

# Dusun Kiau

## Community Protocol

*Community Conserved Forest Customary Practices and Protocols of the Dusun Community in Kiau, Kota Belud*



2018

## **Dusun Kiau Community Protocol**

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## Foreword

Sabah is blessed with incredible cultural and biological diversity as well as legal pluralism. As the Chief Judge of the High Court of Sabah and Sarawak and the Chairman of the Native Laws, Materials and Cases Committee, respectively, and as proud Indigenous people ourselves, we know first-hand that respect for this diversity requires recognition of the deep connections between Indigenous peoples, our customary laws and the environments upon which we depend. It also requires recognition of the diverse worldviews, rights and responsibilities of Indigenous peoples, including to protect and maintain our customary territories and ways of life and to define our own development paths.

This community protocol, developed through an intensive participatory process over more than three years, is an embodiment of this cultural, biological and legal diversity. It showcases how closely the community's identity, culture, *adat* and ways of life depend upon their territory and natural resources, and how much they want to sustain them for current and future generations. The protocol also does not shy away from the realities on the ground. The community is facing challenges, but they set out how they would like to address those challenges in a respectful manner, drawing on customary, state and international law.

As lawyers and judges, we know that procedural rights of access to information, participation in decision-making and access to justice are also crucial to upholding the rule of law and achieving sustainable development. Under international law, all stakeholders have the responsibility to respect Indigenous peoples' right to provide or withhold free, prior and informed consent before any activities that may affect them or their territories. In any situation of disagreement or conflict, it is incumbent upon all parties to listen respectfully and seek a fair, equitable and culturally appropriate resolution.

Every living being on Earth depends on a healthy environment for survival and well being. Indigenous peoples are often on the frontlines of efforts to protect, conserve and restore the environment. However, they are also increasingly under threat for the same efforts. Everyone has a responsibility to defend and support those who are defending the environment - for their sake and ours, and for the sake of the planet.

Overall, this community protocol illustrates the strength and resolve of Sabah's Indigenous peoples and the importance of supporting them to share in their own voices their plans, priorities and visions for the future. Through the participation of community representatives in meetings of the Native Laws, Materials and Cases Committee, we have heard their story personally and commend them for their efforts. They are leaders not just within their communities but also in Sabah and Malaysia as a whole. We acknowledge and applaud this community and others in Sabah who have taken the time and care to document their *adat* and protocols. They are a source of pride and strength for our people and we encourage all fellow Sabahans and Malaysians to join us in supporting them.



Tan Sri Datuk Seri Panglima Richard Malanjum  
Chief Judge of Sabah and Sarawak



Datuk Douglas Cristo Primus Sikayun  
Retired High Court Judge of Sabah and Sarawak  
Chairman of Native Laws, Materials and Cases Committee

## Background

This community protocol written by the Kiau community aims to document the traditional knowledge and forest conservation practices of the Kiau community in Kota Belud, especially those regarding the Kiau Community Conserved Forest. It is a result of community documentations and inputs from community representatives during community workshops organized by PACOS Trust with funding from the Commonwealth Foundation between 2015 to 2018.

Several people have contributed to the production of this document. First and foremost, acknowledgement is given to the community representatives who have provided input and carried out the documentation. We would also like to thank PACOS Trust and all individuals who have directly or indirectly contributed in the realization of this community protocol.

This document has been consolidated and refined with the help of the PACOS team and has gone through a review process with community representatives to ensure the information contained within is authentic and is truly according to the views and wishes of the community.

# 1. Introduction

## 1.1. Identity and History of the Dusun Kiau Community in Kota Belud

Located at the foot of Mount Kinabalu in the district of Kota Belud, the village of Kiau is one of the highest villages found in Sabah. Our village is divided into three areas, Kiau Bersatu, Kiau Taburi and Kiau Nuluh. We have a population of around 2,000 people and a majority of us are of Dusun Kiau descent.



The Kiau Community Conserved Forest is located at the foot of Mount Kinabalu and borders the Kinabalu Park.

