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Department of Environment and Natural Resources  
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**Address:** MANDARIN STREET, PUROK SAMPAGUITA, DEWIL VALLEY, BRGY. NEW IBAJAY, EL NIDO, PALAWAN

**Subject:** LETTER DTD 09/03/2021 FOLLOW-UP ON REQUEST TO CANCEL, REVOKE AND/OR DENY CLEARANCES, PERMITS, ECCS, TENURIAL AGREEMENTS AND/OR CERTIFICATIONS OF AYALA-OWNED RESORTS AND/OR TEN KNOTS PHILIPPINES INC. PROJECTS IN EL NIDO, PALAWAN FOR BLATANT VIOLATION OF R.A. 8371 (THE INDIGENOUS PEOPLE'S RIGHTS ACT OF 1997) ON THE TAGBANUA TANDULANEN'S ANCESTRAL DOMAIN RIGHTS

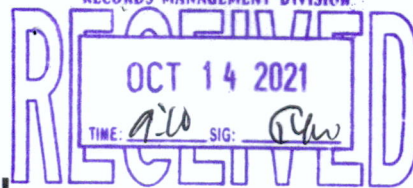
**Addressee(s):** Office of the Secretary (DENRCO - OSEC)

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DEPT. OF ENVIRONMENT AND NATURAL RESOURCES  
RECORDS MANAGEMENT DIVISION



03 September 2021

**HON. ROY A. CIMATU**

*DENR Secretary*

DENR Compound, Visayas Avenue,  
Diliman, Quezon City

**HON. MA. LOURDES G. FERRER**

*Regional Executive Director*

DENR-Region 4B  
Bay 1515 L & S Building  
Roxas Boulevard, Manila

**ENGR. ALAN L. VALLE**

*Officer-in-Charge*

CENRO, Taytay, Palawan

Re: Follow-up on Request to Cancel, Revoke and/or Deny Clearances, Permits, ECCs, Tenurial Agreements and/or Certifications of Ayala-owned resorts and/or Ten Knots Philippines Inc. projects in El Nido, Palawan for blatant violation of R.A. 8371 [The Indigenous Peoples' Rights Act of 1997] on the Tagbanua Tandulanen's ancestral domain rights

Dear Sirs:

Further to our lawyer Atty. Peter Paul L. Danao's letter dated 23 March 2021 to your Office on behalf of the **Indigenous People of Tagbanua Tandulanen** in El Nido, Palawan, we furnish your Office the attached **NCIP National Advisory No. 2021-08-001** mandating that:

**"Heads of National Government Agencies** and Government-owned and Controlled Corporations, and Local Chief Executives **are hereby enjoined to comply with the Free and Prior Informed Consent requirement provided in Republic Act No. 8371** or the Indigenous Peoples Rights Act. Thus, **all programs, projects and activities regulated or implemented by said entities that are to be carried out or are currently operating without the FPIC and NCIP Certification in ancestral domains should be endorsed to the NCIP for the**

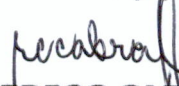
**conduct of the FPIC process and the issuance of the necessary certification".** (Emphasis supplied)

We wish to reiterate our request for your Honorable Office to **CANCEL, REVOKE and/or DENY** any accreditation, permit, clearances, license and/or authority to operate issued by your Office/Department, including ECC and tenurial agreements, for the following Ayala-owned businesses and/or Ten Knots Philippines Inc. projects in El Nido, Palawan:

1. Lio Airport in Brgy. Villa Libertad;
2. Lio Estate in Brgys. Villa Libertad and Pasadena;
3. El Nido Cove Resort in Brgy. Pasadena;
4. Pangulasian Island Resort in Brgy. Bebeladan;
5. Miniloc Island Resort in Brgy. Bebeladan;
6. Lagen Island Resort in Brgy. Aberawan; and
7. Such other projects in El Nido, Palawan.

We hope for your prompt and favorable action in this request.

