



HCV of steep forested hills in PT. KAL, Ketapang, West Kalimantan

# Conservation Outside of Protected Areas: Lessons from West Kalimantan

## Executive Summary:

The Essential Ecosystem Area (KEE) is a new conservation category in Indonesia, which provides opportunities to protect forest cover outside of protected areas. It is potentially important for conservation, because much of the country's unique biodiversity is found in production landscapes. So far, the socialization and development of KEE's has been rather slow. In this brief we reflect on recent experiences with KEE implementation in Ketapang district, West Kalimantan. Around 2017, several palm oil companies worked together to establish a KEE, but they failed to adequately involve a mining company that had a concession in the same area. When the mining company started operations in 2018, the KEE was in jeopardy. Only after a period of intensive negotiations, the various parties reached an agreement. The experience highlights the importance of proper stakeholder consultation. An important role for civil society organizations (CSOs) is to facilitate the process leading up to multi-stakeholder discussions, which includes building awareness among individual stakeholders. Based on the Ketapang experience, we recommend that the national government stimulates KEE development by providing incentives to district-level governments, for example by enhancing special purpose funds (DAK) to support KEE management from the line ministries. The national government can also provide incentives to the private sector in the form of property-based tax relief or exemption. Finally, well-managed KEE's should be nationally registered and part of the Indonesian commitments related to the Aichi targets and the Paris Agreement to combat climate change.

## Introduction

### - *The KEE as a new conservation category*

In Indonesia, the land is divided into two main categories: state forest area and non-forest area (APL). The state forest zone consists of both protected and production areas, while the APL land is mostly designated for agriculture and human settlement. These land designations do, however, not necessarily match with the actual land-cover on the ground. Some parts of the APL lands are forested, while much of the forest estate has been highly degraded with little or no forest cover remaining [1,2]. Out of 67 million ha of APL, about 7 million ha (11.4%) is forested, either primary (1.3 million ha) or secondary forest (5.7 million ha) [3]. Much of the country's unique biodiversity is found outside of protected areas. It is estimated, for example, that around 75% of the orangutan (*Pongo pygmaeus*) population lives outside of the areas that are designated for conservation purposes [4,5].

Recognizing this mismatch, the Indonesian Ministry of Environment and Forestry (MoEF) introduced a new conservation category, called the Essential Ecosystem Area (*Kawasan Ekosistem Esensial*, or KEE). This category is meant to conserve forests that are located outside of national parks, wildlife reserves, and hunting parks. KEE's may cover areas that are classified as production forest (*Hutan Produksi*), watershed protection forest (*Hutan Lindung*), and non-state forest (APL).

The KEE is managed by a multi-stakeholder platform that is assigned by a Governor or District Head (*Bupati*). Province and district governments have the right to identify and designate KEE's on APL lands, while MoEF regulates the conservation of protected species in the landscape and provides norms and standards for KEE management.

### - *For whom is the KEE interesting?*

KEE designation can help large-scale palm oil companies that made a 'no deforestation, no peat, no exploitation' pledge, to protect their High Conservation Value (HCV)

and High Carbon Stock (HCS) areas [6]. These areas are designated for conservation on a voluntary basis, which means they have no legal conservation status. As a result, a local government, with reference to Government Regulation No. 11/2011 concerning Control and Utilization of Neglected Land, may consider such an area as idle land, and re-allocate the area to another company. There is thus a discrepancy between voluntary conservation efforts by the private sector and government regulations. The designation as a KEE can help to overcome this discrepancy, by giving a legal conservation status to HCV/HCS areas that are located on APL lands.

Some district governments - especially those that already have large parts of their territory designated as protected areas - may not be eager to set aside APL areas as KEE's, because their APL lands are a key source of profit and tax revenues. Other district governments, however, may have an interest in KEE designation, as it gives them a legal option to regain authority on forestry affairs (which had shifted to the Province in 2014), giving them access to financial funds from the central government.

## Objective of this Brief

KEE implementation has been slow, especially when compared with the rapid adoption of the social forestry program during the last four years [7]. West Kalimantan is one of the few provinces so far where the KEE has been implemented. This policy brief provides lessons from the West Kalimantan case, for the improvement of KEE designation and mainstreaming strategies, and for the development of a new KEE decree prepared by the MoEF which is expected to be issued very soon.

## KEE designation in Ketapang: a timeline

In 2016, the Sustainable Trade Initiative (IDH; an independent foundation aiming to accelerate sustainable trade) started the identification of KEE's in several districts in West Kalimantan Province. Based on this, the province government then adopted two potential KEE's in Ketapang and Kayong Utara Districts, and started facilitating the socialization of KEE's to stakeholders in both districts. Finally, in November 2017, the West Kalimantan Governor issued decree No. 718/2017 on the KEE designation in Ketapang and Kayong Utara Districts. Below we reflect on the experience in Ketapang (see Figure 1).

