



Republic of the Philippines  
(Republic Act No. 7611)

## **PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF**

**PCSD**

April 26, 2022

**MR. FELIZARDO B. CAYATOC**  
Community Environment and Natural Resources Officer  
DENR - CENRO Puerto Princesa  
Brgy. Sta. Monica, Puerto Princesa City, Palawan  
[cenropuertoprincesa@denr.gov.ph](mailto:cenropuertoprincesa@denr.gov.ph)

Dear **CENRO Cayatoc**:

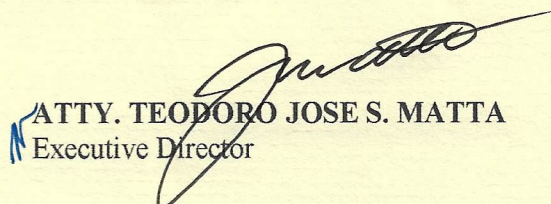
Greetings from the Palawan Council for Sustainable Development Staff!

This pertains to the letter from your good office, signed by then Officer-In-Charge Rodney G. Verian, Forester III/Chief, MES/ODMO, requesting for our stand and/or comments regarding the proposal of the Department of National Defense (DND) for the issuance of Presidential Proclamations declaring seven (7) islands in the Kalayaan Island Group (KIG) as military reservations.

Please see the **Position Paper** attached herewith containing our comments to the foregoing subject and presenting our proposed revisions to the draft Presidential Proclamations from the DND.

Thank you very much and best regards!

Very truly yours,

  
**ATTY. TEODORO JOSE S. MATTA**  
Executive Director

Copy furnished:  
**HON. JIM O. SAMPULNA, PhD**  
Acting Secretary, DENR  
Visayas Avenue, Diliman, Quezon City

**HON. LORMELYN E. CLAUDIO**  
Regional Executive Director  
DENR MIMAROPA  
1515 L&S Bldg., Roxas Blvd., Manila

**PENRO - Palawan**  
Brgy. Sta. Monica, Puerto Princesa City, Palawan

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**Mission:** PCSDS as the driver of environmental conservation and inclusive development in Palawan, a biosphere reserve and science-for-sustainability site, guided by the Strategic Environmental Plan.

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**PALAWAN COUNCIL FOR SUSTAINABLE DEVELOPMENT STAFF**  
Sports Complex Rd., Brgy. Sta. Monica, Puerto Princesa City, Palawan

**DATE** : April 26, 2022

**TO** : **HON. JIM O. SAMPULNA, PhD**  
Acting Secretary, Department of Environment and Natural Resources

**FROM** : **ATTY. TEODORO JOSE S. MATTA**  
Executive Director, PCSDS

**SUBJECT** : **Proposed issuance of Presidential Proclamation of the Department of National Defense (DND) declaring seven (7) islands in the Kalayaan Island Group (KIG) as military reservations**

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### **POSITION PAPER**

This refers to the proposed proclamations reserving seven (7) islands in the Kalayaan Island Group (KIG), namely the (1) Pag-asa Island, (2) Likas Island, (3) Patag Island, (4) Lawak Island, (5) Kota Island, (6) Panata Island, and (7) Parola Island, for military purposes ("military reservation") and designating the same as Armed Forces of the Philippines (AFP) mixed-use area, under the administration of the Department of National Defense - Armed Forces of the Philippines (DND-AFP). Copies of the proposed proclamations were forwarded to this Office through a letter dated January 31, 2022 from the Department of Environment and Natural Resources (DENR) MIMAROPA Region - CENRO Puerto Princesa City requesting for our stand and/or comments on the proposal.

In the letter dated October 23, 2020 of Mr. Delfin Lorenzana, Secretary of Defense, to President Rodrigo Duterte, said islands were determined by the Department as "strategically relevant" and will improve deployment of forces, accommodate current and future naval assets, enhance logistics and maintenance system, thereby secure the sovereignty of the country. In a series of their correspondence, they seek to improve existing structures, facilitate the establishment of new facilities (e.g. barracks, outposts, solar mechanisms, and potable water facilities), including seven units of fishermen shelters, with building and desalination facilities, and overall enhance Philippine physical presence in the islands and features in the West Philippine Sea (WPS).

With the increased presence of Chinese vessels and rising tensions in the WPS, the PCSD supports the initiative to strengthen security and visibility of military forces in the area to protect not only the country's sovereignty but also the marine environment itself, which is under threat to illegal fishing activities, wildlife poaching and irreversible marine damage. However, **we respectfully propose that the administration and management of the Kalayaan Island Ground be shared with the Municipal Government of Kalayaan (LGU-Kalayaan)**, pursuant to Republic Act No. 7160 (Local Government Code of 1991) and to the

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principle of devolution of powers. Furthermore, to complement the shared management of the DND-AFP and LGU-Kalayaan over the KIG, we also propose that the areas be maintained to be subject to the regulatory powers of relevant national agencies, such as the DENR, BFAR and PCSD, among others. These suggestions arise from the proposition that the issue involves not only national security, but as well as pressing economic, financial, political and environmental concerns. In addition, the participation of various government agencies is in accordance with the whole-of-government approach strategy of the national government towards the territorial disputes concerning the KIG.

