

Friday 13 March 2009

Senate Environment Committee submission: Tiwi plantation forestry

Peter Robertson

The Secretary

Senate Standing Committee on Environment, Communications and the Arts

P O Box 6100

Parliament House

Canberra ACT 2600

Dear Secretary

For several years while living in Darwin and working for an environment NGO I undertook investigations into the operation of the Tiwi (Melville Island) plantation project initiated by Sylvatech in the 1990's. In part these investigations were prompted by phone calls and visits to my office by Tiwi Island people who were extremely distressed by the impacts the plantation project was having on their environment and also on their communities and culture. There was a strong message that most Tiwi were not adequately informed about, or could not understand, the deals that underpinned the project, or who the various companies involved were, or what the real benefits, if any, would be to Tiwi.

At the same time increasing evidence was coming to light of serious environmental breaches caused by the project operators – breaches that the Commonwealth regulator, the Department of Environment, was finally forced to investigate and verify.

One fundamental question that the Senate Committee inquiry must address and answer is: Have the Tiwi Island Traditional Owners (TOs) been seriously mis-advised by their representative body, the Tiwi Land Council (TLC – a Commonwealth statutory body) and consequently taken advantage of to the tune of millions of dollars (in lost income) through the financial structure and management of the Melville Island plantation project?

There is substantial evidence that this is the case, and a glaring lack of openness, transparency and accountability to contradict it.

The Senate's obligation:

In order to get to the bottom of these issues, an independent audit of the governance and financial structure of the plantation project is needed, including:

- **The commercial arrangements between the multiple companies and other legal entities involved in the project that affect or impinge on the Traditional Owner's rights and interests and may expose them to substantial economic, environmental and social risk;**
- **The basis and probity of the land valuations, lease agreements, log sale contracts and woodchip supply contracts that underpin the project.**

1. The Tiwi plantation corporate web

In addition to the project owner, MIS tax minimisation company Great Southern Ltd (GSL), and project 'partner' the Tiwi Land Council, there are at least four other corporate entities involved in the Tiwi Island woodchip plantation project:

- Pirntubula Ltd
- Pentarch Forest Products Ltd;
- PenSyl Ltd; and
- Stratus Shipping Ltd.

There is a fundamental lack of transparency about the legal commercial agreements and contracts that exist between the companies involved in the exploitation of the Tiwi forests and plantations.

From the limited information that is available, the following appears to be the case:

- Sylvatech Limited, which was acquired by GSL in 2005, holds 50% of the outstanding shares in Pensyl Pty Ltd. Pensyl Pty Ltd was formed by Sylvatech in conjunction with Pentarch Forest Products Pty Ltd for the purpose of managing forestry and shipping logistics and facilitating export marketing of forestry products from the Tiwi Islands.
- Established in 1984, Pentarch Pty Ltd is the oldest company in the Pentarch Group. In 1986 Pentarch signed the first large contract with the Department of Defence on behalf of Steyr-Daimler-Puch GmbH, as it was then, for 85,000 assault rifles for the Australian Army to be manufactured in Australia. Today Pentarch Pty Ltd focuses on two specific areas – Defence and General Trading.
- Pentarch Forest Products Pty Ltd has driven the marketing of Tiwi timber to customers, initially in China, Indonesia and Vietnam. Pentarch Forest Products is the timber trading division of the Pentarch Group. The Group is based in Melbourne and has a series of regional offices at each port. The timber division's focus is on the procurement of products from across Australia and New Zealand. Over the past 16 years it has become one of Australia's leading suppliers of timber products to the markets of Asia and the Middle East. It is a major exporter of plantation grown Radiata pine and selected "true" hardwoods from Australia and New Zealand...These sales are generally conducted on a sale directly to an end purchaser with Pentarch arranging the ocean freight and land forwarding in the purchaser's country.

[Source: <http://www.pentarch.biz/Forest.aspx>]

- Stage 1 of the Tiwi Forestry Project - construction of the heavily subsidised \$4.29 million Port Melville wharf and log storage facility - was supervised by Pensyl.
- Pensyl is also responsible for the ongoing operation of the Melville Island port.
- Stratus Shipping – another subsidiary of Pentarch - is responsible for shipping logs and woodchips from Melville Island to Asian buyers. Founded in 1999 Stratus has chartered over 500 vessels and transported over ten million cubic meters of product. As a major charterer of dry bulk carriers for its forestry related products. Stratus is ideally placed to take advantage of its position to secure parcels of freight business both in and out of Australia and New Zealand, and to offer competitive costs and high efficiency for customers.