One of the objectives of the KEE in Ketapang was to create a connection between Sungai Putri Peatland Swamp Forest, Gunung Palung National Park and Gunung Tarak Protection Forest, that could be used by orangutans and other wildlife (see video on <https://bit.ly/2H4n3GS>). The key business stakeholders were proud and enthusiastic to manage a part of their production landscape as a wildlife corridor.

The enthusiasm waned in the beginning of 2018, when a conflict emerged. Part of the area designated as KEE in Ketapang overlaps with a mining concession of a bauxite mining company called PT. Laman Mining (LM). LM acquired this concession area in 2011, but had not been engaged in any activities. However, early 2018, the company suddenly started field operations. The access road was widened, and some exploitation infrastructure was built. Around March 2018, LM started clearing parts of an HCV area that was managed by PT. KAL, and constructed a 1.3 km long and 6 m wide road at the expense of an HCV area that was managed by PT. GMS. Both companies reported this to the Government at District, Province and National level. The MoEF then sent an investigation team, but found no evidence of legal violation, as the land clearing occurred on APL lands. As leaseholders, the palm oil companies had no legal basis to prevent the activities of the mining company. To solve the conflict, the government then suggested a business to business approach, but this seems only fit for LM exploitation areas established at the expense of developed oil palm plantations and not for HCVs.

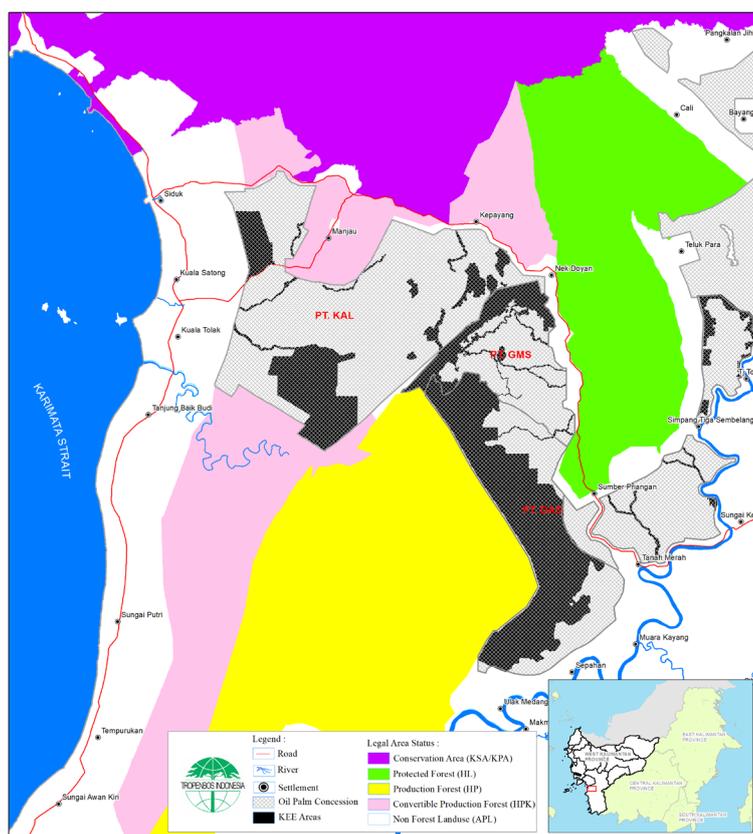


Figure 1. Map of KEE Ketapang (dark, 12,918 ha). The KEE is composed of HCV areas of oil-palm plantations PT. Kayung Agro Lestari/KAL (ANJ Group), PT. Gemilang Makmur Subur/GMS and PT. Damai Agro Sejahtera/DAS (BGA Group), and functions as orangutan corridor connecting Sungai Putri Peat Swamp Forest with Gunung Palung National Park and Gunung Tarak Protection Forest

In October 2018, the MoEF and the Provincial Forestry Office started a process of conflict resolution among the palm oil and mining companies. This resulted in the mining company committing to restore the areas it had destroyed, and to not cause any further degradation. From December 2018, Tropenbos Indonesia (TI) started facilitating the KEE stakeholders to develop an action plan to restore, protect and monitor the KEE in Ketapang District.



HCV of riparian area in PT. KAL, Ketapang, West Kalimantan

A group of ten stakeholders (the relevant government agencies, the involved companies, and several CSOs) has been meeting regularly to develop the detailed roles and responsibilities of each stakeholder in a collaborative action plan. In addition to facilitating the process and stimulating stakeholder commitment, TI will also monitor on the ground implementation.

