



**POSITION PAPER ON THE DRAFT HOUSE BILL NO. 6373 BY REPRESENTATIVE EDWARD S. HAGEDORN "AN ACT DECLARING THE THREE (3) NAUTICAL MILES SURROUNDING THE KALAYAAN ISLAND GROUP AND SCARBOROUGH SHOAL IN THE WEST PHILIPPINE SEA AS A MARINE PROTECTED AREA UNDER REPUBLIC ACT NO. 7586 OR THE NATIONAL INTEGRATED PROTECTED AREAS SYSTEM (NIPAS) ACT OF 1992, AS AMENDED BY REPUBLIC ACT NO. 11038, OR THE EXPANDED NATIONAL INTEGRATED PROTECTED AREAS SYSTEM (ENIPAS) ACT OF 2018"**

### **Legal Bases**

The 1987 Philippine Constitution, Article II, Section 16 states that *"The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature."* Further, Article XII, Section 2 states that *"All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State."*

Executive Order No. 192 Series of 1987, Section 4 (Mandate), as supported by Executive Order No. 292 Series of 1987 otherwise known as the Administrative Code of 1987, states that *"The Department (DENR) shall be the primary government agency responsible for the conservation, management, development and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservation and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources as may be provided for by law in order to ensure equitable sharing of benefits derived therefrom for the welfare of the present and future generations of Filipinos."*

On June 11, 1978, President Ferdinand E. Marcos promulgated Presidential Decree No. 1596, which established the Municipality of Kalayaan. This created the "different and independent municipality of the Province of Palawan" that the Presidential Decree referred to. It also defines the boundaries *"From a point [on the Philippine Treaty Limits] at latitude 7°40' North and longitude 116°00' East of Greenwich, thence due West along the parallel of 7° 40' N to its intersection with the meridian of longitude 112°10' E, thence due north along the meridian of 112°10' E to its intersection with the parallel of 9°00' N, thence northeastward to the inter-section of the parallel of 12°00' N with the meridian of longitude 114° 30' E, thence, due East along the parallel of 12°00' N to its intersection with the meridian of 118°00' E, thence, due South along the meridian of longitude 118° 00' E to its intersection with the parallel of 10°00' N, thence Southwestwards to the point of beginning at 7°40' N, latitude and 116° 00' E longitude; including the sea-bed, sub-soil, continental margin and air space shall belong and be subject to the sovereignty of the Philippines. Such area is hereby constituted as a distinct and separate municipality of the Province of Palawan and shall be known as "Kalayaan."*

Republic Act No. 9522, which established the Philippine archipelagic baselines, asserted sovereignty over the Kalayaan Island Group under Section 2, sub-paragraph A, which referred to the region as a *"Regime of Islands"*—a term used to describe similar landmasses in the United Nations Convention on Law of the Sea.

## Position Statement

According to DENR-BMB Policy Brief No. 1 2019 titled “*The Biodiversity Resource Profile of the Kalayaan Island Group*”<sup>1</sup>, the coral reefs in the West Philippine Sea (WPS) covers an estimated area of 600 to 1,000 km<sup>2</sup>, or about 30% of the total reef area of the Philippines. Most of these reefs are found within the Kalayaan Islands Group (KIG). The KIG is also a source of coral and fish larvae for neighboring reef systems along the western Palawan coast and as far as the Sulu Sea and the Indo-China coast. With its important role in the fishing industry and providing food security specifically in Palawan, **we strongly support** the declaration of the KIG as a protected area. In addition, there are some features of House Bill No. 6373 that need to be amended taking into consideration our comments and recommendations.

We also concur with the said policy’s recommendations to: 1) collaborate with other National Agencies for protection and management of the KIG for biodiversity conservation, food security, and continuous monitoring of offshore reefs and fisheries in the KIG and 2) establish marine protected areas (MPAs) and MPA Networks to ensure timely and appropriate management responses amidst persistent and emerging threats and to greatly improve the marine resources in the KIG.

