Dear Paul Goodwin,

We, Conservation Alliance Tanawthari (CAT), are writing in relation to the letter dated December 26, 2018 sent by UNDP Myanmar to SECU, in which it seeks SECU’s clearance to resume the Ridge to Reef project.

While CAT and affected communities welcome UNDP Myanmar’s calls for a thorough review and redesign of the project, we urge SECU not to resume the project until indigenous communities have secured their right to Free, Prior and Informed Consent (FPIC). CAT requested suspension of the Ridge to Reef project due to the imminent harm facing local Karen indigenous communities from the project, including the loss of community access to land and forests, the failure to respect indigenous communities’ rights to Free, Prior and Informed Consent (FPIC), potential violations of the rights of refugees to return and resettle on their lands, and possible repercussions to peace and stability in the region.

Unfortunately, UNDP Myanmar has consistently failed to acknowledge and meaningfully engage with these concerns. As previously communicated to SECU, in a context where there is disagreement from UNDP Myanmar on the potential impacts of the project, an independent compliance investigation will lay a strong, factual foundation for dialogue, and allow affected communities to be informed participants in redesigning the project. It is for this reason that CAT requested a sequenced process, first through SECU Compliance Review, including project suspension, followed by a Stakeholder Response Mechanism (SRM) process. Through a comprehensive FPIC process and respect for UNDP safeguards, the Ridge to Reef project has the opportunity to support a community-led model of conservation, protecting Tanintharyi’s unique natural heritage in line with the rights and aspirations of indigenous communities. This necessitates that the project remain suspended until the compliance review investigation is complete.

This letter has three parts. Firstly, it outlines UNDP Myanmar’s attempts to suppress community concerns to resume the project. Secondly, it reiterates the continuing concerns of communities. Thirdly, it explains that project suspension and a compliance review investigation are crucial to ensuring the Ridge to Reef project’s successful redesign through an FPIC process.

1. **UNDP Myanmar has attempted to suppress community concerns to resume the project**

According to SECU’s eligibility determination dated December 13, 2018, UNDP Myanmar submitted a statement that Ridge to Reef project activities “have been put on hold indefinitely since August 2018 by UNDP in response to issues and concerns highlighted by Karen National Union (KNU) and Conservation Alliance of Tanintharyi (CAT).” The statement also states, “UNDP has proactively engaged in a systematic outreach and engagement with KNU and CAT to unconditionally discuss all aspects of project design and implementation.”

CAT would like to draw SECU’s attention to various developments on the ground which call such representations into question and highlight the need for continued suspension of the project until SECU’s compliance investigation is complete. Annex 1 to this letter includes a chronology of events that situates CAT’s complaint into a larger context. CAT would
particularly like to draw SECU’s attention to a series of concerning events in wherein UNDP Myanmar has sought to suppress the concerns of CAT and indigenous communities rather than to meaningfully engage with them.

UNDP Myanmar has sought to use its position to pressure CAT into withdrawing their complaint. On November 25, 2018, the Ridge to Reef Technical Advisor directly requested a CAT member to withdraw the complaint.

Rather than meeting with communities on the ground to understand or resolve concerns, UNDP Myanmar has also chosen to employ consultants to negotiate a settlement with the community in an apparent attempt to preserve its public image. For instance, in September 2018, UNDP Myanmar hired Phaw Ka Paw Say, an influential Karen woman who has close relationships with the KNU and Karen CSOs, on a short-term basis to negotiate a settlement to the complaint.

CAT would also like to point out that in November 2018, the Tanintharyi Regional Forest Department published a statement calling for all local peoples to participate in the Ridge to Reef Project (see annex 2).

These incidents demonstrate an environment of intimidation and that UNDP Myanmar is not taking the grievances and concerns of indigenous communities seriously.

2. Continuing concerns of CAT and local communities

At this point, CAT would like to reiterate the concerns raised in its complaint letter, sent to SECU in July 2018. All of these concerns are still felt by local communities, who continue to fear the impacts of this project on their lives, livelihoods, and peace in their territories.

