Sumatra. In order to realize an integrated and sustainable spatial plan, the Bengkulu City Government has stipulated Regional Regulation Number 4 of 2021 concerning the Bengkulu City Regional Spatial Plan for 2021-2041, which at the same time revokes and replaces Regional Regulation Number 14 of 2012.³ The new RTRW Regional Regulation was prepared by paying attention to the dynamics of development, changes in national policies, and the condition of the coastal environment of Bengkulu City which continues to develop.

Pajang Beach is one of the beach areas located in the Bengkulu City area with distinctive volcanic black sand beach characteristics. In recent years, the Pajang Beach border area has undergone a significant change of function with the construction of various public facilities permanently, including paved inspection roads, large-capacity open parking areas, gazebos, traders' stalls, and street lighting installations.⁴ The infrastructure development takes place without seriously paying attention to the provisions of the coastal boundary that have been stipulated in the applicable laws and regulations, especially the Bengkulu City RTRW Regional Regulation Number 4 of 2021.

The spatial arrangement of the region as a state policy instrument is intended to realize a safe, comfortable, productive, and sustainable national spatial space.⁵ When the use of space deviates from the spatial plan that has been determined, there is a conflict of norms between the interests of development and the obligation to protect protected areas. This study seeks to analyze the conflict of these norms from the perspective of spatial planning law and environmental law, focusing on the border area of Pajang Beach in Bengkulu City.

Previous studies on the conversion of coastal border areas in Indonesia have generally not

² Presidential Regulation Number 51 of 2016 concerning Coastal Boundaries (State Gazette of the Republic of Indonesia Number 113 of 2016), Article 1 number 1.

³ Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City Regional Spatial Plan 2021–2041 (Bengkulu City Regional Gazette of 2021 Number 4), which revokes Bengkulu City Regional Regulation Number 14 of 2012.

⁴ Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia, Zoning Regulation of Coastal Borders, (Jakarta: KKP, 2019), p. 12.

⁵ Law Number 26 of 2007 concerning Spatial Planning as amended by Law Number 11 of 2020 concerning Job Creation, Article 1 number 1.



specifically examined the Pajang Beach area in relation to the Bengkulu City RTRW Regulation Number 4 of 2021 which is the latest regulation. This research fills this gap by providing a comprehensive, actual, and relevant legal analysis for the enforcement of spatial planning laws in Bengkulu City.

PROBLEM FORMULATION

Based on the above background description, this study formulates two legal problems as follows:

1. How is the appropriateness of the conversion of the Pajang Beach border area into a public facility with the provisions of Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City Regional Spatial Plan for 2021-2041?
2. What are the legal consequences arising from the conversion of the Pajang Beach border area into a public facility reviewed from the Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City Regional Spatial Plan for 2021–2041?

RESEARCH OBJECTIVES

1. Analyzing the suitability of the conversion of the Pajang Beach border area into a public facility with the provisions of the Bengkulu City RTRW Regional Regulation Number 4 of 2021.
2. Examine the legal consequences arising from the transfer of functions. The results of the research are expected to make a theoretical contribution to the development of spatial law and environmental law, as well as practical benefits as input for the Bengkulu City Government in controlling the spatial use of coastal areas.

RESEARCH METHODS

This research is a normative legal research that examines legal issues through the study of literature materials or secondary data. The choice of this method is based on the consideration that the issue under study is the issue of the validity and consistency of legal norms, especially regarding the suitability of space use with the determined spatial plan. The approaches used include the statute approach, which is to examine all relevant laws and regulations, and the conceptual approach, which refers to the doctrines that have developed in environmental law and spatial planning law.

The primary legal materials in this study consist of: (1) Law Number 26 of 2007 concerning Spatial Planning as amended by the 2020 Job Creation Law; (2) Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands; (3) Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning; (4) Presidential Regulation Number 51 of 2016 concerning Coastal Boundary Boundaries; and (5) Bengkulu City Regional Regulation Number 4 of



2021 concerning the Bengkulu City RTRW for 2021–2041 as the main regulation that is the main reference for this research.

Secondary legal materials include legal textbooks, scientific journals, writings by legal experts, and relevant previous research results. The analysis of legal materials is carried out using grammatical, systematic, and teleological interpretation methods to obtain comprehensive answers to the legal problems formulated, by prioritizing RTRW Regional Regulation Number 4 of 2021 as a *lex specialis* that applies in Bengkulu City.