Our origins can be traced back to the 1800s as ethnic Dusuns from Nunuk Ragang. At that time, we were hunters and gatherers that lived a nomadic lifestyle. We then settled in the Mesilau area near the foot of Mount Kinabalu. While in Mesilau, our ancestors hunted and came across an area with a spring which they then drank from and heard the cry of a *Kologiau* bird. After they drank the water, they found that they were full, or “*noiyau*”. Since that incident, our ancestors had decided to settle in this area and named it Kiau. We have already lived here for seven generations.

## 1.2. Economy of the Dusun Kiau Community in Kota Belud

Agriculture is still the main source of our income here, not only for subsistence purposes (hill paddy, corn, banana, vegetables) but also for market purposes (pineapple, lemongrass, cacao, yam, rubber). However, we face market competition from outside our area and district. Part of our community is also involved in the tourism industry such as in community-based tourism and as licensed mountain guides because of our proximity to Mount Kinabalu and Kinabalu Park. Usually, income for women in the village comes from agriculture.

We practice rotational agriculture when planting hill paddy. We use the same area but change lots by rotation to allow soil fertility to restore. Normally, used paddy fields will be planted with short term crops (corn, pepper, vegetables) or left to fallow to restore soil fertility.

## 2. Traditional Dusun Kiau Practices for Entering the Community Forest

As Dusun Kiau, we believe that the forest and forest language (*Boros Puru*) is important to our identity. Traditionally, the forest has functioned as our source of food and medicine. We believe that forest guardians and nature have to be respected, and that humans have a close and reciprocal relationship with nature. We only take what we need from the forest; for our own use and not for commercial purposes. All forest resources including the plants, animals, insects, soil, water and minerals have to be protected and we have taboos that have to be followed to ensure the continuity of our resources.

### 2.1. *Mamatang and Mamason*

The community conserved forest is believed to be sensitive towards the behaviour of the people that enter it. Thus, *Mamason* and *Mamatang* have to be conducted before entering the area.

### 2.1.1. *Mamatang*

Before we or any individual enters the forest, we will prepare materials needed for the *Mamatang* ritual. These include 7 betel leaves, 7 betel nuts, 7 *kirai* (nipah leaves), a fistful of *sigup* (tobacco), a pinch of rice, a box of matches and a pinch of *tapu* (limestone chalk) presented as *Tinggaton*. For the Dusun Kiau ethnic, *Tinggaton* is presented to guests as a sign of respect and to welcome their presence. The cultural practice of giving *Tinggaton* is used to welcome guests that visit our houses and also when we enter our community forest.

*Mamatang* is conducted for safety while in the forest and when an individual wishes to collect much needed resources in the community forest. It is carried out according to the needs of each specific area. We believe that each area has a guardian and the *Mamatang* ritual needs to be conducted.



Materials needed during a *Mamatang* ritual: 7 betel leaves, 7 betel nuts, 7 *kirai* (nipah leaves), a fistful of *sigup* (tobacco), a pinch of rice, a box of matches and a pinch of *tapu* (limestone chalk) presented as *Tinggaton*.

### 2.1.2. *Mamason*

The practice of *Mamason* is used to ask permission from the forest guardian for our purpose of entering the forest and to request protection while in the forest. Once the *Mamatang* ritual has already been conducted in that area, we will only carry out *Mamason* before entering the forest. *Tinggaton* is not needed during *Mamason*.

### 2.2. *Boros Puru*

A long time ago, in a story from our ancestors, the forest guardian had told our ancestors to speak in *Boros Puru* (forest language) while in the forest. The reason why we have to speak in *Boros Puru* is so that the forest guardian can know and understand us when we are in the forest. Therefore, the use of the forest language is compulsory while in the community forest. We believe that if we do not use *Boros Puru* and do not respect the forest guardian, catastrophes or disasters will occur to the individual and community.

*Mamatang*, *Mamason* and *Boros Puru* cultivate a sense of appreciation and deep respect to the forest, its resources and the spirits living in it.

<i>Boros Dusun</i>	<i>Boros Puru</i> /Forest Language	English
<i>Gakod</i>	<i>Tinipu'</i>	Leg
<i>Kabang</i>	<i>Niwak</i>	Mouth
<i>Tulu</i>	<i>Bunting</i>	Head
<i>Raha</i>	<i>Wonod</i>	Blood
<i>Agayo</i>	<i>Awangkul</i>	Big
<i>Bawang/Palu</i>	<i>Palu</i>	River
<i>Gouton</i>	<i>Talun</i>	Forest

Example of *Boros Puru* words used while in the forest.