Sincerely yours,



**MAHARANI/APO REMEDIOS CABATE- CABRAL**

*Punong Tribo, Tagbanua Tandulanen*

*Tagapangasiwa ng Lupang Ninuno*

Mandarin Street, Purok Sampaguita, Dewil Valley

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**DR. MARIE GRACE T. PASCUA**

*Regional Director*

NCIP-MIMAROPA

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**HON. MARY ANN L. DELOS SANTOS**

*Officer-in-Charge*

NCIP-Palawan Provincial Office

Beside Brgy. Hall, Santa Monica Heights, Puerto Princesa City





**NATIONAL ADVISORY NO. 2021-08-001**  
**SERIES OF 2021**

**COMPLIANCE WITH THE MANDATORY REQUIREMENT FOR SECURING THE FREE AND PRIOR INFORMED CONSENT (FPIC) OF INDIGENOUS CULTURAL/COMMUNITIES (ICCs/IPs) AND THE NECESSARY CERTIFICATION PRECONDITION FROM THE NATIONAL COMMISSION ON INDIGENOUS PEOPLES (NCIP) PURSUANT TO REPUBLIC ACT NO. 8371 OR THE INDIGENOUS PEOPLES RIGHTS ACT OF 1997 (IPRA)**

**WHEREAS**, Section 2, RA 8371 provides that:

Declaration of State Policies. — The State shall recognize and promote all the rights of Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) hereunder enumerated within the framework of the Constitution:

- a) The State shall recognize and promote the rights of ICCs/IPs within the framework of national unity and development;

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**WHEREAS**, Section 5, RA 8371 also provides that ancestral domains (ADs) are the ICC's/IP's private but community property which belongs to all generations and therefore cannot be sold, disposed or destroyed;

**WHEREAS**, Section 7, RA 8371 further provides that:

Rights to Ancestral Domains. — The rights of ownership and possession of ICCs/IPs to their ancestral domains shall be recognized and protected. Such rights shall include:

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- b) Right to Develop Lands and Natural Resources. — Subject to Section 56 hereof, right to develop, control and use lands and territories traditionally occupied, owned, or used; to manage and conserve natural resources within the territories and uphold the responsibilities for future generations; to benefit and share the profits from allocation and utilization of the natural resources found therein; the right to negotiate the terms and conditions for the exploration of natural resources in the areas for the purpose of ensuring ecological, environmental protection and the conservation measures, pursuant to national and customary laws; the right to an informed and intelligent participation in the formulation and implementation of any project, government or private, that will affect or impact upon the ancestral domains and to receive just and fair compensation for any damages which they may sustain as a result of the project; and the right to effective measures by the government to prevent any interference with, alienation and encroachment upon these rights;

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**WHEREAS**, Section 16, RA 8371 also provides ICCs/IPs the right to participate fully, if they so choose, at all levels of decision-making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures;

**WHEREAS**, Section 17, RA 8371 provides that ICCs/IPs shall have the right to determine and decide their own priorities for development affecting their lives, beliefs, institutions, spiritual well-being, and the lands they own, occupy or use. They shall participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development which may directly affect them.


**WHEREAS**, Section 57, RA 8371 also recognizes the ICCs/IPs priority rights in the harvesting, extraction, development or exploitation of any natural resources within the ancestral domains. In the event that a non-member of the ICCs/IPs concerned is allowed to take part in the development and utilization of the natural resources, the free and prior informed consent of the ICCs/IPs, pursuant to the community's decision making process, shall be secured and a formal and written agreement should be entered into with the ICCs/IPs;

**WHEREAS**, Section 59, RA 8371 expressly provides that:

Certification Precondition. — All departments and other governmental agencies shall henceforth be strictly enjoined from issuing, renewing, or granting any concession, license or lease, or entering into any production-sharing agreement, without prior certification from the NCIP that the area affected does not overlap with any ancestral domain. Such certification shall only be issued after a field-based investigation is conducted by the Ancestral Domains Office of the area concerned: Provided, That no certification shall be issued by the NCIP without the free and prior informed and written consent of ICCs/IPs concerned: Provided, further, That no department, government agency or government-owned or -controlled corporation may issue new concession, license, lease, or production sharing agreement while there is a pending application for a CADT: Provided, finally, That the ICCs/IPs shall have the right to stop or suspend, in accordance with this Act, any project that has not satisfied the requirement of this consultation process.

