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ENVIRONMENT, COMMUNICATIONS AND THE ARTS
REFERENCES COMMITTEE

Reference: Forestry and mining operations on the Tiwi Islands

WEDNESDAY, 20 MAY 2009

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BY AUTHORITY OF THE SENATE

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SENATE ENVIRONMENT, COMMUNICATIONS AND THE ARTS

REFERENCES COMMITTEE

Wednesday, 20 May 2009

Members: Senator Birmingham (*Chair*), Senator McEwen (*Deputy Chair*), Senators Boswell, Ludlam, Troeth and Wortley

Substitute members: Senator Crossin for Senator Wortley

Participating members: Senators Abetz, Adams, Back, Barnett, Bernardi, Bilyk, Mark Bishop, Boyce, Brandis, Bob Brown, Carol Brown, Bushby, Cameron, Cash, Colbeck, Jacinta Collins, Coonan, Cormann, Crossin, Eggleston, Farrell, Feeney, Ferguson, Fielding, Fierravanti-Wells, Fifield, Fisher, Forshaw, Furner, Hanson-Young, Heffernan, Humphries, Hurley, Hutchins, Johnston, Joyce, Kroger, Lundy, Ian Macdonald, McGauran, McLucas, Marshall, Mason, Milne, Minchin, Moore, Nash, O'Brien, Parry, Payne, Polley, Pratt, Ronaldson, Ryan, Scullion, Siewert, Sterle, Trood, Williams, Wortley and Xenophon

Senators in attendance: Senators Birmingham, Crossin, McEwan, Siewert and Troeth

Terms of reference for the inquiry:

To inquire into and report on:

Forestry and mining operations on the Tiwi Islands

- a. an assessment of the environmental, economic and community impacts of existing and proposed forestry and mining operations on the Tiwi Islands including compliance with relevant environmental approvals and conditions;
- b. a review of governance arrangements relating to existing forestry and mining operations on the Tiwi Islands, including the examination of consent and approval processes to date;
- c. in respect to forestry operations, an examination of the adequacy of contractual, commercial and legal arrangements between project proponents and operators and the Tiwi Land Council;
- d. an examination of the economic opportunity costs associated with existing developments including forestry operations;
- e. an examination of the prospects for alternative economic development opportunities and impediments for the Tiwi Islands including sale and promotion of cultural products, community development activities, land and sea management, and opportunities for involvement in future carbon trading and emissions offsets schemes; and
- f. any related matters.

WITNESSES

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Committee met at 9.08 am**LIDDY, Ms Marjorie (Private capacity)**

CHAIR (Senator Birmingham)—I welcome everyone to this third day of hearings by the Senate Committee on Environment, Communications and the Arts in relation to its inquiry into forestry and mining operations on the Tiwi Islands. The committee's proceedings today will follow the program as approved by the committee. These are public proceedings and I note for the benefit of witnesses and others that again we have members of the fourth estate present. If anyone has any qualms about being filmed by the media, please let us know.

The committee may agree to a request to have evidence heard in camera or may determine that certain evidence should be heard in camera. I remind all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee and such action may be treated by the Senate as a contempt. It is also a contempt to give false or misleading evidence to the committee.

If a witness objects to answering a question, the witness should state the ground upon which the objection is to be taken and the committee will determine whether it will insist on an answer, having regard to the ground which is claimed. If the committee determines to insist on an answer, a witness may request that the answer be given in camera. Such a request may of course also be made at any other time. With those formalities over, I welcome everyone here today. I again extend our thanks to the parliament of the Northern Territory for hosting us today. I welcome Ms Liddy as our first witness. Thank you very much for taking the time to come and join us today. Would you like to make a brief opening statement or some introductory remarks to share your thoughts with us on the issues that you have come here to talk about.

Ms Liddy—Concerning this Great Southern forestry, I have been trying to ask them to stop from when they started. I try to get my people to understand that we need that land. They all thought they were going to get a lot of money for it, so there was just myself in this battle to try to stop it. So any assistance would make me very happy.

CHAIR—Thank you, Ms Liddy. When you say, 'We need this land', could you maybe talk us through why you think you and your people need this land.

Ms Liddy—A long time ago it was our way of getting our food. The trees and everything on the land is sacred to us. I really cried when they started the plantation, even before when the pine trees were put in I was asking them to stop. When I saw the Great Southern come in it was very devastating. They came in worse than a cyclone. We were told and the next minute it was done and we were all shocked, but I said, 'You know you all agreed that you wanted the money', but I wanted to find a way of getting help to try to stop them.

CHAIR—What efforts have you made with people on the islands and in the communities to try to stop the project and to influence the Tiwi Land Council in the decisions they have made about the project?

Ms Liddy—I did not go to the Tiwi Land Council at their meetings. I went to Great Southern meetings when they were talking to our people about this project.

CHAIR—So you went to meetings that Great Southern convened themselves and attempted to convey your concerns directly to Great Southern in those forums?

Ms Liddy—I beg your pardon?

CHAIR—You went to those meetings hosted by Great Southern and told them your problems with the forestry.

Ms Liddy—Yes, but I could not stop it. My people wanted it.

CHAIR—Now that nearly 30,000 hectares of trees have been planted, what do you think should happen from here on? We cannot unplant those trees, so what do you think would be a good outcome for your people and for the islands?

Ms Liddy—If there would be a better way for them to more or less take those trees away and plant our own trees back. That would be better.

CHAIR—Thank you, Ms Liddy.

Senator SIEWERT—I will follow on from that question. When you say, ‘Take those trees’, do you mean when they are ready for harvest, they take those trees and then replant them with native trees? Is that what you mean?

Ms Liddy—It would be better before they grow any bigger.

Senator SIEWERT—You think take them now and then repair the land?

Ms Liddy—Yes. Some of them are not very big.

Senator SIEWERT—What have you seen as the impact on the land when they cleared the native forest and put in the trees? What impact did you see on the land?

Ms Liddy—I used to run to the workers and ask them to stop. I used to be crying and asking them to stop killing our land. I have never felt so hurt in my life.

Senator SIEWERT—You felt it physically?

Ms Liddy—Inside, yes, it was devastating. When I used to drive around and see them and not be able to do anything I used to cry.

Senator SIEWERT—Did anybody talk to you before the land was cleared to ask what you felt about it before they started? I understand the pines went in a long time ago.

Ms Liddy—I was there when the pines went in.

Senator SIEWERT—Did anyone talk to you about it then?

Ms Liddy—I just saw them go there. I was not aware of what would happen.

Senator SIEWERT—When the acacia plantations—the new trees—went in, was there any consultation with you or your family then?

Ms Liddy—Again, only by talk—I heard people talking about it. When I saw how much clearing they had done I tried to step in when they came to the area where I wanted to live, my traditional land close to me. I started talking but it was then too late.

Senator SIEWERT—They had already started?

Ms Liddy—They were too far gone.

Senator SIEWERT—There are trees on your traditional lands?

Ms Liddy—They are very close by. I live at Condor Point which is nearly the top end of Melville.

Senator SIEWERT—Yesterday we were told where the trees are on the different land groups. Are trees on your family's land?

Ms Liddy—Even when I turn off to go to my tribal land, there is a big plantation there.

CHAIR—Whereabouts are your lands? Which land group?

Ms Liddy—My site is a little outstation at Condor Point. There are only two houses there.

Senator SIEWERT—Could you point on the map?

Ms Liddy—I live up here.

Senator SIEWERT—Thank you for showing us.

CHAIR—For the record, Ms Liddy indicated Condor Point, which is in the Yimpinari land owner group area.

Ms Liddy—Yes, that is it.

Senator SIEWERT—What changes have you noticed to the animals, birds and waterways since the clearing started?

Ms Liddy—They would be starving by now. They are used to feeding off the island where work first started. Most of it has been cleared away with all their food, insects and everything. That would make a big impact.

Senator SIEWERT—When you went to the community meetings that were held with Great Southern, did they explain what they were doing in terms of any monitoring or anything like that?

Ms Liddy—I think that was pointless because the birds would not have enough to eat, only the big eagles. They only protected a couple of areas where they saw the birds' nests, but the birds are used to feeding off the whole island.

Senator SIEWERT—I want to go back to how you were told about what was going on. Did the Tiwi Land Council hold any meetings to tell people what was happening?

Ms Liddy—We were actually at that meeting with Great Southern. Maybe there might have been one or two Tiwi Land Council representatives there when Great Southern took over, when I attended the meeting.

Senator SIEWERT—That was when Great Southern took over in 2005. Is that when they took over?

Ms Liddy—I did not go to the first lot of meetings. I went later when I saw how many trees they have taken. Most of the beautiful trees have gone and will never be replaced.

Senator SIEWERT—What we have heard through evidence previously—in Canberra and a little bit yesterday—about those trees that were taken is that they were sold overseas and that the Tiwi Land Council lost a lot of money through selling them. Did you ever find out about that?

Ms Liddy—I have never looked into the money business or anything. I just stood back and watched everything and heard everything.

Senator SIEWERT—Do you think that the Tiwi Land Council should be managing forestry?

Ms Liddy—I did not think they did. I did not think they had a lot of say in it when I attended the meetings, but maybe they had meetings that I did not know much about.