### 2.3. *Monolob*

We have a strong relationship with the forest and the mountain as well. For us, Mount Kinabalu is the resting place of our ancestors. It has been designated as a World Heritage Site in 2000 (Martin et al., 2002). *Monolob* is carried out every year in the month of October. During the *Monolob* ritual, *Tinggaton* has to be prepared, consisting of 7 white village chickens and 7 village chicken eggs. This ritual will be carried out by 4 people (2 *Bobolian* or priestesses and 2 assistants). *Monolob* is done to ask for permission, safety and protection from *Gayo Ngaran* (Mount Kinabalu).

### 2.4. *Mongngingit*

7 stalks of paddy is given as an offering to *Bambarayon* (paddy spirit) before the harvest of paddy. The paddy stalks will be tied with paddy leaves or string and attached on a piece of bamboo erected amidst clumps of paddy near the *sulap* (traditional farmer's hut). After harvesting is done, the ritual for calling upon *Bambarayon* is carried out before placing the paddy stalks into the *tangkop* (place for keeping paddy). During the ritual, food from the harvest will be served to *Bambarayon* as a sign of gratitude. Among the items served are: *linopot* (rice wrapped in leaves), *pinongian*, *kinomol* (rice wine), village chicken eggs cut in half, salt, *senalau sada*, and village chicken meat. After the ritual is completed, *Kaamatan* or Harvest Festival will be celebrated.

### 2.5. *Gumawoi*

*Gumawoi* is a practice used in land clearing for agricultural purposes. We will ask permission to farm from the spirit residing in that area. Before clearing the land, we will erect five wooden arrangements. If the wood erected falls or breaks, we believe it means the spirit of that area does not allow the use of the area. We believe that if we do not follow this practice, catastrophe will befall upon us or our crops will have no yield.

## 2.6. *Sogit*

We believe that *Sogit* is a custom that gives balance to a violation of customary law. When there is a violation of customary law, we believe nature and humans will undergo a situation of 'heat' (fights, unpredictable weather, crop failure, sickness). Therefore, we believe *Sogit* is needed to cool or calm down the 'hot' situation. Usually *Sogit* will be imposed according to the level of violation of customary laws and taboos by the individual. For example, the form of *Sogit* imposed will be one chicken for minor violations, a pig for moderate violations and a buffalo for heavy violations.

## 3. Dusun Kiau Forest Management System

The Kiau Community Conserved Forest was the main hunting grounds for villagers from Kiau before it was gazetted as part of Kinabalu Park in 1964 and then excised in the 1980s when the Kinabalu Park boundaries were revised. Kiau villagers had applied for Native titles in phases with the Land and Survey Department. Applications during the First Phase were processed and several villagers managed to obtain the title. However, land applications during the Second Phase were frozen because the area had been declared as a water catchment. In 2001, the Kiau community through the Kiau Nuluh Village Community Organization, GOMPITO, had unanimously decided to make the 1,204 acre area a Community Conserved Forest Area for Kiau Nuluh/Bersatu.

### 3.1. Dusun Kiau Community Organization

The establishment of the Community Conserved Forest was motivated by the need to protect the forest from encroachment and deterioration, and also by the interest to revive our forest practices and customs. The community forest is divided into three zones by the community: tourism zone, research zone and forest *Tagal* or *Bombon* zone (which will be decided together by the community). Together with the community organization GOMPITO, our community monitors activities in the forest

and have determined rules to control resource collection in the community forest.



*Koisaan Momogompi Tinungkusan Gulu-Gulu om Kotolunan Sandad*

Rules for entering the forest and for resource use in the community forest are based on customary law and governed by the Board of Trustees for the Community Conserved Forest under the supervision of GOMPITO; and under the auspices of the Village Security and Development Committee as well as the Village Chief of Kiau Nuluh and Kiau Bersatu to protect the Community Conserved Forest and maintain its resources, ecological value and culture significance. Rules for resource collection was formally documented by the community in 2000. Violations have to be referred to the Board of Trustees for the Community Conserved Forest. If an individual is found to have violated a rule, *Sogit* and fines will be imposed according to traditional village customs. If the fine is not paid, the perpetrator will be reported to the police and other related authorities such as the Wildlife Department, Forestry Department and Native Court.