RESULTS AND DISCUSSION

A. Suitability of the Conversion of the Function of the Pajang Beach Border Area with the Bengkulu City RTRW Regional Regulation Number 4 of 2021

Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City RTRW for 2021–2041 is a legal instrument for spatial planning that is currently in force in Bengkulu City. This Regional Regulation was stipulated to respond to the change in the status of the City of Bengkulu from a Regional Activity Center to a National Activity Center, as stipulated in Government Regulation Number 13 of 2017, as well as to accommodate the dynamics of development and changes in national policies after the enactment of Law Number 11 of 2020 concerning Job Creation.

In RTRW Regional Regulation Number 4 of 2021, the coastal border area is placed as part of the local protection area, which is one of the elements of the protected area. Muhamad Akib explained that a protected area is an area that is determined with the main function of protecting environmental sustainability, so its use is strictly limited and cannot be equated with cultivation areas.⁶ Within the framework of the RTRW Regional Regulation Number 4 of 2021, the coastal border area of Bengkulu City receives stronger legal protection and is more operational than the previous regional regulation.

RTRW Regional Regulation Number 4 of 2021 integrates the provisions of Presidential Regulation Number 51 of 2016 concerning Coastal Boundary Boundaries into regional regulations. Supriadi stated that the integration of national regulations into regional regulations is an important form of legal harmonization to ensure that the protection of coastal areas is implemented consistently at all levels of government.⁷ Thus, RTRW Regional Regulation Number 4 of 2021 is a complete and comprehensive legal basis for the management of coastal border areas in the Bengkulu City area.

Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning as an implementing regulation of the Post-Job Creation Spatial Planning Law further regulates

⁶ Muhamad Akib, *Environmental Law: Global and National Perspectives*, (Jakarta: RajaGrafindo Persada, 2016), p. 89.

⁷ Supriadi, *Environmental Law in Indonesia: An Introduction*, (Jakarta: Sinar Grafika, 2010), p. 134.



the mechanism for controlling space utilization, including the obligation to meet minimum service standards for protected areas.⁸ RTRW Regional Regulation Number 4 of 2021 must be read systematically with PP 21/2021, so that restrictions on the use of coastal border areas become clearer and more detailed. This provision prohibits all forms of permanent physical development in coastal border areas, except those that are explicitly allowed, namely buildings that are used for the management and utilization of water bodies.

The analysis of the suitability of the conversion of the Pajang Beach border area into a public facility with the provisions of the Bengkulu City RTRW Regional Regulation Number 4 of 2021 needs to be carried out systematically by comparing factual conditions in the field to applicable legal norms. Law Number 27 of 2007 emphasizes that the management of coastal areas must be based on sustainability, consistency, integration, and legal certainty.⁹ These principles require that every use of coastal area space, including coastal boundaries, always refers to and is consistent with the spatial plan that has been determined.

Bengkulu City RTRW Regional Regulation Number 4 of 2021 regulates general provisions for zoning regulations for local protected areas that include coastal border areas. Based on the provisions of Article 42 paragraph (3) of the Regional Regulation, prohibited activities in coastal border areas include the erection of buildings that are not directly related to the function of beach protection and water management, including the construction of permanent public facilities.¹⁰ This prohibition is imperative and cannot be overridden by any administrative decision without first making changes to the RTRW Regional Regulation through a valid legislative mechanism.

The factual conditions in the Pajang Beach border area show that the construction of various permanent public facilities has taken place. The construction of paved roads connecting coastal areas with the city's road network, the construction of open parking areas, the installation of permanent street lights, and the establishment of semi-permanent kiosks have changed the character of the coastal border area from a protected area to a built area. This physical change is clearly contrary to the protective function mandated by the RTRW Regional Regulation Number 4 of 2021.

Hardjasoemantri stated that conflicts between development activities and spatial planning provisions must be resolved based on the principle of the rule of law, where spatial plans that have been determined through a legal legislative process have binding force that cannot be overridden by any

⁸ Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning (Statute Book of the Republic of Indonesia Number 31 of 2021), Article 48 paragraph (1).

⁹ Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands, Article 4 letter a.

¹⁰ Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City RTRW for 2021–2041, Article 42 paragraph (3) concerning general provisions of zoning regulations for local protected areas.



administrative decision.¹¹ This principle expressly emphasizes that the construction of public facilities in the Pajang Beach border area, even if motivated by the purpose of tourism development or accessibility, is still legally justified as long as it is contrary to RTRW Regional Regulation Number 4 of 2021.