Senator SIEWERT—How do you get to ask questions if you had questions for the Tiwi Land Council and what activities they are doing?

Ms Liddy—I never bothered to approach the Tiwi Land Council.

Senator SIEWERT—Why is that?

Ms Liddy—They do not hold other meetings with us, with the local people.

Senator SIEWERT—They do not hold meetings?

Ms Liddy—But we are welcome to attend the meetings.

Senator SIEWERT—You can go and listen to their normal council meetings?

Ms Liddy—Yes. But I thought that Great Southern was running the whole show.

Senator SIEWERT—The Tiwi Island forest project is a joint project between Great Southern and the Tiwi Land Council and Tiwi. Did people know that?

Ms Liddy—I knew most of the decisions as they had to talk to the elders in that meeting. I did not know about joint elders, but I knew they held it as for only traditional owners of that area.

Senator SIEWERT—Where the actual forest—

Ms Liddy—Where the next project would be.

Senator SIEWERT—What we heard yesterday was that the rent for the land where the plantations are now goes to the groups where the forests are on their land, but it was said that everybody will then share in the profits from the plantation.

Ms Liddy—Yes.

Senator SIEWERT—Has that been talked about in the community? Do you know how they intend to do that sharing of the profits?

Ms Liddy—Recently there was some talk of people getting money from that forestry, but it is only if you go and ask for it.

Senator SIEWERT—Is that the land rent money?

Ms Liddy—It is not rent; it is for the planting of the trees in the area. It is for the area where they had planted the trees.

Senator SIEWERT—I think they call it rent for the land that the trees are on.

Ms Liddy—Yes.

Senator SIEWERT—As far as you understand, there has been no discussion about how the profits overall will be shared in the community?

Ms Liddy—Just talk from the people themselves. They would say, ‘We have got a food voucher from the land.’ Sometimes if there was money there they would ask for it for funerals. But I think it is not the big money they expected.

Senator SIEWERT—Are there jobs for Tiwi islanders? What is your view on that?

Ms Liddy—They used to do a lot of artefacts work. But now the people who do the artefacts have complained that they are finding it hard to get the material now for their artefacts. That used to be a good job for the Tiwi people to make their own little baskets and pukamani poles. Now they tell me it is really hard to find the timber because it has been all cleared and burnt.

Senator SIEWERT—Where the plantations are?

Ms Liddy—Yes.

Senator SIEWERT—A lot of the proponents of the forestry say it is good for development for Tiwi, for jobs and to build an economy on the Tiwi. What do you think the Tiwi should be doing to develop jobs on the islands?

Ms Liddy—Get them to study and put back our own plants that we had on the island and try to grow that instead of the other trees. Their favourite job was doing artefacts work. That has been more or less cut short.

Senator SIEWERT—One of the things that we saw yesterday, and we talked about, were the roads. The Great Southern said that they had developed a lot of the roads to get to the plantations but they make it easier for people to move around the islands. What do you think about the roads? Has the road development been good? Do you know how it was paid for?

Ms Liddy—I travel on the roads a lot. Two years ago it was really hard for me to move in and out of my home. Two years ago the islanders could not even go to their grand final football because the roads were just too boggy, there was too much wood on the road. I think that was from all the big trees being taken away and disturbing the whole thing. It even disturbed a beautiful waterfall we had.

Senator SIEWERT—Did the roads do that, or did the clearing of the native trees do that?

Ms Liddy—I put it down to that because we never got bogged in before that lot. It was for three or four months. That was nearly three years ago.

Senator SIEWERT—We were told that the roads have been significantly improved since the forestry went in.

Ms Liddy—They improved for a while, but as soon as the wet comes it becomes too hard.

Senator SIEWERT—It gets boggy?

Ms Liddy—Yes.

Senator SIEWERT—I have been told I have to stop.

Senator CROSSIN—Ms Liddy, thank you for coming over and talking to us today. You have an outstation at Condor Point?

Ms Liddy—Yes.

Senator CROSSIN—Where do you live when you are on the islands? Do you live at Condor Point?

Ms Liddy—Yes. I have to go to Snake Bay, Milikapiti, for my mail. I then go to Pularumpi sometimes for my mail and shopping. Sometimes I have to go to Bathurst for a funeral.

Senator CROSSIN—Great Southern Plantations gave us a map yesterday and I noticed that on the map in your land area group, the Yimpinari, some forestry started there and trees were planted in 2006. More trees were planted in 2007 in your area. Did Great Southern talk to people in the Yimpinari group before that forestry happened?

Ms Liddy—Yes, I attended those meetings at that time.

Senator CROSSIN—Can you remember what they told you?

Ms Liddy—They said that we would be getting some money from the planting of the trees on that land.

Senator CROSSIN—For the rent of the land?

Ms Liddy—Yes, and to give it up for 33 years. I was the only one against it, but I was out-voted at the meeting.

Senator CROSSIN—How many people do you remember went to the meeting?

Ms Liddy—There were a couple of other traditional owners that lived close by me. There were some from Goose Creek where they are doing the mining now, which is not far from me, and there was Johnson. I did not take much notice, but there would have been a lot.

Senator CROSSIN—Was there a big mob or a little bit?

Ms Liddy—There were plenty of them.

Senator CROSSIN—On the land council, you have one trustee from the Yimpinari group and that person picks four other people to be on the land council. Do you know the names of those five people from your area on the land council?

Ms Liddy—That attended at that meeting?

Senator CROSSIN—No, that are on the land council now from your area.

Ms Liddy—My son was chosen about three or four years ago, but he got sick and had to pull out. The chairperson was Matthew Wannimiri at that time. He used to be the trustee for that area.

Senator CROSSIN—Do you know who the trustee is now?

Ms Liddy—He is a bloke called Bushy—I don't know his other name.

Senator CROSSIN—Do you get to talk to him about the forestry and what you think about the forestry?

Ms Liddy—Yes, at one meeting we attended they did not want us around him because I am from a different area. He called himself Goose Creek. The forestry wanted a meeting there at one stage and we all attended. There were people from Johnson and Yimpinari and another area.

Senator CROSSIN—Is Goose Creek is in the north of the island?

Ms Liddy—It is close to where we stay.

Senator CROSSIN—You said they did not want people at the meeting. Who did they say they did not want?

Ms Liddy—They said they just wanted the Goose Creek mob, yet we were called at that meeting.

Senator CROSSIN—I see.

Ms Liddy—We went there to start the meeting but they said it was only for the Goose Creek mob. I said to Bushy that we were called to this meeting but he said that it was only for the Goose Creek mob. They wanted him to sign that paper to agree. I have nothing in writing, but I was there.

Senator CROSSIN—Why is that different? What usually happens?

Ms Liddy—They all have their say.

Senator CROSSIN—Everybody on the land is supposed to have a say, not just a little group of people?

Ms Liddy—Yes, all of us in that area. We have one trustee.

Senator CROSSIN—So they were just trying to pull one little group aside and talk to one little group?

Ms Liddy—Yes.

Senator CROSSIN—Did Bushy or the land council do that?

Ms Liddy—Bushy did not want to hear anything. He just signed it as soon as the people agreed. We had no say.

Senator CROSSIN—The part where most of the forestry happens on the island, do you go hunting a lot out in the Yimpinari area on your island?

Ms Liddy—There are a lot of buffaloes.

Senator CROSSIN—Is it too dangerous for hunting?

Ms Liddy—No, they go there and shoot the buffaloes when they want to.

Senator CROSSIN—What was special about the hunting and things you would find where most of the forestry plantation is? Was there anything different about that area?

Ms Liddy—Where I stay?

Senator CROSSIN—No, where the forestry is now.

Ms Liddy—Yes, as a child I grew up on the top end where they have all the forest. We all lived there and used to hunt there and used to enjoy ourselves round there. I learned to hunt so after I got married I showed my children how to hunt for food on the island and now I am teaching my grandchildren and great-grandchildren. There will be hardly anything for my great-grandchildren to see on the way they go to school as the forest has already taken over Pulingipi.

Senator CROSSIN—If you were used to hunting up around Snake Bay and Shark Bay now—

Ms Liddy—Yes, most of it is seafood. I am wondering whether the fertilisers they are putting on there might destroy our seafood now.

Senator CROSSIN—Are you saying that your main hunting areas up around the Shark Bay area now are all forestry?

Ms Liddy—All the islands, we all hunt in the mangroves.

Senator CROSSIN—And up around there is forestry now?

Ms Liddy—There is a lot of forestry there. They have nearly taken most of the island. You know where I live and the centre of the island is all taken by forestry. The main forest where all the big trees and hollows and everything are have all been destroyed now.

Senator CROSSIN—In this inquiry we have heard from people who want the forestry to happen, and we have heard from people who are very upset about the forestry and do not want it to continue.

Ms Liddy—Others, but mostly women, were a bit upset because us women do a lot of hunting. We tried to put in a petition but did not get anywhere.

Senator CROSSIN—We have a copy of that petition. Is signing a petition the way you can show people that you are not happy? Is that something that the Tiwi people can do? Is it unusual to sign a petition?

Ms Liddy—We just thought if we did that it would stop it, but we got nowhere.