## Background

The offshore reefs of the Kalayaan Island Group (KIG) are some of the most ecologically and economically important reefs in our country. Several studies on currents and connectivity have established the KIG as one of the source-and-sink of coral and fish larvae (Pata and Yáiguez, 2019 as cited in PROTECT-WPS 2.0, 2021)<sup>2</sup>. Through the mechanism of larval dispersal, as affected by monsoons and oceanographic processes, the KIG plays a vital role in sustaining coral recruitment and fisheries production in the other reefs of the country, as well as its neighboring sovereigns (CARE-CaDRES, 2017-2018; PROTECT-WPS, 2019)<sup>3</sup>.

In addition, the KIG features high species richness and fish biomass (CARE-CaDRES, 2017), as well as the presence of juvenile fishes (PROTECT-WPS 2.0, 2021), despite its low average hard coral cover (with an average HCC of 14.46% surveyed last 2017 through the CARE-CaDRES program). Moreover, the KIG had the highest coral mortality based on the 2017 survey at 0.75 which meant that 75% of the hard corals that were surveyed at that time already experienced significant mortalities in the past. Holbrook, *et al.* (2008)<sup>4</sup> reported a similar response from reef fish communities to coral cover changes which might entail that the reef fish assemblages in the KIG are resilient to HCC loss. This is evident in the recorded high mean fish biomass in KIG during the 2019 survey (PROTECT-WPS, 2019).

While most of the reefs in the KIG fall under HCC Category C-D (fair to poor condition), there are also several reefs, particularly in Ayungin Shoal, to be classified as HCC Category A (PROTECT-WPS 2.0, 2021). In terms of coral generic diversity, there are

<sup>1</sup> DENR-BMB. (2019). DENR-BMB Policy Brief 1: Biodiversity Resource Profile: Kalayaan Island Group

<sup>2</sup> UP-MSI and DENR-BMB. (2021). Predicting Responses between Ocean Transport and Ecological Connectivity of Threatened ecosystems in the West Philippines Sea 2.0 (PROTECT-WPS 2.0) Progress Report  
Pata, P.R. and Yáiguez, A.T. (2019). Larval connectivity patterns of the North Indo-West Pacific coral reefs. *PLoS ONE*, 14(7).

<sup>3</sup> UP-MSI and DENR-BMB. (2017-2018). Coastal Assessment for Rehabilitation Enhancement: Capability Development and Resiliency of Ecosystems (CARE-CaDRES) Terminal Report

UP-MSI and DENR-BMB. (2019). Predicting Responses between Ocean Transport and Ecological Connectivity of Threatened ecosystems in the West Philippines Sea (PROTECT-WPS) Terminal Report

<sup>4</sup> Holbrook, S.J., Schmitt, R., & Brooks, A. (November 2008). Resistance and resilience of a coral reef fish community to changes in coral cover. *Marine Ecology Progress Series*, 371, 263-271. <http://doi.org/10.3354/meps07690>.

some reefs near Pag-asa Island and within Sabina Shoal to be under Diversity Category A (>26 taxonomic amalgamation units/TAUs) (PROTECT-WPS, 2019; PROTECT-WPS, 2021). These imply that the coral genera in the KIG are still diverse, while the reef fish communities are still resilient to changes in hard coral cover, despite that there are no fisheries management programs that are being implemented within these areas. Nonetheless, it shall be noted that a further decline in coral cover may result in a sharp decrease in species richness and abundance of reef fish communities (Holbrook, *et al.*, 2008).

One of the initiatives of the DENR in the protection and conservation of the coastal and marine resources of KIG is the proposal to establish two marine protected areas within the region - the Eastern Kalayaan Protected Landscape and Seascape and the Pag-asa Island Protected Landscape and Seascape as guided by the results of the biophysical assessments conducted through research expeditions by the University of the Philippines-Marine Science Institute (UP-MSI) from 2017 to 2021.