➢ Failure to conduct FPIC with indigenous communities living within the boundaries of the project. Subsequent to the submission of CAT’s complaint, the UNDP Ridge to Reef Technical Advisor sent annexes detailing project consultations. It is now apparent that UNDP Myanmar only consulted 7 indigenous Karen individuals within the landscape portion of the project.¹

➢ Failure to respect the rights of indigenous peoples to own and manage their lands and resources. The project aims to expand government Protected Areas to incorporate Key Biodiversity Areas in Tanintharyi Region, inclusive of the indigenous territories of indigenous communities. Myanmar law does not recognise the customary land rights of indigenous communities, or their right to access their lands and forests. While some international organisations and government departments have suggested that the recently passed Biodiversity Conservation and Protected Areas Law makes provisions for recognising community conservation areas, civil society groups and indigenous groups throughout the country have shown how this law falls far short of recognising ICCAs (See Annex 3). Communities fear that this project which proposes to establish protected areas under the current legal framework, will extinguish their rights to own, use and manage their forests and territories.

The rights of refugees and IDPs to return and resettle their lands. Due to the protracted 70 years of civil war, thousands of ethnic Karen communities were displaced from their lands in Tanintharyi Region. Today, from Tanintharyi there are estimated to be roughly 80,000 IDPs and refugees, many of whom are in the process of returning to their lands and livelihoods. The establishment of protected areas will mean that they are no longer able to return to their lands, leaving them with few options for the rehabilitation of their lives and livelihoods.

Risks to the peace process and regional peace and stability. Tanintharyi Region is governed under the mixed administration of the Myanmar government and the KNU. According to the Interim Arrangements of the Nationwide Ceasefire Agreement (NCA) (Chapter 25), service provision and governance decisions must be jointly agreed upon by both administrations. The Ridge to Reef project does not include the participation of the KNU in the Management Board of the project, nor has an agreement been made between both administrations. Currently there are many pressures on the ceasefire agreement between the government and the KNU, evidenced by the resurgence of armed conflict in northern Karen State and the recent withdrawal of the KNU from the political dialogue. This project breaks the terms of the NCA and thus adds more pressure to an already fragile ceasefire process, risking a disintegration of peace and stability in Taninthary Region.

3. The importance of project suspension to securing FPIC and indigenous-led conservation

CAT supports UNDP Myanmar’s call for a comprehensive redesign of the project that fully responds to CAT’s concerns. At this stage, however, UNDP Myanmar has not acknowledged the impacts of the Ridge to Reef project on indigenous communities in Taninthary Region. In fact, UNDP Myanmar’s letter of December 26, 2018 appears to only acknowledge the last concern, that the Ridge to Reef project will violate KNU’s administration under the NCA. The letter also appears to propose a geographic change to the project, away from areas from which CAT’s complaint was brought. This appears to be an attempt to avoid accountability and yet again to ignore the concerns of communities. CAT would like to make clear that while its complaint concerns the terrestrial component of the project, CAT has been working with indigenous communities in terrestrial, coastal and marine areas throughout Taninthary Region who stand to be impacted by the project.

With the project’s impacts currently in dispute, it is vital that the concerns of the community are fully investigated and documented through the SECU compliance review process. This will provide the necessary factual foundation for both communities and UNDP Myanmar to meaningfully have a dialogue where they can redesign the project through an FPIC process.

Through a comprehensive FPIC process and respect for UNDP safeguards, the Ridge to Reef project has the opportunity to support an alternative model of conservation, protecting Taninthary’s unique natural heritage in line with the rights and aspirations of indigenous communities.