## **4. Challenges of the Dusun Kiau Community Conserved Forest**

At present, the Community Conserved Forest is facing threats from encroachment from outsiders and also villagers, including poaching and illegal trading of orchids. This has caused uncontrolled resource collection and poses a threat of extinction for the flora and fauna species in our community forest.

Besides that, lack of recognition towards our Community Conserved Forest also poses a threat. Without recognition, our forest is exposed to land applications by companies and outsiders that wish to cultivate or develop our land. This will affect our access to forest resources and will also cause the disappearance of traditional knowledge and culture related to the forest.

There is also a challenge of culture continuity and transfer of traditional knowledge because of external culture influence, migration of youths outside the village to further their studies and find work. The newer generations are also less interested and do not want to engage in community activities.

## **5. Dusun Kiau Community Initiatives**

To overcome these challenges, we have taken several initiatives. One such initiative is strengthening community cooperation in our forest care. We have carried out several workshops, especially to raise awareness among our community members on the importance of our community forest. Furthermore, we have also done communal activities together such as making trails and gazebos in our community forest. We also regularly monitor the forest to reduce and prevent encroachment.

In addition, we are also promoting community-based tourism that is more environmentally friendly and according to traditional customs. We share about our practices of *Mamason* or *Mamatang* and *Boros Puru* to tourists and visitors whenever they visit our community forest.

We have never forgotten about our identity as Dusun Kiau. Therefore, we have also made documentation on our ethnic group, especially on our traditional practices related to our resources. We also plan to conduct community classes to pass down this knowledge to the younger generations.

Besides that, GOMPITO is trying to carry out programmes in the community forest including conducting youth camps to learn *Boros Puru*. There are also efforts to create written documentation of our traditional knowledge such as on *Boros Puru*, traditional medicine, as well as flora and fauna. Our community has also established a heritage garden and mini museum exhibits our history, area, old artifacts, and traditional tools and items for hunting, agriculture, daily life, music and clothing.

GOMPITO is also working together with Sabah Parks through the Ecolinc project. Through this cooperation, the project will support the recognition process for our efforts in taking care of our Community Conserved Forest. However, we do have some worries and doubts for the project, especially regarding individual land. This will have an impact on our customary land as it will limit access to areas for hunting, resource collection, agricultural activities and customary land ownership in the Ecolinc area.

## **6. Dusun Kiau Community Hopes**

Our community really hopes that our traditional practices and customs can be continued and strengthened to ensure our identity is not lost. Through this initiative, we believe that our practices in caring for and

managing our community forest will be supported and used by our community and other stakeholders. Through this initiative, we also hope our efforts in caring for and managing our community forest can be given recognition and that we will be given ownership of the area through a Native Reserve.

From this initiative, it is also hoped that our efforts can bring economic returns such as in community-based tourism and as a centre for learning, research and recreation. Furthermore, we hope that the community forest will continue to be used and protected to ensure the continuity of resources.

With the recognition of the Community Conserved Forest and the enforcement of our protocols, we believe the community forest will be preserved and encroachment in the forest can be controlled. We also hope that a centre for storing information can be established. This centre will also serve as the centre for governance of the Community Conserved Forest by a council of elders (with distinctive expertise) where the protocols will be used as a reference in governing the community forest.

## 7. Rights of the Kiau Community

### 7.1. United Nations Declaration on the Rights of Indigenous Peoples, UNDRIP

#### **Article 25**

*Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.*

## **Article 26**

- 1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.*
- 2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.*
- 3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the Indigenous peoples concerned.*

## **Article 27**

*States shall establish and implement, in conjunction with Indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to Indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of Indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.*

## **Article 28**

- 1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.*

*2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.*

### **Article 29**

*1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for Indigenous peoples for such conservation and protection, without discrimination.*

### **Article 31**

*1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.*

*2. In conjunction with Indigenous peoples, Malaysia and the state of Sabah specifically, shall take effective measures to recognize and protect the exercise of these rights.*