Senator CROSSIN—I am going to ask you a question you do not have to answer if you do not want to. We asked the Tiwi Land Council yesterday why there were no women on the Tiwi Land Council. I think it is a matter that even federal ministers have asked questions about even

in the last government. It is because of the way the trustees are appointed and then they appoint four more people. The answer we got was that the Tiwi Islands is a men's society, that it is a patriarchal society where the men own the land and only the men should have a say. Do you want to give us a comment about that? You do not have to if you do not want to, but I am just interested if you have a view about that.

Ms Liddy—I must admit that they asked me if I wanted to be on the council. I said no because I was trying to get my little outstation started at that time. They have asked me a couple of times but some things I did not like that they were doing. For instance, I did not like that pine tree.

Senator CROSSIN—Did you say no to being on the council because you were busy starting your outstation?

Ms Liddy—Yes, I was doing other things.

Senator CROSSIN—Did you not think that if you got on there you might be able to ask some hard questions of other people and make some changes?

Ms Liddy—I think I might not have agreed with some of their decisions.

Senator CROSSIN—Is that a reason not to get on it? Do you think they only want people on there who agree with them? Did you not think that if you got on the council you could disagree and make some changes?

Ms Liddy—They had a couple of women at one stage, but I do not know what happened there.

Senator CROSSIN—They indicated to us yesterday that they do not want women on the council because it is not what women do on the island. Do you think the time is coming when women would want some changes and want to be able to get more women on the council?

Ms Liddy—Yes, it is really up to the young people. Most of them would be busy as they would all have young families. You notice that most of them are elders in the land council—there are not many young people.

CHAIR—What sorts of opportunities do you think there are for young people at present on the island? What sort of life do you think young people on the island have in front of them at present?

Ms Liddy—The education only goes as far as year 12. None of them went to university, so there are work limits. They could train them to be able to do jobs that other people do, such as running the council and all that.

CHAIR—Do your things have become better or worse for young people on the island over the last 10, 20 or 30 years?

Ms Liddy—Better.

CHAIR—In what ways do you think they have become better?

Ms Liddy—If they could have a better education they could do all the council work. They could be taught to take over the jobs of running the island such as the shire council.

Senator SIEWERT—Yesterday we were told about—and you touched on it a little bit before—how the money for the land the trees are planted on—the rent for the land—is shared. When the money is shared with your group, is it only going to the mob that have got the trees on their land?

Ms Liddy—Yes.

Senator CROSSIN—So you do not get any because it is not on your specific land?

Ms Liddy—There is one bit, which is close when I turn in. They get some money for that.

Senator CROSSIN—So it is not shared across the whole group?

Ms Liddy—Just for the ones who ask for it. Sometimes they go and they would say that there is no money left.

Senator CROSSIN—Then they ask for it and it depends what they ask for.

Ms Liddy—There is no money. The money has been taken and no money is left.

Senator CROSSIN—Do you mean that there is no money left in your group's account?

Ms Liddy—Yes.

Senator CROSSIN—So then they have to wait for the next lot of payments.

Ms Liddy—Yes, the next lot.

Senator CROSSIN—If you wanted to, could you ask for it?

Ms Liddy—Yes, I am entitled.

Senator CROSSIN—You are entitled to it even if it is not on your land. When they had that meeting about putting the forest on your land, which is the mob they talked to that you were not allowed to talk to?

Ms Liddy—They have a councillor. They have to go to him to see if there is money there and then they ask him.

Senator CROSSIN—Thank you.

CHAIR—Ms Liddy, thank you very much for coming in and talking to us today. It takes a lot for anybody to come and give evidence in these types of forums and we appreciate your making the time and effort to be here.

Ms Liddy—Another thing I want to say is that that land is sacred. Nobody living nowadays knows where their ancestors have been buried. It is sacred land; it is like digging up their graves what Great Southern has done.

CHAIR—Thank you, Ms Liddy.

[9.52 am]

KERINAIUA, Mr Adam (Private capacity)

RIOLI, Mr Manyi (Private capacity)

Evidence from Mr Rioli was taken via teleconference—

CHAIR—I welcome Mr Kerinauia, who is at the table, and Mr Rioli, who is on the phone to us. Thank you both for joining us. We do not have submissions from either of you, but we have decided to hear you both together. Some senators may ask questions that are directed at both of you in which case please each feel free to share your comments one after the other, noting that it is a little harder with one in person and one on the phone, but we will juggle things as best we can. I invite both of you to make an opening statement or a few introductory remarks about this issue if you wish. We will start with you, Mr Rioli, if there are some opening remarks that you might like to make.

Mr Rioli—There was hardly any communication at all between our landholders and the forestry people. Once they had got our signatures to go ahead and clear the land we were virtually left in the dark. They would not talk to us. The only time they would talk to us was if they had more issues or more land to clear or any time they needed anything. There was never any proper communication. The only time they communicated with us was when they wanted land off us. Once they had got it we were just left out in the cold.

CHAIR—Thank you, Mr Rioli. Mr Kerinauia, do you have something to add?

Mr Kerinauia—Good morning to you all. I just want to know how the money is being distributed to all the landowners from the forestry. Last year I flew over to Garden Point and I got the biggest shock of my life seeing those local trees removed and the planting of all those acacia trees. I do not know who distributed all the money. A lot of people back home go to the land council office and ask for their royalty money and all they can get is \$100 food vouchers or \$500, just to spend at their local store, and the prices are too high. How are we going to manage to live like this if Tiwi people are not benefiting from those trees? I am really disappointed with how the land council and the Great Southern went about doing their own business, which is clearing the trees. They only consulted with certain people, not the whole landowning groups. It was just the people behind the land council. They are the ones speaking for the people; they are the ones doing the deals. But the local people do not see the paperwork. They do not see how the money is being distributed and where it is coming from.

A lot of young kids rely on royalty money. I know they spend their royalty money on food. They do not get cash money, they only get food vouchers and we have bills to pay. How are we going to survive in the Western world? How are the Tiwi people going to survive in the next century? We need to stop and think what the Great Southern people are thinking and what they are doing. They are destroying our land. They are destroying our culture. All our ancestors are buried on that island. I am really disappointed because the Great Southern and the land council should have been consulting the whole lot of the land use people, the people who own the land.

You have to consult them before you go ahead and do things. What I think with the tree money coming in is that we are getting little peanuts money. We are not living in the past—this is a new, modern generation. How are we going to manage things?

I feel sorry for all those people whose land has been cleared and all those acacia trees put in. I know we can make a lot of money from doing a lot of things, but they are using chemicals and I am not sure whether it is good or bad. We need to know all those things that the Great Southern is putting in those plantations. I am not too scared to speak up. I am not scared, and I will speak up for my people. The plantation is not making much money; we are not getting a lot of money in. I will tell you how much we are getting. We are getting about \$1,500 every three months or maybe more. That is not fair and that is not right for those people to go and plant that plantation. It is a risk to our lifestyle and our food; it is very, very hard. What are we going to do in the next 10 or 20 years? There will be no animals on that island and there will be no food for us. That is why I am really concerned for my people, so I have come today to speak to you and to tell you how I feel and how my people feel.

CHAIR—Thank you, Mr Kerinaiaua and Mr Rioli, for your opening remarks. Could each of you tell us whereabouts on the island you are from and with which landowner group you are associated?

Mr Rioli—I am from Munupi in the north-west of Melville Island. Munupi is the only group from this area.

CHAIR—I am looking at the map that is in front of me and that seems to be where the majority of the forestry is.

Mr Rioli—We were the ones who allowed forestry in. Forestry came into Melville Island through our community because we are up this way. Can I just say something in support of what Adam was saying before in regard to the squabbling with the little bit of chicken feed that comes through in lease payments of \$20 per hectare. Also when the forestry originally came over to the islands and they first put their proposals forward to us, people up at Garden Point put in a bid to get forestry happening up there. Do you understand that there was not enough shown in their proposal? We were just told an x amount of hectares. We are not farmers—we are footballers and we are hunters and gatherers. We do not know anything about a hectare. So they came and just told us that x amount of hectares were going to be cleared—there was not much actually shown in their proposal of what they wanted to do. There were concerns among the people as the land was cleared and they realised that more land was going to be cleared than they first thought.

There were no minutes to show how the meetings were conducted and what was said at the meetings. There was no process in regard to that. Then the forestry mob that came in then directly told us that it was going to happen whether we liked it or not. We are concerned about how it affects the people in the community that is up at Garden Point. I am just supporting what Adam said in regard to the little bit of chicken feed that comes in and the squabbling that is actually happening over the little bit of money that has been coming in. Sorry I got a bit off the track there—I will let Adam say something now.

CHAIR—Thank you, Mr Rioli.

Mr Kerinaiaua—I am from the Mantiyupwi landowner group, which is that community on the two islands right up to Cape Cambier—we are Picka.

CHAIR—So it is essentially the southern stretch across the two islands. Do you oppose forestry on the island point blank, Mr Kerinaiaua, or if the returns were better, would you think there was a place for forestry? I ask that because in your opening remarks you made strong comments about what are the people going to do, what are the young people going to do, where are they going to get income from in future and so on. So do you think there could be a place for forestry, or do you think forestry is not an option?