CAT has been supporting communities across Taninthary to strengthen their management rights over their territories and their systems for resource management and protection according to their ancestral traditions. This model of community driven conservation has already proven successful, evidenced through examples of Kamoethway, Ban Chaung and the Salween Peace Park. Communities in Lenya, Monorone and coastal and marine areas are
now following suit. These examples provide a clear alternative vision, demonstrating how the conservation of forests and wildlife can be complimented, not undermined, by respect for the rights of indigenous peoples. Support for this vision is also being modelled by international organisations, such as World Wildlife Fund, which has started to change its approach to conservation in Tanintharyi Region to strengthen indigenous and local community conserved territories and areas (ICCAs), working with both government and KNU administrations to support indigenous peoples to protect and conserve their forests and resources.

Indigenous peoples throughout Myanmar and around the world are seeing access to their lands and resources curtailed by top-down conservation projects that fail to meet the standards of international law. UNDP and the Global Environment Facility (GEF) are involved in other complaint procedures brought by indigenous communities around the world relating to similar conservation projects that risk displacing communities from their ancestral lands. There is substantial research which suggests that sustainable conservation can only be attained by respecting the rights of indigenous communities to steward their lands and resources.²

SECU’s compliance review process is important both for the communities who will have their concerns and grievances investigated and documented, as well as for the institution, which will have the space to learn and avoid similar problems in the future. We therefore strongly urge SECU to continue suspension of the project until the compliance review process is complete and communities have engaged in a comprehensive FPIC process.

Yours sincerely,

Conservation Alliance Tanawthari (CAT)

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**Annex 1: Timeline of UNDP Complaint**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>24/05/2018</td>
<td>Government of Myanmar passes the Biodiversity Conservation and Protected Area (BCPA) Law. The law allows for ‘Community Protected Areas’, but communities are anxious that their rights to own and manage their forests and territories will not be fully recognised (See Annex 3). Over the following 6 months a series of consultations take place to advise the development of the rules and regulations for the law.</td>
</tr>
<tr>
<td>16/07/2018</td>
<td>CAT submits initial complaint to GEF detailing the concerns of indigenous Karen communities living within the project areas. CAT and local communities hold a press conference in Dawei raising community concerns of the project.</td>
</tr>
<tr>
<td>17/07/2018</td>
<td>Project initiation workshop takes place in Dawei. Only TRIPNET from CAT receives an invitation to the ceremony – finally after press conference invitations are sent out, CAT receives an invitation to the ceremony. No community members are invited to our knowledge.</td>
</tr>
<tr>
<td>07/09/2018</td>
<td>UNDP Myanmar writes to CAT to invite them for a meeting in order to deliberate on CAT’s concerns and recommendations. CAT has not yet responded to UNDP Myanmar’s request for a meeting.</td>
</tr>
<tr>
<td>11/09/2018</td>
<td>The Government of Myanmar passes Vacant Fallow Virgin (VFV) Land Management Law Amendments. The new law gives people occupying or using VFV lands 6 months to register lands before they are liable to a 500,000 kyat fine or a 6-month jail sentence. Approximately 30% of land cover in Myanmar is categorised as VFV land – approximately 70% of this area is contained in upland areas and the territories of indigenous peoples.</td>
</tr>
<tr>
<td>22/09/2018</td>
<td>UNDP hires Phaw Ka Paw Say, an influential Karen woman who has close relationships with the KNU and Karen CSOs, on a short-term to negotiate a settlement to the complaint.3</td>
</tr>
<tr>
<td>26/09/2018</td>
<td>CAT officially submits complaint to UNDP SECU and SRM with the signatures of 612 indigenous individuals from 12 villages in Lenya and Monorone areas.</td>
</tr>
<tr>
<td>12/11/2018</td>
<td>Tanintharyi Regional Forest Department publishes statement calling for all local peoples to participate in the Ridge to Reef Project (please see Annex 2).</td>
</tr>
<tr>
<td>25/11/2018</td>
<td>CAT member joins BCPA law consultation in Nay Pyi Taw. At the meeting CAT member is approached by the technical advisor to the Ridge to Reef project, who requests that CAT withdraw its complaint so that the project can resume.</td>
</tr>
<tr>
<td>12/12/2018</td>
<td>Final consultation on the rules and regulations (by-laws) for the Biodiversity Conservation and Protected Area Law. Over 30 civil society groups and indigenous peoples involved in the consultation process submit letter to the forest department expressing concerns that the law does not adequately protect the rights of indigenous peoples (see annex 3).</td>
</tr>
<tr>
<td>13/12/2018</td>
<td>UNDP SECU determines CAT complaint eligible for SECU investigation, and stalls all funding disbursements until the concerns are resolved.</td>
</tr>
<tr>
<td>19/12/2018</td>
<td>UNDP Myanmar writes letter to UNDP SECU setting out options for the resumption of the project including the changing of geographic focus of the project.</td>
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</tbody>
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3 This became known to CAT through direct conversations with Phaw Ka Paw Say.
Annex 2: Forest Department Letter