The Spratley Islands, or known as the KIG (Kalayaan Group of Islands), to which the seven reefs/islands subject of the proposed proclamations are included, has been the subject of long standing territorial disputes between the Philippines and China<sup>1</sup>. The Philippines had subjected the controversy to the Arbitral Tribunal constituted under the United Nations Convention on the Law of the Sea (UNCLOS), and in July 2016, The Hague Tribunal issued the Arbitral Award ruling in favor of the Philippines. The ruling declared that the KIG is within the exclusive economic zone (EEZ) and continental shelf of the Philippines, over which it has sovereign rights. However, despite the said arbitral ruling, Chinese vessels continue to engage in harmful fishing practices within the Spratley Islands. Corals were also reported to have been damaged due to the practice of chopping reefs through the use of propellers leading to disastrous effects. Relevant to this, Article 56 of the Convention states that "States have an obligation, acting in good faith, to take the necessary measures to prevent their nationals from exploiting the living resources in the EEZ of another State party."

It is in this light and in the clarity provided by this factual milieu that the PCSD takes its position on the proposed proclamation. PCSD recognizes the vital role of military support in the area to ensure the security of the State, protect the marine resources and the living and non-living resources within our EEZ and continental shelves as well as the exercise of our sovereign rights over the islands. However, there is a necessity to interlink this military aspect as a component to a larger and more comprehensive framework. This is due to the interplay of security, political, economic, financial and environmental concerns, which are equally compelling and highly prioritized.

In line with this, the **PCSD proposes for the creation of a hybrid management framework to be established and implemented by different government agencies, such as the DND-AFP, LGU-Kalayaan, DENR, BFAR, and PCSD, among others**, for the administration and management of the seven (7) islands. However, the DND-AFP and LGU Kalayaan will be the primary administrators of the area, while the other national government agencies will be providing complementary support and assistance, whether technical or otherwise, in relation to their field of expertise. By creating this hybrid management framework, there will be a holistic approach in the formulation of policies and expeditious implementation of projects in the area.

<sup>1</sup> The South China Sea Arbitration Award of 12 July 2016, p. 1.

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Within this proposed framework, the agencies involved shall contribute their expertise to the common endeavor of ensuring our sovereignty over the West Philippine Sea and maintaining its political and environmental integrity and economic viability. The AFP, in defending national territory and sovereignty, takes a huge role in protecting our natural resources from exploitation by those who intrude within our territorial waters. To a significant extent, this also advances our national aims, interests and policies on economic development and environmental protection and conservation. Bringing in the key government agencies, such as the Municipal Government of Kalayaan, DENR, BFAR and PCSD, augments the efforts of the military and lends support to their utilization of our existing territories and resources in the WPS. This will also further solidify and bolster our interest and claim over the area.

In accordance to RA 7160 (Local Government Code), the Municipal Government of Kalayaan should maintain its jurisdiction and autonomy over KIG and exercise such powers and functions expressly granted, and those necessarily implied therefrom, over all local matters affecting its territory, including the delivery of basic services to its constituents. Pursuant to this, it is respectfully opined that the DND-AFP should maintain shared administration and management over the KIG with LGU-Kalayaan since the proposed "military reservations" are noticeably the whole jurisdiction of the latter. The assistance of other government agencies such as the DENR, BFAR and PCSD, among others, should also give room to a well-coordinated, practicable, effective and more localized implementation of national goals concerning political integrity, economic development, financial stability, and environmental protection in the WPS.

It is also noteworthy to point out that there is an embedded obligation for State Parties to conduct and communicate an environmental impact assessment for activities or developments covered under Article 206 of the UNCLOS<sup>2</sup>. As a matter of fact, this is one area of argument advanced by the Philippines, that "China was "fairly and squarely" required to carry out an environmental impact assessment ("EIA") within the meaning of Article 206 of the Convention to "assess possible effects on the marine ecosystem of the South China Sea, the coral reefs at issue, the biodiversity and sustainability of living resources there and endangered species." Thus, as a signatory to the UNCLOS like China, we have a bounden duty to undertake monitoring and environmental assessment in any planned activities within our jurisdiction. We should, at all cost, avoid being placed at a disadvantage, by failing to observe the same obligation we ourselves expect from China as a State Party to the Convention. Thus, to ensure that we fulfill our duties under Article 206 of the Convention, the necessary and relevant government agencies, such as the PCSD, DENR and BFAR, well-suited in the preparation of

<sup>2</sup> Article 206, Assessment of potential effects of activities, "When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.