Mr Kerinaiaua—I think a bit of both. If the forestry is still going, they need to create more jobs for our people and train them as well to be qualified. But the other thing I am thinking as well is that the forestry has not really benefited our people. I know a few Tiwi local people are working there, but I do not see more than 20 local people on that forestry. They probably have five or six people—it depends on the workers. I do not really agree with the forestry because it is not making money for the people. There are a lot of ways to make money.

When the forestry first came out I was supportive of it, but when I got better information about the forestry I sort of changed my mind. I was against it because I do not believe that the land council will take over the forest—I think it should be given to somebody; someone found to take it up. If they can't, I would probably ask the Great Southern to replant those trees, because when we die we get buried over there—our souls returns to grass and the roots of the trees and the animals around the islands.

The thing with Great Southern is that we are not getting much money that we would love to get; we are only getting a little peanut money. It is not feeding all the Tiwi people, it is only certain people. With the money the land council is getting, only certain people get lump sum money from the royalty money. Other families get less. That is why I asked the land council many, many times if they could tell me who distributes the money and where the money is going to. I have asked that many times.

I was in that land council three years ago and all they could do was intimidate a lot of people. They threatened people. They asked me whether I would agree to it, and I said no. That is why they stood me down from the land council because I did not believe. Those people in the land council should be sitting back relaxing now, sitting back drinking a cup of tea. It is time for young people to step up. There are a lot of young people over there, a lot of educated people, and the land council never give anyone a chance. I asked the land council about Marjorie. A lot of councils have women in them, and parliament has women in it. Why is the Tiwi Land Council so different to the other councils in Australia? I know it is a cultural reason, but they need to understand that women are the voice. Women have got the voice, not the men. The men want some money. I tell you it is the truth. The women might sit back looking after their kids, but I will tell you now that I want women in that land council because women are the voice for our young generation.

CHAIR—It was put to us yesterday that as we get to the point where the tree crops are harvested, there will be more jobs and more income than is currently the case. If that eventuates and there is actually more benefit for the island as that point of harvest begins—and you will

then have a cycle of harvesting and replanting rather than what has been simply the start-up phase of planting—would you feel better about the forestry proposals in those instances?

Mr Kerinaiaua—If they go back to their traditional owners and make a deal again—at the moment the deal is not really good. I am not really happy with the deal because my people are suffering. A lot of young people are finding it hard to get money. They are all on the dole. The land council say they get 27 people working on the Great Southern—that is a lot of lies.

CHAIR—You served on the land council, so I assume you have heard of Tiwi Resources?

Mr Kerinaiaua—Yes.

CHAIR—Tiwi Resources, we have been told, is the entity that was established to receive the money from Great Southern and distribute it to the landowner groups affected by forestry. Is that a fair precis of what the broad aim of Tiwi Resources is?

Mr Kerinaiaua—Yes, they distribute the money but, like I said earlier, there are only certain people getting a big bucket and others are getting less. So I think Tiwi Resources need to be fair and even to all those landowning groups. I do not care whether he is the trustee and he has got the most people in his groups, and this one has got probably only 20 or 30. Let us be fair and share the money around, because we are all one people over there, we are all related, we all die, we all bleed and we speak the same language.

CHAIR—When you talk about sharing the money around and spreading it across the landowning groups, are you suggesting that the income from forestry should go evenly across all eight landowning groups as they are recognised, even the ones that do not have forestry?

Mr Kerinaiaua—No, I am talking about those people that have plantation, like for instance Mantiyupwi has more than 300 people on the landowning groups, so I am not sure how much they are getting. I asked about the figures for the forestry and how the money is distributed to all the families of the landowning group, so one gets probably \$20,000 or \$30,000 and the other probably gets \$5,000 or maybe less. They give the most to the people with the land council.

CHAIR—Great Southern gets criticised a lot during this process, but is that the fault of Great Southern or is that the fault of the Tiwi Land Council? Great Southern presumably are looking to pay somebody, and I am assuming that in negotiations the Tiwi Land Council said, ‘You put the payments through Tiwi Resources?’

Mr Kerinaiaua—I reckon the land council but a bit of both I think. I think it is a bit of both because the Great Southern has not consulted with the whole Tiwi people. I tell you now that they only consult with the people on the land council—they do not consult with the people outside the land council. Those people that are elected to the land council pass on the message to the other family members.

CHAIR—Do you think average Tiwi people understand how Tiwi Resources work and how they can, if they are entitled to some forestry money, actually get their hands on it?

Mr Kerinaiaua—No.

CHAIR—I am not surprised, because I think it has taken us three days of hearings to work it out ourselves.

Mr Kerinaiaua—They would have no understanding how to tap into that money because they are not really strong like I am.

CHAIR—Mr Rioli, I have left you there for a little while, but do you have anything you want to add to those issues that I have been talking about before I go to Senator Crossin for some questions?

Mr Rioli—Yes, I do. Could you just repeat the question about forestry being good or something for Tiwis?

CHAIR—Sure. I was asking whether you opposed the forestry outright or if a fairer financial deal existed whether you think there could be some place for forestry.

Mr Rioli—When it originally came out I was against it but as our elders really gave us no options we decided to try to get on board and make the most of what was happening. One concern I have is that I have just found out that apparently this acacia is a noxious weed. I want to know whether that is true, whether that is fact. The other concern is that these trees take 12 years to mature. That is 12 years of possible cyclones. In those 12 years you could get one good cyclone that destroys everything and you would virtually have to go back to the start. I am really concerned that I have got all my eggs in one basket and I do not think that forestry is the answer for us on the Tiwi Islands. But now that they have cleared all this land and planted all this acacia I think there are other pastoral and agricultural options that we should look at. I do not think we should be doing all forestry and all acacia; it is a very risky venture. As I said, with 12 years of dodgy cyclones I do not like the chances. That answers the forestry question—what was the next one?

CHAIR—We also asked about Tiwi Resources and whether you know what Tiwi Resources is and does in relation to the distribution of forestry money.

Mr Rioli—I am with Adam there. None of us on the islands really know how the money is distributed, how it is filtered through the land council or how it is divided up—why some families get more than others. We have not got a clue; we have been asking the land council on numerous occasions to try to be a bit more transparent and open in their dealings so that the communities can get involved and understand what is happening. But at the moment we just virtually take what we are given and that is it. Not many people on the Tiwis, apart from the Tiwi Land Council and Tiwi Resources, would know what was happening with the payments and how they are distributed through the land council.

Senator CROSSIN—Could I just go to the question of the distribution of money. We were told yesterday by the Tiwi Land Council that \$20 per hectare for rent is paid. Of that, \$18 goes into an account that is held by Tiwi Resources Pty Ltd, and \$2 goes into some sort of trust fund for an education fund. So if you then take the \$18 per hectare that is held by Tiwi Resources, my understanding from yesterday's evidence is that that is the money you go to if you want to draw down for these vouchers. In a report we have, the Mantiyupwi family group apparently in 2007-08—for that year—had access to or got around \$254,000. So I am assuming that is the amount

that is held in the Tiwi Resources bank account for the Mantiyupwi family. Mr Rioli, did you ever get access to any of that money, or do you know how to access that money?

Mr Rioli—I think you should ask Mr Kerinauia that question. Did you say Mantiyupwi?

Senator CROSSIN—The Mantiyupwi family group, which is your area isn't it, Mr Rioli?

Mr Kerinauia—No, it is mine. Manyi's is Munupi.

Senator CROSSIN—Sorry, I meant Munupi.

Mr Rioli—That is news to me. You would think that I would be aware of these payments but I had no idea that that payment actually went through and had been distributed to our trust funds.

Senator CROSSIN—My understanding is that the Tiwi Land Council have made a decision that that money does not get paid to people in cash, that it is held in a bank account—I am assuming by Tiwi Resources—and that if you want to access payment for a funeral or for the store vouchers you talk about that is the bank account they come out of. But there is a great lot of confusion about how the 67 families they talk about actually get access to this money dollar by dollar, person by person. I do not think we actually really drilled down yesterday into how someone like you, Mr Rioli, actually gets access to that money if you are not on the land council, for example, or if you do not know about it.

Mr Rioli—You have to keep humbugging this mob. One of the things that I am worried about is that if you talk to any other Aboriginal person from mainland Australia who receives royalty payments every one of them will be able to tell you what month, what day, their payment is coming and how much is coming in for them. I am just confused as to how the land council knows about all their royalty payments yet we know nothing.

Senator CROSSIN—Mr Kerinauia, you were once on the land council. Can you remember how people apply for permits and how they are granted?

Mr Kerinauia—With the permit system, they ring the local council office, which is the shire, and they used to keep the permit book—

Senator CROSSIN—In the shire?

Mr Kerinauia—Yes, that is the old TILG. They do not have it now. They took it back to the land council. So the traditional owner of that place signs the permit for the visiting people. But my understanding is that at the moment you do not need a permit. Is that right?

Senator CROSSIN—Well, you don't—

Mr Kerinauia—On leave.

Senator CROSSIN—You do need a permit to get from the airport to the town lease. It just depends where you are going. It is a complicated question.