Presidential Regulation Number 51 of 2016 as a regulation that is hierarchically higher than the Regional Regulation also strengthens the prohibition on the transfer of functions of coastal borders. Based on the Presidential Regulation, everyone is prohibited from using coastal boundaries that are not in accordance with their designation as stipulated in the spatial plan.¹² RTRW Regional Regulation Number 4 of 2021 which reaffirms similar prohibitions is in line with the mandate of this Presidential Regulation, so that the prohibition on the use of coastal border areas for public facilities has a layered and strong legal basis.

From an administrative law perspective, a building permit or a permit for the use of space that may be issued for public facilities in the Pajang Beach border area can be qualified as an administrative decision that is legally defective. Substantive defects occur when the substance of a state administrative decision is contrary to the applicable laws and regulations. Thus, the permits underlying the construction of public facilities in the Pajang Beach border area have the potential to be null and void according to the provisions of the Spatial Planning Law.

Based on all of the above analysis, it can be concluded that the conversion of the Pajang Beach border area into a public facility is inappropriate and substantively contrary to the provisions of the Bengkulu City RTRW Regional Regulation Number 4 of 2021. This inconsistency is not just a procedural issue that can be remedied through retroactive licensing, but a substantive issue that demands comprehensive remedial and law enforcement action.

B. Legal Consequences of the Conversion of the Pajang Beach Border Area into a Public Facility Reviewed from the Bengkulu City RTRW Regional Regulation Number 4 of 2021

The conversion of the coastal border area that is contrary to the regional spatial plan gives rise to various legal consequences that can be analyzed from the dimensions of administrative law, civil law, and criminal law. Takdir Rahmadi explained that in Indonesian environmental law, the legal consequences of spatial planning violations are multi-dimensional, depending on the level of seriousness of the violation and the environmental impact caused.¹³

The first legal consequence is the nullification of the space utilization permit that has been

¹¹ Hardjasoemantri, *Environmental Law*, (Yogyakarta: Gadjah Mada University Press, 2005), p. 211.

¹² Presidential Regulation Number 51 of 2016 concerning Coastal Boundary Boundaries, Article 2 paragraph (1) and Article 7.

¹³ Takdir Rahmadi, *Environmental Law in Indonesia*, (Jakarta: RajaGrafindo Persada, 2014), p. 76.



issued. The Spatial Planning Law as amended by the Job Creation Law and affirmed in Government Regulation Number 21 of 2021 stipulates that permits for the use of space that are not in accordance with the regional spatial plan are null and void.¹⁴ The phrase 'null and void' means that the decision is considered to have never existed in the first place, so that all activities based on the permit lose their legal basis. For development actors in the Pajang Beach border area, the consequences of this law have very wide implications, including the obligation to comply with the control order from the authorized officials.

The second legal consequence is the obligation to restore the area. RTRW Regional Regulation Number 4 of 2021 stipulates that parties who use space not in accordance with the spatial plan are obliged to restore the disturbed spatial function. This recovery obligation includes the demolition of buildings, the removal of all construction materials, and the rehabilitation of coastal vegetation and affected ecosystems. The recovery fee is fully charged to the party who transfers functions in accordance with the principle of full responsibility of polluters.

The third legal consequence is the imposition of administrative sanctions by the Bengkulu City Government as the authorized official. RTRW Regional Regulation Number 4 of 2021 regulates tiered administrative sanctions, ranging from written warnings, temporary suspension of activities, termination of public services, closure of locations, revocation of permits, cancellation of permits, to the demolition of buildings and restoration of space functions. The Public Works and Spatial Planning Office of Bengkulu City in its monitoring report noted a number of violations of space use in coastal areas that require stricter and more consistent follow-up.¹⁵

The fourth legal consequence is criminal liability. Law Number 26 of 2007 concerning Spatial Planning threatens imprisonment for a maximum of 3 (three) years and a maximum fine of Rp 500,000,000.00 (five hundred million rupiah) for every person who uses the space not in accordance with the spatial plan. With the enactment of RTRW Regional Regulation Number 4 of 2021, violations of the provisions of coastal boundaries in Bengkulu City have a clearer criminal legal basis and can be executed by the authorized Civil Servant Investigator (PPNS) in the Field of Spatial Planning.

The fifth legal consequence is the obligation to rehabilitate the environment based on environmental law. The polluter pays principle adopted in Law Number 32 of 2009 concerning Environmental Protection and Management requires the party that causes environmental damage to bear the entire cost of recovery. The conversion of the Pajang Beach border area that causes damage to the coastal ecosystem can give rise to environmental lawsuits separate from spatial planning sanctions, with

¹⁴ Law Number 26 of 2007 concerning Spatial Planning as amended by the Job Creation Law, Article 37 paragraph (7) jo. Government Regulation Number 21 of 2021, Article 114.

