



Republic of the Philippines  
Department of Environment and Natural Resources  
**LAND MANAGEMENT BUREAU**  
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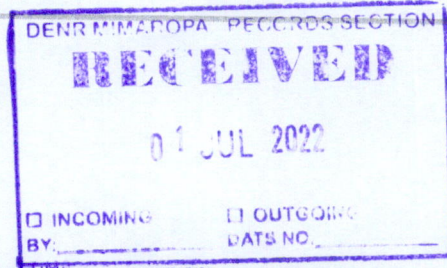
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**MEMORANDUM**

FOR : The Undersecretary  
Field Operations and Environment

FROM : The Acting Director

SUBJECT : **CLARIFICATION ON THE POLICY WITH RESPECT TO  
THE CONSTRUCTION OF PERMANENT STRUCTURES  
WITHIN THE OFFSHORE AREAS ADJACENT TO  
FOREST LANDS AND PROTECTED AREAS**



DATE : 23 JUN 2022

This pertains to your Memorandum dated January 19, 2022, referring to this Office the Memorandum from the Regional Executive Director (RED) of DENR-MIMAROPA, dated December 15, 2021, requesting clarification and guidance on policies regarding the construction of permanent structure within offshore areas.

According to the aforementioned Memorandum of RED, DENR-MIMAROPA, Article 51<sup>1</sup> of P.D. 1067, or the Water Code of the Philippines, does not provide for a provision relating to the construction of structures within the offshore areas as the same specifically states that it is not allowed to construct any structures within the zone of forty (40) meters (forest areas) for easement for public use. However, in the Memorandum dated April 13, 2018, issued by the OIC Assistant Secretary for Staff Bureaus, Ricardo Calderon, pertaining to the "Inclusion of Additional Conditionality or Special Provisions for All Tenure/Land Use Agreements in the Use of Land of the Public Domain", it was stated that, "The FLAg, FLAgT, SAPA and FLA should have a special provision about the prohibition on the establishment of permanent improvements within the public easement like boat landing. However, floating jetty may be allowed to be established as long as they are established for public purposes." It was observed by that office that the policy is silent on the construction of improvements on the offshore areas. Nevertheless, they have noted that item no. 5 of the said Memorandum further states that, "Applications for foreshore Lease Agreement should specifically indicate the use of foreshore (e.g. private port, beach resort, etc.) so that special provisions can be incorporated which will prevent the damage of the environment." Hence, that office would like to clarify if building structures on the offshore areas is allowed.

Please note that pursuant to E.O. 192<sup>2</sup>, this Office's jurisdiction is limited only to alienable and disposable lands of the public domain. Conversely, by virtue of our Miscellaneous Lease Agreement<sup>3</sup>, we only allow the construction of permanent improvements

<sup>1</sup> The banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing or salvage or to build structures of any kind.

<sup>2</sup> Dated June 10, 1987. Reorganization Act of the Department of Environment and Natural Resources.

<sup>3</sup> An agreement issued in case the improvements over a foreshore area applied for falls within a dry land (part of the shore) or permanently underwater land.

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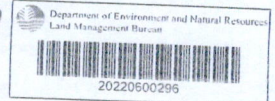
in the foreshore area extending up to the offshore area if the said foreshore area is adjacent to an alienable and disposable land. However, since the query pertains to offshore areas adjacent to forest lands and protected areas, we believe that the subject matter falls within the jurisdiction of Forest Management Bureau (FMB) or the Biodiversity Management Bureau (BMB), in case the area is also a protected area.

For your information and consideration, please.

*Emelyne*  
ATTY. EMELYNE V. TALABIS, CESO IV

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Cc:

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