Mr Kerinaiaua—I think the land council have it.

Senator CROSSIN—So if I wanted to go to Milikapiti, for example, I would apply to the land council for a permit. Who would sign off on that?

Mr Kerinaiaua—The official owners of it.

Senator CROSSIN—We were told yesterday—not recorded in *Hansard* but in a discussion—that certain members from the environment centre had never applied for a permit. One traditional owner told us that. But if there are seven other traditional owners they may well have applied for a permit to those other owners. Is that correct?

Mr Kerinaiaua—Yes.

Mr Rioli—Can I come in there? How they mostly do it is that the trustee from each of the land groups signs permits—like my dad is a trustee for this area so he would be the person who would sign permits. Otherwise there could be 10 or 20 people signing permits and no-one would know what is going on. So my understanding is that mostly the person who can sign permits is the trustee from that area or the land council in Darwin. You can go into the land council office in Darwin and get a permit raised that way. They are the two ways people are supposed to be getting permits. But since all this confusion came in with the intervention and the removal of permits then, a lot of people do not bother getting permits now—they just come up because they feel that with the intervention the permit system has been removed. So yes, it is a worry.

Senator SIEWERT—I want to follow up on the issue of the native timbers that were logged and then shipped to Asia. We have been told previously through the estimates committee that the Tiwi Land Council made a loss of \$600,000. Are either of you aware of that?

Mr Rioli—Yes. We were very concerned that there was no feasibility study done in regard to getting the logs off the island and into the best markets. None of that was done. They collected logs from the Munupi area. But in other areas where all of the rest of the land was cleared, apart from the Munupi land, do you know what they have done with all the native hardwoods from those next-door neighbours' land? Because they could not get rid of the hardwoods from our area, they burnt all the native hardwoods and gave no opportunity to do anything to sell them—millions and millions of dollars of hardwood was just burnt and wasted. The only bits of hardwood they have are the ones they have got currently stacked up at Port Melville right now, the majority of which come from Munupi land. So yes, at least a feasibility study should have been done with regard to getting those native logs off the island and into the markets.

Mr Kerinaiaua—On that question, I was not aware that Great Southern lost \$600,000 or more—

Senator SIEWERT—It was the land council.

Mr Kerinaiaua—Yes, the land council. I was not aware of that. Those sorts of things do not go out to the people. They keep it in the dark. They will not tell people what is going on.

Senator SIEWERT—Mr Rioli, you said that you did know about it. How did you find out about it?

Mr Rioli—There was a Senate inquiry last year, I think, that John was interviewed on, or an interview on radio, with regard to the logs. He was grilled by a couple of the senators or politicians in Canberra with regard to the operations and that it could be a tax minimisation scheme and all that.

Senator SIEWERT—Do you understand who now bears the loss for that \$600,000? As we understand it from the answer to the questions to the Tiwi Land Council, that council bears the loss. But do all the landowner groups bear the loss or is it the landowner groups where the timber came from who bear the loss? Has it been explained?

Mr Rioli—I heard on that interview on the radio that the Great Southern company took the brunt of the loss.

Senator SIEWERT—Great Southern bore the loss?

Mr Rioli—This is what John was saying on the radio in that same interview that apparently it was Great Southern's pain.

Senator SIEWERT—I will have to check the estimates, because I understood that it was the Tiwi Land Council that bore the loss.

Mr Rioli—It would be a shame if that was the case and John was going on radio and saying something completely different.

Senator SIEWERT—I could have misinterpreted it. I was actually there at the estimates, but I could have misinterpreted what he said and I could now be misinterpreting *Hansard*, but I understood that the Tiwi Land Council bore the loss. I asked yesterday how the land council had explained it to the community, and he did not at that stage explain that it was Great Southern and not the Tiwi Land Council that had borne the loss.

Mr Rioli—My memory could be a little bit wrong there, but that is what I seem to recall. Do you remember the name of the senator actually questioning him?

Senator SIEWERT—There were a number of us questioning at estimates. Senator Crossin, Senator Abetz and I were all asking questions, so to tell you the truth I cannot remember who asked the specific question.

Mr Rioli—Someone did actually ask that specific question about who wore the pain for that and I thought John said it was Great Southern. Maybe my memory is not that good, but that is what I seem to recall, but who knows?

Senator SIEWERT—I will follow that one up with both Great Southern and with the Tiwi Land Council. In terms of the royalties or rent that is paid, I understand that it has only gone up fairly recently to \$20?

Mr Rioli—Wow, \$20.

Senator SIEWERT—Is that your understanding?

Mr Rioli—Yes, I actually questioned the land council management in regard to that because the Munupi mob had renegotiations for the lease last year. We were getting paid \$17 last year. Apparently they went ahead and had a meeting in July last year and signed off on this new \$20 fee. My concern there was that a lot of other traditional owners were away; the traditional owners from that area should have been involved in the process of that decision making. Basically, how can they—only a couple of them—sign off on important issues like that, renegotiations for the land and the \$20 fee? All of the traditional owners should have been involved in the negotiations—they were renegotiations, and we did not get the opportunity at all to have our case heard.

We are talking to people around Australia that are currently leasing land—farmers and so on. We were talking to the environmental centre in town that told us we should be getting 10 times the current payment. When we talk about renegotiations, both parties should be trying to get the best possible price for their organisation or for their people, not to just sign up for what has been put on the table which seems to be a great move for the land council. What is wrong with trying to get the best possible deal for your people and negotiating?

Senator SIEWERT—Before it was \$17 and then \$20, what was it prior to that?

Mr Rioli—It was \$16 I think.

Senator SIEWERT—It has been reported to us at some stage that it was \$3. When was that?

Mr Rioli—It started off at \$3 I think—I am not sure. This was when we first started, but I really cannot remember that far back. I am just going on from the last three years, when it was \$16, went up to \$17 and this third year we have now signed off at \$20 a hectare.

Senator SIEWERT—Senator Crossin touched on this before—that \$18 goes to Tiwi Resources or to the landowners and \$2 goes into the education fund.

Mr Rioli—Yes.

Senator McEWEN—I just want to ask Mr Rioli where the forestry is located in the Munupi lands. Mr Rioli, most of the forestry is concentrated on your traditional land ownership area and, judging from the map, that is also where a lot of people live. Is there any correlation between the area where the forestry is and the value of the hunting grounds there? Was that good hunting ground where they have taken away the native forest and planted the acacia?

Mr Rioli—Yes, a lot of it is near good hunting grounds. On the way to Rangini, where they have planted trees, there are hunting grounds there. Towards the north-west tip of Melville Island is all good hunting ground and around Wula Wunga—there is forestry right in there amongst all those hunting places. We actually thought that one of the advantages of forestry would be that because they were going to clear so much land that would help to have new roads to access areas that we have never been to for a lot of years. But that never ever happened.

Senator McEWEN—Yesterday we were told that the roads that had been built because of the forestry plantations had opened up access to your people. Is that not right?

Mr Rioli—No, all they did was make the roads that were already there into wider roads for the sake of their vehicles and their stuff, but they have not really done much. Could you name one place where they have pushed a road through and opened a new fishing ground or hunting ground to us, or one that we used to go to 20 or 30 years ago? I cannot think off the top of my head of one place they have opened up. Like I said, they have made the current bush tracks a lot wider, but as for actually going to new places or places that we have not been to for years, I do not think so.

Mr Kerinaiaua—To go back to the start, I said on behalf of my people that we want to know where the money is going and how it is distributed, and at the moment we are not getting that. Like Manyi said, three years ago we came to town to get some advice and we went and saw one of the workers, and he said that we should be getting 10 times more wages than they were giving us. I still feel it is peanut money and it will not benefit my people. And no-one is brave enough to come and talk to guys like you and give you some feedback on things that are happening over here. I just thank you for having me here.

Senator SIEWERT—We have had conflicting evidence about how much the company paid for the roads and how much was paid for by the funds. On Monday we were told the government had contributed some money to the roads, or had subsidised some of the roads. What I have subsequently heard is that it may not be the government—and we have to track this down—but that it may have been ABA funds were put in. Some people call that government funding, or at least outside funding—

Senator CROSSIN—There might have been substantial Northern Territory government funding as well.

Senator SIEWERT—Are either of you aware whether there was any outside funding other than company money that went into the roads?

Mr Kerinaiaua—No, not at all. When I was in the land council, they were talking about getting funding from the government for bitumen. At the moment it is very hard because those big trucks going in and out to get those timbers and take them to the port is causing a lot of havoc there. It is making the roads softer. When the wet season comes around it is very hard to get to the other side to Paru—which is on Melville Island—to go to Bathurst Island. It is very hard to get to Milikapiti or to Picka. So that is the question I was asking the land council—where are we getting the money from to get this bitumen going? They have promised that; the land council promised to build a bitumen road for the last three or four years now and it has not eventuated. It is going to be hard for people to travel to other communities.

Senator SIEWERT—Mr Rioli, are you aware of what the funding situation is?