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an environmental impact assessment as well as its crucial role in the subsequent stages of monitoring, compliance and implementation of coastal and marine protection measures should be brought in during the early stages of this proposed development in the Kalayaan Group of Islands.

Together with the DND-AFP, the LGU-Kalayaan, DENR, BFAR, PCSD, and other relevant government agencies that may be found necessary, can form a hybrid management framework that can tackle the pressing security, political, economic and financial concerns in the WPS from both a military and civilian standpoint. Through this mechanism, these agencies will work together to arrive at a “bigger-picture” approach in dealing with the issues involving the WPS for the interest of the country. All these key players will come together within the proposed management framework to encourage a closely coordinated approach in policy-making, information-gathering, planning process, and implementation. In the performance of their respective functions and duties, they shall act within the confines of their respective charters and clearly defined responsibilities under the law to prevent overlap.

In conclusion, this Office recommends for the amendment of the proposed proclamations to include therein the creation of a hybrid management framework that is to be established and implemented by the DND-AFP, LGU Kalayaan, DENR, BFAR, PCSD, and other government agencies that may be found as necessary. The DND-AFP and LGU Kalayaan will be the primary administrators of the area, while the other national government agencies will be providing complementary services to support our national interest in the area. This is in order to attain a more comprehensive, integrated and coordinated approach in dealing with the pressing security issues and political, economic, financial and environmental concerns in the West Philippine Sea.

The proposed amendments to the draft proclamations are as follows:

MALACAÑANG  
Manila

**BY THE PRESIDENT OF THE PHILIPPINES**

**PROCLAMATION NO. \_\_\_\_\_**

**DESIGNATING AS MIXED-USE AREA THE ISLAND OF \_\_\_\_\_**  
**SITUATED IN THE MUNICIPALITY OF KALAYAAN, PALAWAN AND**  
**RESERVING THE SAME FOR GOVERNMENT USE ONLY**

By virtue of the powers vested in me by law, I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, do hereby withdraw from sale or any other

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form of disposition, and reserve for mixed-use government purposes only the Island of \_\_\_\_\_, Municipality of Kalayaan, Province of Palawan and its surrounding waters with a total aggregate area of \_\_\_\_\_, more or less, and more particularly bounded by the following points:

Point	Latitude	Longitude

To implement a hybrid management framework for the shared administration and management of the island and its surrounding waters, an **Inter-Agency Council (IAC)** is hereby created and shall be composed of the following agencies:

1. Department of National Defense - Armed Forces of the Philippines (DND-AFP), as Co-Chair;
2. Municipal Government of Kalayaan, Palawan (MLGU Kalayaan), as Co-Chair;
3. Department of Environment and Natural Resources (DENR), as Member;
4. Department of Agriculture - Bureau of Fisheries and Aquatic Resources (DA-BFAR), as Member;
5. Palawan Council for Sustainable Development (PCSD), as member; and
6. Other relevant government agencies that may be found necessary by the IAC as members.

The IAC shall establish its own rules and guidelines for the administration and management of the island and its surrounding waters, subject however to the following principles and/or policies:

1. The DND-AFP shall take charge in all military operations and other activities related to national security.
2. The LGU Kalayaan shall not be deprived of its powers, whether expressly granted or necessarily implied therefrom, under Republic Act No. 7160.
3. The DENR, DA-BFAR and PCSD shall provide the necessary services and assistance for the environmental protection and sustainable development of the subject area and may call upon other government agencies for the accomplishment of the same.
4. Other relevant government agencies that have been made part of the IAC will provide the necessary services and assistance under their respective field of expertise.

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5. The IAC may call upon other government agencies to assist in its operations, projects and/or activities in line with and for the benefit of our national interest in the KIG.

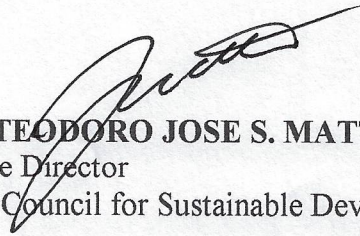
The tract of land herein reserved shall be non-alienable and shall not be subject to occupation, entry and sale until again declared alienable by proclamation by the President.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the seal of the Republic of the Philippines to be affixed.

**DONE** in the City of Manila, this \_\_\_\_ day of \_\_\_\_\_, in the year Two Thousand and Twenty-Two.

**RODRIGO ROA DUTERTE**

Respectfully submitted.



**ATTY. TEODORO JOSE S. MATTA**

Executive Director

Palawan Council for Sustainable Development Staff

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