### **Article 32**

*1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.*

*2. States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.*

## 7.2. Convention on Biological Diversity

### **Article 8(j):**

*Malaysia and the state of Sabah specifically, shall respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices.*

### **Article 10(c):**

*Malaysia and the state of Sabah specifically, shall protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements.*

## 7.3. Sabah State Laws

- a. **Sabah Biodiversity Enactment - Section 9(1)(j):** The Sabah Biodiversity Centre shall establish or cause to be establish a system for the protection of biological resources or associated relevant knowledge so that the native and local communities shall, at all times and in perpetuity, be the legitimate creators, users and custodian of such knowledge, and shall collectively benefit from the use of such knowledge.

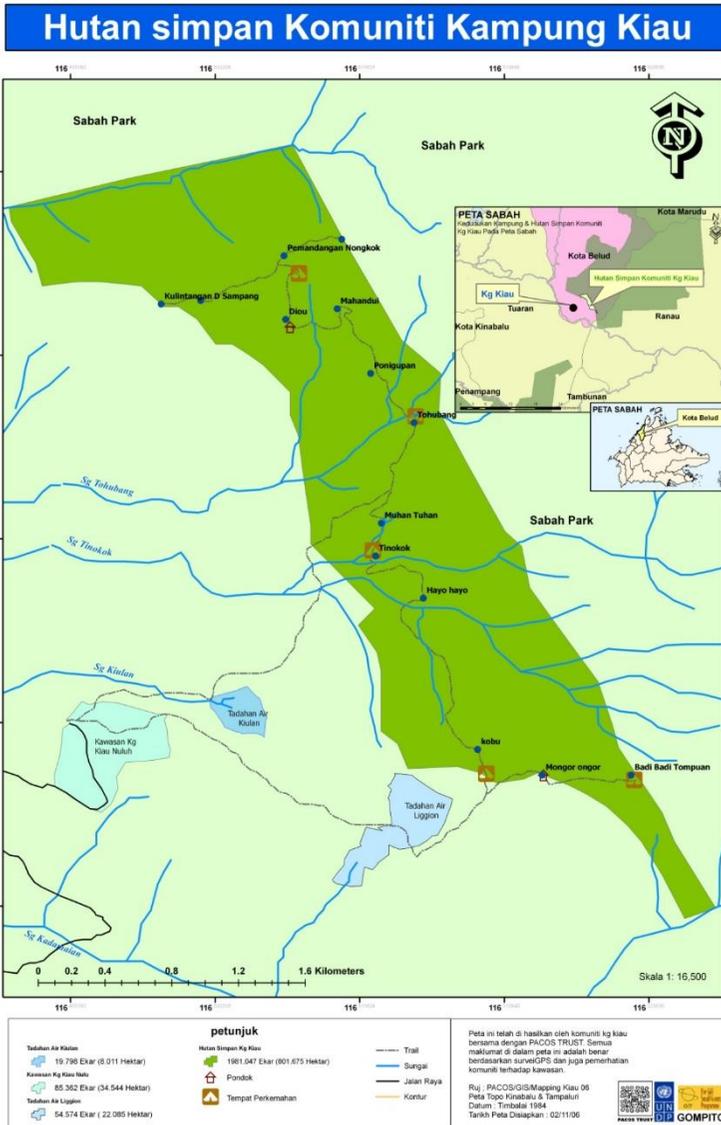
#### 7.4. Kiau Nuluh and Kiau Bersatu Community Conserved Forest Protocol