Mr Rioli—We have been arguing with Great Southern for a while now. I know that they have made their own roads into the plantations as they have opened up and cleared different areas, but there is the main road between here and Paru and Milikapiti. I do not believe that they have committed any money to the roads—I could be wrong, but I know we have been chasing them

with regard to some kind of contribution to the roads, for some kind of roads agreement. A lot of people on the island felt that the company's big heavy machinery was causing a lot of the damage to the roads. Great Southern believed that we were actually getting funded from the NT government and the Commonwealth government for maintaining those roads. So they believed that the government money that was being put in there was for them and them only. And we were saying, 'Hang on a minute, that money the government puts in is not to do up the whole road but just to do grades and keep it up to some kind of decent road. It was not designed for heavy machinery like you are putting through here now.' I know that for years we have been trying to get them to contribute something towards the roads. We believe, as Adam was saying, one of the carrots dangled in front of us, when they were talking about introducing forestry to Melville, was a sealed road. Now nobody wants to talk about that. You know another company, Sylvatech, came along which is Great Southern Plantations, and everyone has forgotten about it. But we are saying that they should be worried about their interests—their big machinery, their big trucks, all their vehicles that drive up and down the roads. So we are saying that it is in their best interests to contribute something to the roads too to keep their vehicles maintained and up to scratch. But no, to this day I still do not believe that they are contributing anything to the roads. I could be wrong—they could have come up with something in the last year but as far as I know we have never been able to get them to commit to it.

CHAIR—Thank you, Mr Rioli and Mr Kerinauia. Thank you both very much for your time this morning.

[10.55 am]

COLLINS, Mr Vince (Private capacity)

CHAIR (Senator Birmingham)—We welcome, as our next and final witness for today, Mr Vince Collins. Mr Collins and members of the committee, the committee is due to conclude at 11.30 this morning. Most of us have requirements to get back to our homes or other locations for other hearings, so we will need to be fairly prompt. We have received your submission as submission No. 5. Do you wish to make any amendments or alterations to your submission?

Mr Collins—No. The only thing I would like to emphasise is that what I am about to show before the committee is a whole heap of fraud.

CHAIR—Mr Collins, we invite you to make an opening statement, and I understand that during that statement you will submit a number of additional documents to the inquiry. You may begin when ready.

Mr Collins—I will read from an advertorial, because advertorials are what I am referring to, from the *Sunday Territorian* and Territory business magazine, fourth quarter, 1999, approved by the minister for the Northern Territory, Daryl Manzie. This is ‘Growing for export’. In the second paragraph here—you have a copy of it—it refers to Sylvatech, and it begins: ‘The project began in 1995 when Sylvatech visited Darwin while searching Australia for enough land to get their woodchip project off the ground. Northern Territory Minister for Primary Industries and Fisheries Mick Palmer introduced the company to the Aboriginal Tiwi Islanders, who have had 50 years experience in forest production.’ This is his quote: “I knew the Tiwis were pretty aggressive in terms of economic development,” Mr Palmer said, “and I knew that with the land title situation on the Tiwi Islands that it could clearly offer the land to a group like Sylvatech without the constraints you suffer in other areas.”

If you go to a statement of claim filed in the Supreme Court with a caveat, you will see that the land title situation was that the Tiwi Land Council was already in a joint-venture partnership with Mr Hugo Middendorp. You will also see that Mr Mark Dreyfus QC, the member for Isaacs, represented Mr Hugo Middendorp. Mr Mark Dreyfus has stated that Mr John Hicks, secretary of the Tiwi Land Council—to me—perjured himself in the Federal Court in DG8 1996. The Tiwi land Council went on to ramp up a prospectus on the Canadian stock exchange for the production of my patented product, blue cypress oil, which was the official essence of the Sydney 2000 games.

The documentation before IP Australia under the petty patent states: ‘To whom it may concern’—and it is flagged for you here—‘I hereby declare that the document “Australian blue cypress” was created by me on 25 September 1995 and has been sent to many parts of the world and has been widely circulated within Australia. It is still in use today on updated stationery by our company today.’ That is dated 30 July 2001.

If you go to that document that I flagged, you will see that it is cogently—I can show you on face value that it is—a forged document. The Northern Territory knows it is a forged document

or should have known it was a forged document, and so should the Tiwis. But that was not only done once; it was done twice. That is the section 28 notice, and you will also have before you the section 27 notice. Under section 12A of the Patents Act, chapter 2 of the federal Criminal Code applies. Therefore, for any document that is forged, it is up to 10 years. Any document that has a false statutory declaration is four years. He has done it twice. Not only that, the Northern Territory knew it, and so did the Tiwi Islands land council.

I will give you an example of the evidence you have before you. Here is another part of the evidence that the Northern Territory knew it and in fact even the directors of the Australian Cypress Oil Company knew it. You have got a copy of this: 'The Australian Cypress Oil Company, Monday, 30 December 1996. To the Hon. MA Reed MLA, Deputy Chief Minister, Parliament House. Attention Gary Swanson. Application for exclusive harvesting rights to cypress pine at Howard Springs, Gunn Point and Radio Block. Dear Sir, Further to our meeting in Darwin on 20 December between Gary Swanson and representatives of the Tiwi Land Council Matthew Wonaeamirri, Walter Kerinaia, Cyril Rioli'—and I will not say the other person's name because they are dead—'and John Hicks; Bill McGilvray, the chairman of the Australian Cypress Oil Company; Christopher Eddy, the managing director of the company; and Merv Haines, the company's forestry director, a consultant, who also put in an affidavit in 1996, we take this opportunity to reiterate and expand on the point raised at the meeting and to formally apply for exclusive rights to harvest all of the *Callitris intratropica* from the above-mentioned plantations.' It goes on: 'Following initial suggestions by Mick Palmer in November 1995, the Tiwi Land Council and the company have entered into an agreement whereby the surviving plantations of cypress pine on Melville Island will be harvested over time to be processed for domestic and international cosmetic, pharmaceutical and fine chemical markets.'

Here is the minister of for primary industries, again, inducing people to break contracts. The testimony is there. But what actually happens? I tracked all this down. I followed it. I went like a dog. I tracked it all down. I have even got the government's legal advice. People have lost lots of money. The Tiwis have lost lots of money. Investors that put in behind the Australian Cypress Oil Company have lost lots of money. The Northern Territory has lost lots of money. It is a straight-out prima facie case of fraud. But what have the Northern Territory offered me by deed? They broke my contract. I have got an interest in the land. I can still sue them. I had a profit a prendre to go upon the land at Howard Springs and take produce. There is no statute of limitations on an interest in the land. I can still sue them. They took me to the High Court to say it was highly valuable. Okay, so you have just gone to the High Court and said it is highly valuable. When I went to the High Court, I found out I am still open to have a go at them. I do not want to have a go at anyone. I just want to settle this and get on with my business and let the Tiwi people get on with their business.

The mediation is that they owed me a minimum of \$375,000. The terms and conditions of that were: 'By this deed, we, Vincent Joseph Collins, Maryann Collins and Mr Hugo Middendorp'—they wanted Mr Middendorp's signature; what has he got to do with my breach of contract?—care of De Silva Hebron, Solicitors, 47 Knuckey Street, Darwin, Northern Territory, acknowledge that we received from the Northern Territory of Australia, State Square'—it goes on. It then says: 'We accept that payment in full and final discharge of all actions, claims, costs, suits and demands of any nature that may now or hereafter have or claim to have loss for damage arising from in any way, whether directly or indirectly connected with, our claims against the territory arising from our patent to extract essential oils from cypress pine *Callitris intratropica*

and access to Crown lands of the Northern Territory for the purposes of harvesting cypress pines. Such claims we release for ever and discharge the Northern Territory, its servants and agents from all such actions. We indemnify and will keep indemnifying'—they want me to indemnify them now!—'the territory, its servants and agents from all actions, claims, costs, suits and demands of any nature'—of any nature!—'that may be brought against it in any event by any person or any persons arising from in any way, whether directly or indirectly connected with, such claims. We agree that we will not divulge the contents of this deed to any person save as required by law or for the purposes of obtaining legal advice or taking legal action to enforce the terms of the settlement.'

I did not sign it, but when they gave it to me I hit the roof. This is the letter to my solicitor, and I will admit to this: 'As you may be aware, since my facsimile message to you on 20 December 2003 enclosing a deed of release and indemnity for signature by Mr and Mrs Collins and Mr Middendorp, your client has made numerous telephone calls to the Attorney-General's office, this office and others, many of them extremely abusive'—my oath, I was abusive; I did not have to be nice to them; someone is robbing me and I have to be nice to them?—'alleging fraud, conspiracy, corruption et cetera. As a consequence of your client's behaviour, it is clear to the Attorney that the execution of the deed by all three parties is necessary to protect the interests of the Northern Territory from further harassment, litigation or actions by or instigated by your client.' It goes on. Do you have any questions?

CHAIR—I think Senator Crossin is going to start off here. But before that, I should just indicate that there are, in the statements you have just made and elsewhere, a number of issues raised that would bring about adverse comment procedures under the Senate standing orders, as has already been the case. We will review the opening statement as well. Where such comment has been made about other parties, they will be provided with an opportunity to respond accordingly.

Mr Collins—Natural justice is what they should be given.

Senator CROSSIN—I just want to try and drill down to some issues here. Your interest in the Tiwi Islands goes to the fact that you discovered and invented how to manufacture blue cypress oil.