¹⁵ Public Works and Spatial Planning Office of Bengkulu City, 2022 Monitoring Report on the Utilization of Coastal Area Spaces in Bengkulu City, (Bengkulu: DPUPR, 2022), pp. 5–7.



restoration costs potentially far exceeding the value of the construction of the facilities that cause damage.

The overall legal consequences outlined above reflect that the Indonesian legal system has provided adequate and layered instruments to deal with violations in the field of coastal spatial planning. The problem faced in practice is not the absence of norms, but weaknesses in law enforcement influenced by cross-sectoral coordination, institutional capacity, and political commitment. With the enactment of the more comprehensive RTRW Regional Regulation Number 4 of 2021, it is hoped that the enforcement of spatial planning laws in the coastal areas of Bengkulu City, including the Pajang Beach border area, can run more effectively and consistently.

CONCLUSION

Based on the analysis of two problem formulations, this study produced the following conclusions:

1. Conformity of the Transfer of Functions of the Pajang Beach Border Area with the Bengkulu City RTRW Regional Regulation Number 4 of 2021

The conversion of the Pajang Beach border area into a public facility is inappropriate and substantively contrary to the provisions of Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City RTRW for 2021-2041. The Regional Regulation stipulates the coastal border area as a local protection area that prohibits the erection of buildings other than functional buildings for water management and utilization. This inconsistency is strengthened by a higher hierarchy of norms, namely Presidential Regulation Number 51 of 2016 concerning Coastal Boundaries and Law Number 26 of 2007 concerning Spatial Planning as amended by the 2020 Job Creation Law.

2. Legal Consequences Arising from the Transfer of Functions of the Pajang Beach Border Area Reviewed from the Bengkulu City RTRW Regional Regulation Number 4 of 2021

The legal consequences arising from the transfer of functions of the Pajang Beach border area are reviewed from the Bengkulu City RTRW Regional Regulation Number 4 of 2021 covering five main aspects:

- a. The cancellation of the space use permit issued not in accordance with the spatial plan for the sake of the law;
- b. The obligation to demolish and restore the area to its original condition at the expense of the party who carried out the transfer of functions;
- c. The imposition of tiered administrative sanctions by the Bengkulu City Government;
- d. The threat of criminal liability imprisonment and fines under the Spatial Planning Law; and



- b. The obligation to rehabilitate the environment based on the polluter principle pays in Indonesian environmental law.

BIBLIOGRAPHY

A. Books

- Akib, Muhammad. *Environmental Law: Global and National Perspectives*. Jakarta: RajaGrafindo Persada, 2016.
- Hardjasoemantri. *Environmental Law*. Yogyakarta: Gadjah Mada University Press, 2005.
- Rahmadi, Destiny. *Environmental Law in Indonesia*. Jakarta: RajaGrafindo Persada, 2014.
- Supriadi. *Environmental Law in Indonesia: An Introduction*. Jakarta: Sinar Grafika, 2010.

B. Laws and Regulations

- Law Number 26 of 2007 concerning Spatial Planning as amended by Law Number 11 of 2020 concerning Job Creation. Statute Book of the Republic of Indonesia of 2007 Number 68.
- Law Number 27 of 2007 concerning the Management of Coastal Areas and Small Islands as amended by Law Number 11 of 2020 concerning Job Creation. Statute Book of the Republic of Indonesia of 2007 Number 84.
- Law Number 32 of 2009 concerning Environmental Protection and Management. Statute Book of the Republic of Indonesia of 2009 Number 140.
- Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning. Statute Book of the Republic of Indonesia of 2021 Number 31.
- Presidential Regulation Number 51 of 2016 concerning Coastal Boundary Boundaries. State Gazette of the Republic of Indonesia Year 2016 Number 113.
- Bengkulu City Regional Regulation Number 4 of 2021 concerning the Bengkulu City Regional Spatial Plan for 2021–2041. Bengkulu City Regional Gazette of 2021 Number 4.

C. Government Documents and Reports

- Public Works and Spatial Planning Office of Bengkulu City. *Monitoring Report on the Utilization of Coastal Area Spaces in Bengkulu City in 2022*. Bengkulu: Bengkulu City DPUPR, 2022.
- Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia. *Zoning Regulation of Coastal Boundaries*. Jakarta: KKP RI, 2019.