[Source: <http://www.pentarch.biz/Forest.aspx>]

The company called Pirntubula Pty Ltd was created by the TLC in 1987 on behalf of the Traditional Owners. There are concerns that the majority of the board of Pirntubula are non-Tiwi, and are actually senior managers of the mining and forestry companies exploiting the Island's natural resources. For example, one of the Directors of Pirntubula is a senior manager with GSL, raising issues of conflict of interest. There is little public information about the operations or involvement of Pirntubula Ltd in the plantation project:

Maurice Rioli (Tiwi Traditional Owner): The problem is what is Pirntubula. There is no information I can find that outlines the role of Pirntubula. Is it for Tiwi people, is it for the Land Council's use? Maybe it's just for the Land Council's use. But it's money, from my understanding as told to me, that it's money coming from the leases on the Tiwi Islands, and it's to help with the administration of the Tiwi Land Council. But I don't see anywhere you can get information.

Wendy Carlisle: So the core of your worry is that you don't know how much money's going through it, how the money's being spent. In other words, that there's very little transparency into its operations?

Maurice Rioli: Yes, there's no transparency. Well I don't see anywhere in the audit reports, in annual reports, where is information on where the money's coming from to go into that account, and who does it pay.

[Source: <http://www.abc.net.au/rn/backgroundbriefing/stories/2007/2031767.htm>]

There is far too little readily available information about these companies or the project's financial structure showing how much income each is making out of clearing the Island's forests and subsequent shipping and sale of high quality logs, or how much each will make out of the woodchip export part of the project when it commences.

If, as seems apparent, these companies have entered into agreements with each other and/or the Tiwi Land Council (or related entities) that guarantee them or their investors income and profits

from (a) tax minimisation; (b) the sale of high grade sawlogs; and (c) the sale of woodchips, while the TOs are guaranteed very little (and bear most of the risk), this must be made public.

‘Commercial confidentiality’ cannot be used as an excuse to deprive the Island’s landowners and communities of clear and understandable information about the commercial involvement of these companies in the exploitation of the Island’s natural resources, and the risks involved.

The Senate Inquiry must ensure that sufficient understandable information is made available to the Traditional Owners as to the financial/corporate structure of the Tiwi plantation project and what levels of income are contracted to each entity at each stage of the project: forest clearing and log sales; plantation growing; harvesting; shipping; export woodchip sales.

2. Land valuations

There are two crucial issues here:

- (a) how was the leasehold value of the Tiwi ‘Aboriginal Freehold’ land for plantation establishment arrived at;
- (b) how does it compare with leasehold land valuations for plantations elsewhere?

The Tiwi Islanders are being paid “~\$17/hectare per annum (+ 2% of net harvest proceeds) for plantation ready land and ~\$1/ha pa for land that is not plantation ready”

[Source: GSL 2005; Hansard 11 May 2006 (Senator Abetz)].

There is ample evidence that this amount is a fraction of the amount landowners are paid by plantation companies in southern Australia. An ANU research paper summarised lease payments across Australia and found that they ranged from \$75/ha/pa up to \$300/ha/pa. The average is around \$150/ha/pa – **or nearly 10 times the amount Tiwi TO’s are being paid**. These are already old figures and the current rates are likely to be much higher still.

[Source: ANU; Rents for plantation land leases; Market Report 13, September 2000]

Confirmation of the below market value cost of Tiwi land comes direct from Great Southern Limited:

MANAGING DIRECTOR’S MESSAGE

“Firstly, Great Southern acquired Sylvatech Limited, a public, unlisted agribusiness managed investment scheme company. Sylvatech is involved in the development and management of forestry projects on the Tiwi Islands in the Northern Territory. The acquisition not only provides Great Southern access to extensive plantation land for future

projects at a **significant discount to current market prices for land in Great Southern's traditional plantation regions**, it also involves us embarking on a relationship with the Tiwi Island people... This land represents a valuable resource for Great Southern, which is likely to represent a **capital saving to the company of about \$40 million annually** over the next 8 years.”

[Source (emphasis added): Great Southern Plantations Limited Annual Report, 30 June 2005]

When challenged, company and TLC spokespeople have claimed that the lease payments are low because of various detrimental characteristics of land on the Tiwi Islands, e.g. it is ‘remote’. However, these attempted explanations are contradicted by the company’s own internal statements which clearly express how commercially favourable the land on the Tiwi Islands is:

“Sylvatech Acquisition Overview:

- **Key benefits include flat land, excellent rainfall (1,800mm pa), good conditions and short land haulage & shipping to Asia**
- **Established infrastructure in place** with 30yr lease +30 yr option for port with plans for expansion
- **Pine logs and eucalypts resulting from plantation establishment operations are shipped to China, Vietnam and Indonesia for sale under contract** and will total up to 200,000 tpa from 2005.”