Mr Collins—Correct.

Senator CROSSIN—As did somebody else at the same time, but you were able win the patent for that manufacturing process. Is that correct?

Mr Collins—They claimed that they invented it exactly on the same date as me. But I had it GC-Msed by Wollongbar Agricultural Institute. There is actually a full report written by the minister for primary industries in New South Wales. It is a full set of documents at Orange in the legal section of the department of agriculture. The Hon. Richard Amery, minister for primary industries, wrote to me.

Senator CROSSIN—But you were able to prove, after a period of many years, that in fact you now hold that patent. Is that correct?

Mr Collins—I was able to prove that that document was a lie under oath and that the document was a forgery.

Senator CROSSIN—But you now hold the patent?

Mr Collins—I hold the patent. It has had two challenges upon it and I still hold it.

Senator CROSSIN—So you put to us that the Tiwi Land Council and Mr Hicks were part of that forged document. Is that your claim?

Mr Collins—They knew that the document was forged. They should have known that the document was forged. It was their duty of care, as directors, to know that that was a forgery for taking money. This is an advertorial, not an editorial. There is Marius Puruntatameri taking a cheque.

Senator CROSSIN—So your claim to us is—

Mr Collins—Sorry, can I just finish? This is a month after the testimony is put up before IP Australia.

Senator CROSSIN—So a month after you were awarded your IP patent—

Mr Collins—No, I was challenged on the patent.

Senator CROSSIN—You were challenged?

Mr Collins—Yes.

Senator CROSSIN—A month after, you are saying, Tiwi Land Council directors received a cheque from another company for that patent and they should not have done that?

Mr Collins—Yes. It was from Howard Springs pine plantations.

Senator CROSSIN—What I want to actually ask you is whether you believe, with whatever the tree is that creates blue cypress oil—

Mr Collins—*Callitris intratropica*.

Senator CROSSIN—That's right. Do you believe that there was a future for the Tiwis in perhaps planting more of that tree and producing blue cypress oil—that that was an industry that they would have benefited from?

Mr Collins—They had a fifty-fifty joint venture with Hugo Middendorp. They went from a fifty-fifty joint venture to only getting a five per cent royalty. That is stupid. That does not make economical sense. To go from a fifty-fifty joint venture down to a five per cent royalty—you have just cut your own throat.

Senator CROSSIN—So you are saying fifty-fifty with Hugo Middendorp would have been the blue cypress production, but instead they went to Sylvatech.

Mr Collins—No, they went to the Australian Cypress Oil Company, which is Bill McGilvray, which is here.

Senator CROSSIN—To your knowledge, where is that agreement now at?

Mr Collins—It fell over. It has fallen over because they could not raise the capital on the Canadian stock exchange.

Senator CROSSIN—So you would put to us that they were given bad advice.

Mr Collins—I am saying to you that the Northern Territory government led them down the garden path, John Hicks gave them bad advice, and their own solicitors gave them bad advice.

Senator CROSSIN—Can I ask then: are you saying that they knew it was a fraudulent document, it has never been investigated by the AFP and action has never been taken against the council in court?

Mr Collins—The AFP looked at it. If you go to IP Australia and pull the document—there is a file on IP Australia's office—it says that Jeff Eyeliss of the Australian Federal Police, said, 'It could have been just a computer-generated error.' It was not a computer-generated error. He did it twice.

Senator CROSSIN—So you are suggesting to us that either IP Australia or the Australian Federal Police have not conducted a thorough investigation to the extent they should.

Mr Collins—IP Australia said to me—this is Dave Herald; he is now retired—'We don't care how much fraud there is, Mr Collins. We don't care. We will never complain.'

Senator CROSSIN—Do you know why?

Mr Collins—Chapter 2 of the Criminal Code says they have to go forward. Also, under financial management and accountability, if you know about fraud—I think it is section 54—in another department, you are obligated to go forward.

Senator CROSSIN—In your submission you say that Great Southern Plantations have now bulldozed 890 hectares of *Callitris intratropica*. That is the blue cypress.

Mr Collins—Yes.

Senator CROSSIN—Do you know why they bulldozed that when that was obviously an asset that the Tiwis could have used?

Mr Collins—I have thought of this, and I thought: if you leave it up there, you are proving damages. Get rid of it. Doze it out. If you are named as a witness in testimony to IP Australia and

you know that the testimony is false, and you have taken a cheque, you are aiding and abetting. You are now complicit.

Senator CROSSIN—So you are saying that if you actually get rid of the plantation you basically get rid of the evidence. Is that right?

Mr Collins—Yes, just get rid of it. We did not think it had any value. We dozed it out.

Senator CROSSIN—So none of those trees are now left on the island?

Mr Collins—There are some trees left on the island, I believe. If you go to the statement of claim or the caveat lodged in the Supreme Court, there was 1,500 hectares of *Callitris intratropica*. Of that, 890 hectares have been dozed out. It still could be a good industry for the Tiwis.

Senator CROSSIN—The crux of the issue, I think—for me, anyway, when I read your submission—is that your long and protracted case, apart from the struggle to get your patent and to get some fair compensation, you put to us that the Tiwi Islanders were given bad advice in terms of their involvement in the cypress oil industry.

Mr Collins—Correct.

Senator CROSSIN—We have now heard that, after eight or nine shipments, the Tiwi Islanders have had no return on the profit. They are just getting paid money from the rent of the land so far. It is building up to me that this is also a replication of not a sustainable industry. Your evidence points to me that there is a history of bad advice and a lack of thorough investigation into the profitability of what is happening on the island.

Mr Collins—That is correct.

Senator CROSSIN—Do you want to add any comments to that?

Mr Collins—I believe that Mr John Hicks, if you look at the documents that were tabled with my submission—they were also tabled on 18 February 1999 in the legislative assembly here—there is a prima facie case of Mr Hicks, Secretary of the Tiwi Island Lands Council, with a conflict of interest. He even said, ‘If Vince Collins gets to hear about this it will be devastating.’ Why am I so scary to Mr Hicks? You read the documents that you have in your submissions. He says, ‘If Vince Collins gets to hear about this it will be devastating for us.’ What is so devastating about little old me? I know what happened, that is what is so devastating.

Senator CROSSIN—If people actually put aside your individual quest for justice and your compensation for discovering how to patent blue cypress oil, do you believe that there is a case for this Senate committee to look at a thorough, independent analysis of the forestry project on the island and its economic future?

Mr Collins—I think that, and I also think that there should be a thorough investigation of where the money has gone, what the secretary did, the advice that he has given and the evidence

of what these directors, who had fiduciary duty, have done. Morris Rioli told me that he knows that Hicks bribes people. Mr Middendorp was induced to—

Senator CROSSIN—You need to be careful about your evidence before us. My question is: do you think there is a need to have a thorough investigation about the viability of the forestry project?

Mr Collins—Yes, and also of the management of the Tiwi.

Senator CROSSIN—Thanks.

Senator SIEWERT—I am still struggling to accept that there was such an obvious difference between what the Tiwi could make out of your proposal and the one they subsequently accepted. As I understand it, there was a fifty-fifty deal with Middendorp and a five per cent royalty deal with the Australian Cypress Oil Company. Wouldn't it have been obvious to everybody that the fifty-fifty deal would be better?

Mr Collins—It would be, but they were being coerced to get rid of Middendorp and to bring in Sylvatech.

Senator SIEWERT—So you think it was about giving Sylvatech access.

Mr Collins—It was about giving Sylvatech access, and the Australian Cypress Oil Company came along at the same time. The Australian Cypress Oil Company could wedge the Northern Territory, Sylvatech and the Tiwis—they were in the box seat. We told Middendorp, 'You'll never get rid of them.' They knew, but it was also the advice that they got. Mr John Hicks is a class-three lawyer and he is their internal lawyer. You are entitled to take advice from your lawyer. Mr Hicks was telling them, 'Don't give Vince Collins any credibility.' They had already done the deal with the Olympics. It looked pretty good, but the biggest thing was that they thought it was Baker and Smith. It did look pretty good to them, but the problem was that it was not what Mr McGilvray said it was. It was the intellectual property of me and my wife, not his or anyone else's.

Senator SIEWERT—Is it your proposition that they could not have had Sylvatech and your—

Mr Collins—They could have had all three. They could have had Sylvatech, they could have had a cypress pine industry, they could have kept the *Pinus caribea*—they could have kept the lot. The evidence is that they were making \$300,000 a year from the *Pinus caribea*, which has now been dozed out. They had 10 jobs out of the *Pinus caribea*, and that is in the *Tiwi Islands economic development strategy*, November 1996. It says: 'The forest has been generating income of \$300,000 per annum. However, this timber production has continued through protracted foresters and millers. Technical reports prepared by the Land Council have shown that the current forest operation is not financially viable.' Those reports were filed by Sylvatech.

Senator SIEWERT—I struggle to understand why Tiwi would make such an apparently financially disastrous decision to exclude one company to benefit the other when they could have had both. They could have had Sylvatech and—

Mr Collins—They could have had all three. There is no problem with that.

Senator SIEWERT—What is in it for them or particular individuals to not have all three? I do not get it.