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Annex 3: Statement to Forest Department from civil society groups working with Indigenous communities regarding the BCPA Law.

BCPA Law discussions fall short of recognising ICCAs. Indigenous communities call for the recognition of their territories, their right to govern their resources and their right to self-determination.

Indigenous and Local Community Conserved Territories and Areas (ICCAs) in Myanmar

Myanmar is an ecologically and culturally diverse country that encompasses vast expanses of forest, valuable natural ecosystems and a rich biodiversity. Many of these areas of unique natural heritage have been sustained and conserved by indigenous and local peoples through customary governance systems in their territories for generations. These areas are now globally recognized as essential to conservation and are commonly referred to as Indigenous and Local Community Conserved Territories and Areas (ICCAs).

For us as indigenous peoples, ICCAs are not a new concept; they are simply what we have practiced in our ancestral territories for generations. They are our Territories of Life. Hence ICCAs cannot be implemented or established by a government or outside agency. ICCAs are an expression of self-determination, the rights of indigenous peoples to govern their territories, and recognition of the wisdom of indigenous peoples to effectively and sustainably conserve their territories and the biodiversity therein. ICCAs are characterised by:

1. An indigenous people or community who possess a close and profound relationship with a well-defined natural area. The relationship is embedded in local culture, sense of identity, and/or dependence on the area for well-being.
2. The indigenous people or community is the primary decision-maker in governance and management of the area. The people or community effectively governs the area, with or without legal recognition.
3. The community management decisions and efforts lead to the conservation of the ecosystem’s habitats, species, ecological services and associated cultural values.

International experience has shown time and again that recognizing the customary land and forest rights of indigenous and local communities is the most effective way of protecting forests, wildlife and biodiversity. Over 80% of the world’s remaining biodiversity lies within the territories of indigenous communities. It is only by recognizing our rights to govern customary land and forests that the government will be able to achieve its conservation targets and sustainable development goals.

The BCPA Law Fails to Recognize ICCAs or Respect the Rights of Indigenous Peoples

We would like to express our serious concerns with respect to the BCPA law and by-law consultations. While we value having had the chance to participate in discussions on the development of the by-laws, we feel that these have largely been in vain, as BCPA law was developed without the consultation or participation of indigenous peoples, and does not understand their way of life or recognize their rights.

The spirt of the BCPA law prioritises Protected Areas for wilderness, science, tourism and government revenue generation above the rights of indigenous people and the protection of the forest. It proposes further centralization of decision making to the Union level.
government, ignoring the value of local systems of governance and impeding on the prospects for peace and federalism. This is in contrast with the spirit of ICCAs, which is based on indigenous peoples’ cultural relationships with their ancestral territories, living together with nature according to traditional wisdom, self-determination, and recognizing and embracing cultural diversity and political diversity of community institutions.

The BCPA law presents an outdated colonial model of conservation, which disregards the essential connection between people and nature. The top-down imposition of protected areas in border areas of Myanmar has repeatedly undermined effective customary governance systems, causing both environmental degradation and human suffering as local communities no longer have the right to manage resources sustainably or to protect it from outside threats.

