

CAT Comments on Draft TOR for Investigation into UNDP Ridge to Reef Project

Dear Paul Goodwin,

We, Conservation Alliance Tanawthari (CAT), are writing to provide comments on the Draft Terms of Reference for Investigation, released on 2nd April 2019, in relation to the complaint we filed on behalf of communities impacted by the UNDP funded Ridge to Reef project.

We strongly welcome SECU's investigation and look forward to an independent compliance investigation laying a strong, factual foundation for communities to assert their rights to Free, Prior and Informed Consent (FPIC) and respect for UNDP safeguards. As previously communicated, communities feel the Ridge to Reef project needs to be fundamentally re-designed in order to support a community-led model of conservation, protecting Tanintharyi's unique natural heritage in line with the rights and aspirations of indigenous communities. Communities continue to urge that the project remain suspended until the investigation process is complete and communities have engaged in a comprehensive FPIC process.

Our comments pertain to both the "Overview" section, which we feel has not fairly represented the series of events following the submission of CAT's complaint, and to the "Scope of Work" section, which omits actors and institutions we feel must be party to the investigation.

Overview

The draft TOR outlines the context of the complaint with a description of the project, the complaint and a summary of events that have followed its submission. In a letter sent by CAT to UNDP SECU dated 20th February 2019, we reaffirmed the continuing concerns and grievances of the affected communities, and also highlighted UNDP Myanmar's attempts to suppress community concerns and resume the project. This was evidenced firstly through an attempt by UNDP staff to use their position to pressure a CAT member to withdraw the complaint. Secondly, rather than acknowledging and addressing the concerns raised in the complaint on their substance, UNDP Myanmar hired consultants following the complaint's filing with the objective of preserving its public image. Thirdly, rather than respecting the UNDP SECU investigation process, UNDP Myanmar proposed alternative plans to resume the project following SECU's eligibility determination, including a proposal to cut out the landscape portion of the project. This appears to be an attempt to avoid accountability and again fails to address the primary issues and concerns raised by communities.

In light of the outstanding complaints and grievances of the community – the failure to respect community rights to FPIC, the rights of indigenous communities to own and manage their lands and resources, the rights of refugees and IDPs to return to their lands, and the potential impact on conflict and stability in the region – and the numerous attempts by UNDP to avoid accountability, we ask that the Overview section more accurately represent the sequence of events following the submission of CAT's complaint.

Scope of Work

The draft TOR proposes a list of individuals to be interviewed in the investigation, including UNDP project staff, complainants, relevant government officials and other individuals that can provide evidence on potential impacts of the project.

In light of the design of this project, its potential impacts and the unique and unstable political situation in Myanmar, we would like UNDP SECU to widen the scope of the investigation to include the following stakeholders:

- **Marine and coastal communities** – While the communities referenced in CAT’s complaint were from Lenya and Monorone within the landscape portion of the project, CAT is connected to many other communities who have concerns and grievances with regards to the Ridge to Reef project. Indigenous communities in coastal and marine areas also feel they have not been adequately consulted on the project, and that they have not had the opportunity to give or withhold their consent. Communities in these areas also depend on and manage forest and marine resources, and fear what the implications will be of the establishment of protected areas in their territories.
- **The Karen National Union (KNU)** – Tanintharyi Region is held under mixed administration between the KNU and Myanmar government. The KNU is a de-facto government in areas under its administration, which include the Ridge to Reef landscape, providing services for local populations, and administering land and forest titles for communities. Furthermore, the National Ceasefire Agreement (NCA) signed in 2015 stipulates that projects taking place within mixed control areas must have the agreement of both the Myanmar government and relevant EAO – we implore the UNDP to respect and uphold the terms of this agreement. As a critical governing body within the project landscape, it is vital that the views and positions of both the district and central levels of the KNU and Karen Forest Department (KFD) be expressed through the project investigation.
- **Flora and Fauna International (FFI)** – FFI were instrumental in the design and development of the Ridge to Reef, and are also a key implementer in the project. FFI have worked in Tanintharyi Region for several years on projects within the Ridge to Reef landscape. They have conducted a number of camera trap and wildlife surveys in the proposed Lenya and Tanintharyi National Parks, and have also been involved in proposals for several marine protected areas. FFI have also been involved in long-standing conflicts with indigenous communities in the area, and communities have repeatedly complained that FFI does not respect their right to FPIC. It is crucial that FFI be part of SECU’s investigation as a key implementer in the project, and a stakeholder with broader experience implementing in the region.
- **Global Environment Facility (GEF)** – As the primary funder of this project, it is imperative GEF are interviewed with respect to their due diligence procedures and the process through which this project was developed and approved. Before submitting CAT’s complaint to UNDP SECU, a complaint was originally submitted to GEF. In the course of transferring the complaint to SECU, CAT was informed that GEF would also closely follow the SECU process and be available for questions.

We would also like to highlight that the Ridge to Reef project is not the only GEF funded large-scale top-down conservation project that UNDP is currently under investigation for. When looking at complaints from Cameroon and the Democratic Republic of Congo we see very similar concerns, so it is vital for institutional learning and accountability that SECU involve GEF in this investigation, and examine whether its standards and procedures have been complied with.

Yours sincerely,

Conservation Alliance Tanawthari (CAT)