### Comments and Recommendations

- a. The Sections of the House Bill may be grouped into the following Articles to give a holistic view of the management strategies and provisions for the proposed KIGSS MPA:
  1. Article I: General Provisions covering Sections 1-4 of this House Bill;
  2. Article II: Administration and Management covering Sections for Management Plan, Zoning, and Environmental Impact Assessment; and
  3. Article III: Institutional Mechanisms, Roles and Functions covering the Sections for the Protected Area Management Board (PAMB) composition (with powers and functions of the PAMB), the creation of Protected Area Management Office (PAMO), and Role of other Agencies and Stakeholders;
  4. Article IV: Utilization of Resources within the KIGSS;
  5. Article V: Budgetary Allocation, Proceeds, & Fees for the proposed KIGSS MPA;
  6. Article VI: Prohibited Acts and Penalties; and
  7. Article VII: Miscellaneous Provisions.
- b. The proposed three (3) nautical miles surrounding the KIGSS are different from the initially conducted Protected Area Suitability Assessment (PASA) conducted by BMB, which cover only the boundaries of Eastern Kalayaan Protected Landscape and Seascape and Pag-asa Island Protected Landscape and Seascape in the System. Hence, it is also suggested by this Office that the BMB shall also conduct the same assessment in areas that are covered by the proposal of Hon. Edward S. Hagedorn.
- c. The proposed KIGSS MPA is home to the most ecologically and economically important reefs in our country. As such, other wildlife species that must be protected within the proposed MPA (e.g. marine turtles, migratory birds, etc.) as well as their conservation status based on DENR Administrative Order No. 2017-11 "*Updated National List of Threatened Philippine Plants and their Categories*", DENR Administrative Order No. 2019-09 "*Updated National List of Threatened Philippine Fauna and their Categories*" and the International Union for Conservation of Nature (IUCN) Red List, should be highlighted in the House Bill. This is to strengthen the proposal in relation to Section 5 of R.A. 7586, as amended by R.A. 11038 "*Additional Areas to be Included in the System*" which states that "*Upon the recommendation of DENR, additional areas with unique physical features, anthropological significance and high biological diversity may be proposed for inclusion as part of the System.*"

- d. **[Section 5: Declaration of Protected Area and Strict Protection Zone]:** The *"Declaration of Protected Area"* may be discussed in a separate section while the *"Declaration of Strict Protection Zone"* may be discussed in the section of *"Zoning"* to also highlight the boundaries of Multiple Use Zone (MUZ), subject to ECAN Law and other existing laws.
- e. **[Section 6: Prohibited Acts]** The corresponding fines and penalties for each prohibited act may be included pursuant to Section 21 of R.A. 7586, as amended by R.A. 11038, *"Penalties"*. The corresponding fines and penalties may also be recommended by the PAMB through issuing a resolution or this may be included on the IRR if passed into law.
- f. Additional section for the provision on utilization of energy resources is suggested to be included. Kindly refer to Section 14 of R.A. 7586, amended by R.A. 11038, and the subsequent rules and regulations stipulated in the DENR Administrative Order No. 2019-05 *"Implementing Rules and Regulations of Republic Act No. 7586, or the National Integrated Protected Areas System (NIPAS) Act of 1992, as amended by Republic Act No. 11038, or the Expanded National Integrated Protected Areas System (ENIPAS) Act of 2018"*.
- g. Relative to the annual operating budget for the protection of KIGSS, once the KIGSS MPA has been declared as part of the System, it is within the function of the PAMB to *"allocate financial resources for the implementation of the of the management plan and manage the Protected Area Retention Income Account and other fund in accordance with the accounting and budgeting rules and regulations."* Thus, it is suggested that not only the DENR-BMB shall allocate funds for the implementation of the management plan but other Government Agencies and other entities as well.
- h. Additional section for *Construction and Suppletory Application of Existing Laws* is suggested to be included. Kindly refer to Section 44 of R.A. 10067 *"An Act Establishing the Tubbataha Reefs Natural Park in the Province of Palawan as a Protected Area under the NIPAS Act (R.A. 7586) and the Strategic Environmental Plan (SEP) for Palawan Act (R.A. 7611), providing for its Management and Other Purposes"*.

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