**WHEREAS**, Section 44 (m), RA 8371 further mandates the NCIP to issue appropriate certification as a precondition to the grant of permit, lease, grant, or any other similar authority for the disposition, utilization, management and appropriation by any private individual, corporate entity or any government agency, corporation or subdivision thereof on any part or portion of the ancestral domain taking into consideration the consensus approval of the ICCs/IPs concerned;

**WHEREAS**, pursuant to the NCIP's power to promulgate the necessary rules and regulations for the implementation of the IPRA, NCIP Administrative Order No. 3, Series of 2012 was promulgated providing the guidelines for conducting





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the free and prior informed consent process and securing Certification Precondition.

**WHEREAS**, reports have been received by the Commission that some National Government Agencies (NGAs), Local Government Units (LGUs), Government-Owned and Controlled Corporations (GOCCs) have been issuing permits to permit applicants/proponent, or are implementing their respective programs, projects and activities within ancestral domains without complying with the requirements of the Free and Prior Informed Consent process and issuance of the necessary Certification;

**WHEREAS**, such non-compliance with the FPIC process law is an utter disregard of the requirement of the Indigenous Peoples Rights Act and constitutes a violation of the ICCs/IPs rights;

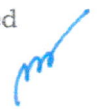
**NOW WHEREFORE,**

All NCIP Regional Offices, Provincial Offices, Community Service Centers, Indigenous Peoples Mandatory Representatives, leaders/members of ICC/IP council of elders/leaders, Indigenous Political Structures and Indigenous Peoples Organizations are hereby enjoined to report or to file written complaint against any such program, project and activities that have not complied with the FPIC process in order that the necessary show cause order or cease and desist order may be issued by the NCIP;

Heads of National Government Agencies and Government-owned and Controlled Corporations, and Local Chief Executives are hereby enjoined to comply with the Free and Prior Informed Consent requirement provided in Republic Act No. 8371 or the Indigenous Peoples Rights Act. Thus, all programs, projects and activities regulated or implemented by said entities that are to be carried out or are currently operating without the FPIC and NCIP Certification in ancestral domains should be endorsed to the NCIP for the conduct of the FPIC process and the issuance of the necessary certification;

Violations shall be prosecuted within the full extent of the law per Section 72, RA 8371, to wit,

Any person who commits violation of any of the provisions of this Act, such as, but not limited to, unauthorized and/or unlawful intrusion upon any ancestral lands or domains as stated in Sec. 10, Chapter III, or shall commit any of the prohibited acts mentioned in Sections 21 and 24, Chapter V, Section 33, Chapter VI hereof, shall be punished in accordance with the customary laws of the ICCs/IPs concerned: Provided, That no such penalty shall be cruel, degrading or inhuman punishment: Provided, further, That neither shall the death penalty or excessive fines be imposed. This provision shall be without prejudice to the right of any ICCs/IPs to avail of the protection of existing laws. In which case, any person who violates any provision of this Act shall, upon conviction, be punished by imprisonment of not less than nine (9) months but not more than twelve (12) years or a fine of not less than One hundred thousand pesos (P100,000) nor more than Five hundred



thousand pesos (P500,000) or both such fine and imprisonment upon the discretion of the court. In addition, he shall be obliged to pay to the ICCs/IPs concerned whatever damage may have been suffered by the latter as a consequence of the unlawful act.

The Executive Director is hereby directed to provide all NGAs, LGUs, GOCCs and the NTF-ELCAC Secretariat copy of this advisory for their information and guidance. The Executive Director is further instructed to coordinate with all concerned offices for the adoption of this Advisory in their processes and operations.

Signed this 23rd day of April 2021, Quezon City, Philippines.

  
**ALLEN A. CAPUYAN**  
Chairperson