1. All types of forest resources which includes plants, animals and insects, on land and water; soil, water, and minerals in the Community Conserved Forest is protected;
  - I. The list of forest resources that are protected are all types and species of wood, herbs, flowers, rattan, root plants, bamboo, animals, birds, insects, rocks, sand, soil, lakes, springs, water catchments, rivers and species of aquatic life.
2. Prohibitions that need to be followed, given cooperation and respected by all while in the Community Conserved Forest;
  - I. All types and methods of hunting animals, birds and insects on land such as shooting, catapulting, setting traps (*kasip, tingkawa, gadoh, wonsoi, gaba, turudang, sungul*), *menyulu/mimpondou*, and setting up nets. (Including titled land within the Community Conserved Forest)
  - II. All types and methods of catching animals, fish and aquatic insects such as seine fishing, cast net fishing, setting up nets, use of poison, *menuba/meningkayu, menyulu/mimpondou* and *mengowot*. (Including titled land within the Community Conserved Forest)
  - III. Chopping, burning, cutting and taking wood, rattan, bamboo, herbs, flowers and root plants.
  - IV. Taking fruits, flowers, leaves, bark and roots, rattan, bamboo, herbs and root plants; except in accordance with the prescribed conditions, which are only for the Kiau Nuluh/Bersatu community.
  - V. Taking seedlings.
  - VI. Selling.

- VII. Using drones is not allowed without referring first to the JKKK and Village Chief.
3. Traditional practices, customs and culture as well as beliefs regarding the forest to be followed while in the Community Conserved Forest;
    - I. Taboos while in the Community Forest
      - i. Throwing stones at will is prohibited
      - ii. Killing animals in a cruel manner is prohibited
      - iii. Laughing at odd forest organisms is prohibited
      - iv. Use *Puru* language while in the forest
      - v. Carry out *Mamatang* or *Mamason* according to customs before entering the forest to ensure safety
      - vi. Adhere to forest discipline according to customs; *Mamatang/Mamason* and *Boros Puru*
    - II. *Kaasaban* (inviting disaster) will occur when a taboo stated in Paragraph (3) Section (1) is violated.
      - i. Examples of *Kaasaban*:
        1. *Kadumaaton/Tingoronon* (lightning/thunder), *Rumasam* (rain and thunderstorm)
        2. Flood and landslide
  4. Special rights of the Kiau Nuluh/Bersatu community in regard to the Community Forest through exemptions with the permission of Kiau Nuluh/Bersatu authorities, namely the JKKK, Village Chief and Community Organization GOMPITO in;
    - I. Forest resource collection for personal medicinal purposes and not for sale.
    - II. Research.
    - III. Documentation.

5. Conditions and rules to be adhered by outsiders that wish to conduct research and documentation in the Community Forest.
  - I. Have to submit a letter of authorization from authorities and submit a formal letter to the village authorities, namely the JKKK, Village Chief and Community Organization (GOMPITO).
  - II. Conduct initial discussions with village authorities, namely the JKKK, Village Chief and Community Organization (GOMPITO) on the purpose and benefits as well as the effects of the activity/programme to the community.
  - III. Fill out the form and adhere to the conditions and additional rules attached to the form and return the form to the village authorities for further action.
  
6. Adherence to the prohibitions in the Community Forest
  - I. If found to have done something prohibited in the Community Conserved Forest, a fine (traditional village customs) amounting to RM 1500.00 and a sogit of one (1) goat will be given from the community.
  - II. If the fine or sogit is complied with, it will be reported to the authorities;
    - i. Police
    - ii. Wildlife Department
    - iii. Forestry Department
    - iv. Native Court
  - III. The community has the right to seize anything taken, hunted and captured.
  
7. Violations of forest customs while in the Community Forest

- I. Violators will be subjected to customary law which requires one (1) white rooster, salt, matches, tobacco, tobacco wrap and one (1) pot of rice be given. The chicken will be slaughtered, cooked and eaten together with friends or groups.
  - II. Violations by outsiders such as tourists or community members who violate customary law; and cannot prepare items listed in Paragraph Seven (7) Item One (1) have to pay in cash RM50.77 - *Nopuhuran* (make even), if there is no machete (*Dangol*), RM 1.77 has to be paid (monetary value that has to be paid, according to the ritual/situation)
  - III. If there is (*Kaasaban*) violation of or mistakes in forest customs while in the forest, (*Sogit Kaasaban*) sprinkle salt and ask for forgiveness through the methods of asking for permission stated in Paragraph Three (3) Item Six (6).
8. Re-examination of the Community Conserved Forest protocol
- I. The Community Conserved Forest protocol will be re-examined according to the needs of the community from time to time.



Kiau Community Conserved Forest Map



***“The Forest and Forest Language is important to the Dusun identity of the Kiau community. If the forest is lost, everything will be lost.”***