Conversations during the by-law consultations with respect to ICCAs have failed to understand the fundamentals of customary governance systems. Rather than recognising the rights of indigenous communities to govern over their territories, ICCAs as defined by the BCPA by-laws can only be recognised as a type of Community Protected Area, designated under the administration of the Forest Department. However, ICCAs by their very nature cannot be implemented, established or managed by a government or an outside agency like just another protected area.

Free, Prior and Informed Consent (FPIC) is central to the rights of indigenous peoples. While the BCPA law includes FPIC, it refers only to consultation, and does not give local communities the right to give or withhold consent to the imposition of protected areas over their territories.

Recognizing ICCAs, and customary tenure as required by the National Land Use Policy, includes not only the use of resources but also governance rights to decide, implement, and enforce decisions about how to manage the area. Without recognising the full rights of indigenous and local communities to govern over their territories, this law is an impediment to effective and equitable conservation.

While the government has made commitments to recognizing the customary rights of indigenous peoples in national policy and through international agreements and conventions, the development of laws and policies in Myanmar are not fulfilling these commitments. Given the significant shortcomings of this law and its failure to recognise the rights of indigenous peoples, we call on the Forest Department and international conservation organisations to respect our rights as indigenous peoples, and revise the BCPA law and its rules to recognise our territories and management systems. The law must recognise the customary land and forest rights of indigenous people, and revisions should be developed through an inclusive, transparent process in which indigenous communities have the opportunity to meaningfully participate in the drafting of the law. This is crucial both for the conservation of Myanmar’s remaining biodiversity, which remains almost exclusively in the territories of indigenous peoples, and also for future peace and national reconciliation throughout Myanmar.

- ICCAs must be defined by indigenous communities, and governed in line with their own institutions, laws, and customs.
- ICCAs must cover the full extent of indigenous territories, rather than sections of customarily managed lands.
Indigenous and local communities must have the right to Free, Prior, and Informed Consent be able to decide and control activities that takes place in their territories.

Recognising the traditional territories, customs and practices of indigenous peoples is in line with Myanmar’s aims laid out in the NBSAP, it will support the government in meeting its CBD targets and will promote effective and equitable conservation.

If the BCPA law is not able to meet these demands and recognise indigenous territories and governance structures in full, then we ask that the term ICCA be removed from the law in its entirety, as it will be without meaning.

Within Myanmar an ICCA working group has already been formed by civil society organisations and indigenous groups who are working to conserve and protect their lands, forests and biodiversity from depletion or exploitation.

Organisations that have endorsed this statement are listed below:

1. Candle Light
2. Chin Women Development Organization (CWDO)
3. Community Sustainable Livelihood Development (CSLD)
4. Chin Human Rights Organisation (CHRO)
5. Council of Naga Affairs (CNA)
6. Dawei Research Association (DRA)
7. Dawei Development Association (DDA)
8. Environmental Conservation and Burma Development Organization (ECFD)
9. Gheba Karen Affair
10. Green Rights Organization (Shan State)
11. Hsar Mu Taw (Than Taung Gyi and Karen State)
13. Karen Environment and Social Action Network (KESAN)
15. Kayah Earthrights Action Network (KEAN)
16. Land Security and Environmental Networking Groups (LSCNENG) 11 CSOs in Kachin
17. Land in Our Hands (LIOH)
18. Lau Byit Hkawng Committee (Kachin)
19. Makury Naga Youth Federation
20. Promotion of Indigenous and Nature Together (POINT)
21. Resource Rights For The Indigenous People (RRTIP)
22. Rays of Kamoethway Indigenous Peoples Network
23. Social Development for rural area (SDRA - Southern Chin State)
24. SHANAH
25. Southern Youth
26. Takapaw Youth Group
27. Tenasserim River & Indigenous People Networks (TRIP NET)
28. Tanintharyi Friends
29. လင္းတ(စ*ေပ ွင့္ ယဥ္ေက23မ အသင္း (ရခiuင္))
30. ရခiuင9iuင္းရင္းသ*3မ2ိ ြယ=2ား အစည္းအ@uA3 (ရခuိင္) သ(မ2ားအBဖD (eမFက3တiuင္း)