Mr Collins—I do not get it either. They got very bad advice.

Senator SIEWERT—Sorry if I do not understand this clearly, but how did Mr McGilvray get your intellectual property?

Mr Collins—From Mike Russell from Wollongbar Agricultural Institute, New South Wales. It is clearly documented. Mike Russell actually told him. I was dollar-for-dollar for a business plan by the Northern Territory government. I was doing a business plan, and the next thing I told Mike Russell, of Wollongbar Agricultural Institute, the peak body of Australian essential oils. I was doing the business plan, and he told, in confidence, Bill McGilvray. The next thing he is up here. I told Mick Palmer. Mick Palmer contacted Bill McGilvray and the next thing it took off. The next thing is that I was summonsed to Parliament House—I have witnesses that this happened. I was summonsed downstairs and told that they were going to break my contract. The words were, ‘Vince, don’t think you’ve stubbed your toe on a gold nugget. Talk to these fellows; they’re going to cut you in.’ This is the day they are over on the Tiwi Islands, 22 November 1995. A friend of mine, Peter Horton, who comes up in the ministerial memorandum, still has the permit. He took them over. He went over there. He represented Mr McGilvray. Mick Palmer said, ‘Don’t think you’ve stubbed your toe on a gold nugget.’

Then Hicks told Peter Horton, PR Horton, who comes up in a ministerial memorandum, ‘They’re going to get rid of the dutchman’. Those were the words. ‘They’re going to get rid of Middendorp. Keep your mouth shut; we going to get rid of him.’ So Hicks took them over there. This happened that day. But getting back to what happened, I said, ‘What about my contract,’ and he said, ‘That’s \$250,000, Vince, and you haven’t got the money to fight us.’ I said, ‘What about my intellectual property?’ He said, ‘That’s another \$250,000, Vince. You ain’t got the money’—and he used the word ‘ain’t, real gangster style. I was stood over by Mick Palmer and Alan Sprigg and a person who saw me walk into that office was Noel Pageant Purick, an ex MLA. She saw me. I ran down to my solicitors. There are all sorts of other things—solicitors that were not my solicitors—it is just an absolute mess. The people who have suffered from this are the Tiwis, my family, the investors who put in money in good faith to the Australian Cypress Oil Company—they have all suffered under this. Over \$3 million has gone to the investors that went out.

Senator SIEWERT—This is an extremely naive question—and I am aware of that—but Australian Blue Cypress no longer operates?

Mr Collins—The Australian Cypress Oil Company still functions. It is still out there.

Senator SIEWERT—But it is not operating on the Tiwi?

Mr Collins—They may be getting timber off the Tiwi Islands; I do not know. If you go to Bill McGilvray’s website, it still says his timber is coming off Melville Island.

Senator SIEWERT—In other words, Tiwi may still have a relationship with them.

Mr Collins—‘May’—they may have a relationship; I do not know.

Senator SIEWERT—So they may still be making royalties.

Mr Collins—There may be logs coming off.

Senator SIEWERT—So they would still be getting the five per cent royalty.

Mr Collins—I do not think so. If you knew that, then the Tiwi Lands Council report should show it. But, if they are, it should be shown on that. If you do go, the one with Johnny Howard on the front of it showed that the Tiwis—it does not say anything about it; this is how I got it—got \$130,000-odd in royalty from blue cypress oil.

Senator SIEWERT—And that is it?

Mr Collins—That is it. But they were not entitled to it for a number of reasons. The royalties are in breach—under the Northern Territory Land Rights Act, anything over \$100,000 or 10 years needs the express permission of the federal minister. Senator Vanstone wrote to Senator Trish Crossin and said they did not have permission. They broke the land rights act.

Senator SIEWERT—If they are still getting money, potentially—we need to follow it up from the Australian Cypress Oil Company, my next question was going to be: if that has fallen over what—other than the animosity, which I appreciate—is to stop you going back to establish a relationship. I realise there is an animosity there.

Mr Collins—I have no problem with the Tiwi people. I have a problem with Mr John Hicks and the Tiwi Land Council. The Tiwi people are fairly good people, but if you make an enemy of them, they will fight you to the death. That is the situation.

CHAIR—We will bring proceedings to a close today. I would like to seek the agreement of members of the committee present that the evidence we have just heard from Mr Collins at this stage be taken as in camera. It is not my intention that it not ultimately be published, but we will need to go back over it and review it for the types of issues that could rise out of it regarding statements made about other individuals as well as ensuring that the issues are germane to this inquiry. We will consider those matters at the first available opportunity for the committee and treat the evidence appropriately, as I said at the outset, providing people with the opportunity to respond to those issues where appropriate. Firstly, can I seek the feelings and views of other members of the committee to allow us to treat Mr Collins’s evidence for the time being as in camera.

Senator TROETH—Moved.

CHAIR—I will take that as a motion from Senator Troeth to that effect. All those in favour, against: carried. To all people present including members in the public gallery that does mean that the statements made by Mr Collins should be treated confidentially until such time as the committee makes the decision to publish all or parts of Mr Collins’s statement and evidence. If

you have any questions about that please feel free to approach anyone of us or the secretary at the conclusion of today's proceedings. We also have the documents that have been received today. We will consider the acceptance of those and tabling of them as additional documents to the inquiry at the same time as we deal with the issues relating to Mr Collins's evidence. That brings to a close today's proceedings and the three days of hearings that we have held in Darwin and on the Tiwi Islands yesterday. Once again I extend my thanks to all of those who have participated. There will be further hearings of this inquiry. We again thank the Tiwi people for their hospitality yesterday and the parliament of the Northern Territory for their hospitality today and on Monday.

The document read as follows—

Dr Ian Holland
Secretary
Standing Committee on Environment, Communications and the Arts
PO Box 6100
Parliament House
CANBERRA ACT 2600

Submissions concerning IP Australia made to the inquiry into forestry and mining operations on the Tiwi Islands

Thank you for the opportunity to respond to submissions made to the inquiry by Mr Vince Collins concerning IP Australia.

IP Australia is the agency responsible for administering Australia's intellectual property (IP) rights system, specifically trade marks, inventions (patents), designs and plant breeder's rights. It operates as a prescribed agency within the Innovation, Industry, Science and Research portfolio.

IP Australia's records indicate that Vincent and Maryann Collins applied for two standard patents and one petty patent related to the extraction of essential oils from the genus *Callitris*, more commonly known as the Cyprus Pine. Of these, standard patent number 742711 remains in force subject to the payment of renewal fees and covers a method of obtaining blue guaiazulene containing oil from a mixture of the bark and wood of *Callitris Intratropica*.

A related petty patent, No. 723540, was granted in 2000 (under the previous petty patent scheme) and in 2001-2002 was the subject of proceedings before the Commissioner of Patents in which a Mr Bill McGilvray sought to challenge the validity of the petty patent and oppose its extension. These proceedings were determined on 6 June 2002 with the Commissioner's delegate deciding that the evidence did not support a finding of invalidity and that the term of the petty patent should be extended. This decision is available at <http://www.austlii.cdtatdatileaseskth/AP0200223.html>. Subsequently, Mr and Mrs Collins surrendered the petty patent to allow grant of the standard patent to proceed.

In the proceedings, and in the earlier examination of the petty patent application, Mr Collins had concerns about a document exhibited by Mr McGilvray that was said to be evidence of earlier disclosure of the invention. The issue was that a version of the particular document exhibited contained phone numbers that only came into existence after the disclosure was said to have been made. The Commissioner's delegate referred to these inconsistencies in his decision ([441450]) but did not give significant weight to the evidence and otherwise found it insufficient to establish invalidity.

Mr Collins however made a number of verbal representations to IP Australia at the time, and subsequently, requesting that IP Australia initiate a prosecution against Mr McGilvray on the basis of alleged fraud and misrepresentation in relation to his evidence. Mr Collins appears to have informed IP Australia of a Federal Police investigation into the matter in June

2000 and, while it is not possible to determine from the records precisely what was said by Mr Herald to Mr Collins concerning this, it appears he indicated to Mr Collins that IP Australia would cooperate with any investigation but did not consider it was appropriate for it to take the matter further itself. This was particularly so given IP Australia's role in adjudicating the proceedings between the Collinses and Mr McGilvray then underway.

It is also apparent that the Federal Police did not consider the matter as requiring further action on its part and in subsequent contacts with IP Australia, Mr Collins has been consistently informed that IP Australia would take no further action in relation to allegations made by him.

Nevertheless, in 2005 the then Director General of IP Australia ordered a separate investigation by the Audit, Evaluation and Governance Section of IP Australia and in a letter to Mr Collins on 11 May 2005 reported that the allegations of fraud were not sustainable and that IP Australia would not be pursuing any further investigation of the matter. In particular, the review found that there was no evidence of a deliberate attempt to mislead the delegate in the petty patent proceedings, that the delegate did not give the particular document significant weight and that it did not affect the outcome of proceedings which in any event were resolved in Mr Collins favour.

IP Australia therefore considers that the allegations of fraud so far as concerning proceedings before IP Australia have been fully considered and that the matter is now closed.

Yours sincerely

[signed]

Philip Noonan

Director General

Committee adjourned at 11.28 am