## Lessons learned

### - Stakeholder involvement in public consultations

The public consultations leading up to the KEE designation in Ketapang district involved the KEE proponents (the palm oil companies that were committed to managing their HCV/HCS areas), but not the mining company (LM) that was present in the area. Also, the formulation of a collaborative action plan did not involve representatives of villages and community groups as key actors of conservation actions at the ground level. Finally, during the stakeholder consultations, it proved hard to get the district government to commit to the KEE designation. This was mostly because the consultations were attended by lower level officials, while the final decision had to be made by the Bupati. The Regent of Kayong Utara resists Decree No. 718/2017 and has asked Governor to review KEE designation in the district.

### - Taking time

The decision to designate a KEE on non-state forest lands (APL) cannot be made overnight. Each actor needs to conduct thorough risk assessment before taking a decision. CSOs can help by building awareness and facilitating the process leading up to the commitment. As part of this, CSOs can engage in one-on-one discussions with individual stakeholders in the landscape, to explain the concept and potential benefits, before starting multi-stakeholder discussions. Although sufficient time needs to be taken, there is also a risk that the process will drag on for too long. For example, KEE Sumatran Elephant Corridor connecting Seblat Recreation Forest with Kerinci Seblat National Park (Bengkulu) took 17 years before KEE management forum was finally signed by Governor in December 2017.

### - Misperceptions

There is a common misperception that KEE's should be managed exclusively for conservation purposes (known as 'land sparing'), while KEE's could also be managed in a way that combines conservation with

development activities ('land sharing'). Because of this misunderstanding, some commercial and government actors have been resisting the KEE concept, as it is seen as a new rule to curtail production activities. The draft of the KEE decree will therefore need to clearly state that KEE's are not exclusively for conservation. Instead, they are designated areas in production landscapes where conservation values are maintained through multi-stakeholder platforms, using locally-specific best management practices.

### - Incentive schemes

Incentive schemes should be developed to support district governments to allocate areas within the production zone for conservation. Incentives could include an increase of balancing funds from the center government, for example by enhancing special purpose funds (DAK, an earmarked transfer scheme to specific provinces or districts for certain sectoral programs), to support KEE management from the line ministries. Incentives for the private sector could include a relief or exemption of property-based taxes (PBB), as currently HCV areas are still subjected to the same amount of land tax as productive plantation areas. Incentives could also be developed by linking KEE's to efforts to reduce deforestation under REDD+ funds and Payments for Environmental Services. Other incentives could come from international funds to promote nature conservation. To leverage such funds KEE's would need to be registered as Verified Conservation Area (<http://www.earthmind.org/vca>).

### - Need to strengthen village natural resource governance

Under Village Law No. 6/2014, villages have rights and responsibilities to manage and administer the needs and interests within their areas of jurisdiction. It means that villages are no longer in a subordinate position under (sub) district governments. Instead, they are self-governing entities, like small states that have clear boundaries of jurisdiction and authority over the community and natural resources [8]. As KEE's are usually located within village administrative boundaries, KEE management will thus be influenced by the quality of governance at the village level. KEE stakeholders can assist villages to improve their governance of natural resources and mitigate threats (encroachment, fires, peatland degradation, etc.), for example by strengthening village-level governance institutions and negotiation skills, and by raising awareness on the importance of the KEE as natural infrastructure to maintain the sustainability of village economic development.

## Recommendations

(a) The KEE decree would have to define the KEE as a voluntary best management practice to maintain and enhance conservation values in production landscapes. The designation process should be initiated by local champions (local government, private sector, village, local community and local CSOs) through comprehensive stakeholder mapping, followed by intensive engagement to gain full commitment from all.

(b) Thorough stakeholder consultation and engagement are required to create awareness and a positive attitude towards collaborative conservation actions;

(c) The provincial government should not only identify potential KEE areas, but should also assess best-management practices that effectively combine production and conservation objectives. After that, it would need to seek collaboration with village governments and local land managers (owners), actively promote stakeholders' engagement, establish a multi-stakeholder platform, provide technical assistance, and monitor implementation.

(d) CSOs should facilitate stakeholder engagement, identify common interest among partners, strengthen village-level natural resource governance, and stimulate collaborative management among existing land managers (owners) to optimize development and conservation objectives. However, as CSO support is often short-lived, the long-term success of KEE's will ultimately depend on the established intrinsic commitment among local stakeholders.

(e) Forest Management Unit (KPH) which hold capacity on forest management at site level should be part of the multi-stakeholder platform and the mandate might be extended to cover KEE.

(f) The national government needs to provide incentives to companies who maintain and enhance conservation functions in production zones, in the form of property-based tax relief or exemption.

(g) Well-managed KEE's should be nationally registered and become part of Indonesian commitments related to the Aichi targets and the Paris Agreement to combat climate change.

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