“Benefits to Great Southern:

The acquisition of Sylvatech will provide a **number of strategic benefits** to Great Southern

- **Low cost source of land**
- Potential to access further land on Tiwi Islands for plantation purposes
- Further geographic diversification of plantations
- Diversification of plantation species
- **Low haulage rates due to location near port infrastructure**
- **Proximity to Asian customers reduces shipping costs**
- Benefits from consolidated distribution network
- Elimination of duplicated administrative expenses
- Closer working relationship with the Federal Government.”

Source (emphasis added): http://www.great-southern.com.au/Company_Announcements.aspx



[Download the document](#)

[TOP](#)

The Tiwi Land Council has attempted to justify these extraordinarily low lease payments by claiming that:

“Lease values for forestry land established by the Australian Valuation Office at **\$3/ha** in the late 1990`s are currently returning \$17.35/ha for this rural land. The Australian Valuation Office and a private company Integrated Valuation Services have provided detailed reports in revaluation of this land, as is required under our forestry agreements for 2008. One valuation suggests lease values well below those currently paid. The other slightly above.”

[Source: TLC Annual Report 07/08, p.10]

However, in an earlier Annual Report the TLC stated:

“Land lease values established by the Australian Valuation Office at **\$1/ha** in the late 1990`s now exceed \$16/ha for rural land and over \$160 (development block) in urban areas. Annual revenues accrue to the eight various traditional owner accounts.”

[Source: TLC Annual Report 2004/5, p.9]

From an examination of the minutes of the Tiwi Land Council meeting #197, dated 20 August 1998 – at which meeting Mr Paul Everingham (ex-CLP Chief Minister of the NT) handed over a cheque for \$100,000 to the Land Council on behalf of Sylvatech – it is apparent that:

- The Valuer General (now Australian Valuation Office (AVO) – a Commonwealth agency) advised that a “fair rental” for the 100,000 hectares of proposed plantation land was \$3/ha pa.
- The Land Council accepted a rental of \$1/ha pa – and were then paid \$100,000.
- Mr Everingham is reported as then saying: “We have always been able to work things out.”

To the extent that the company and the TLC rely on valuations provided by the AVO and “a private company [called] Integrated Valuation Services”, the question is, **what exactly were these valuers asked to value?**

Were they asked to value the land as unimproved, inalienable Aboriginal freehold land? Or were they asked to assess its value as highly productive plantation forestry land with all the benefits and favourable conditions that GSL itself has highlighted?

Clearly it should have been the latter, but if it were, how could the AVO or any other credible professional organisation have come up with such a low valuation relative to other such land leasing arrangements?

Only an independent expert review of the land valuation and land lease arrangements and comparison with similar lease arrangements in other parts of Australia can get to the bottom of this crucial issue.

As a matter of fundamental social and economic justice for the Tiwi Traditional Owners, such an independent review MUST be undertaken in an open, transparent and timely manner, and based on an appropriate set of guidelines or terms of reference.

3. Log sales

It is now a matter of public notoriety that the first six shipments of high grade eucalypt and pine sawlogs exported from the Tiwi Islands to Asia resulted in a reported **loss** to the Traditional Owners of ~\$600,000.

[Source: ABC TV NT Stateline; Hansard – Senate Estimates]

These logs, produced from the clearing of Tiwi native forests and historic pine plantations, were exported between 2004 and 2006. It is unclear what the financial result of any more recent log shipments to Asia has been.

The Traditional Owners were repeatedly told by company and government spokesmen (via the media) that these log shipments were worth millions of dollars EACH.

Interestingly, the small reported return to TO's from the seventh shipment (\$75,000) only occurred after publicity about the losses made on the previous six shipments.

Here is what the TO's (and wider public) were told:

“It's taken seven years, but the Northern Territory's first shipment of export timber is due to leave on the tide tomorrow from the Tiwi Islands. Bound for South China to become floorboards and furniture, the seven thousand tonnes of hardwood eucalypt logs is the first tangible result of a joint venture between Tiwi Land Council and forestry company Sylvatech. Sylvatech Managing Director Peter Ryan says they hope to have a barge sail from Melville Island every four weeks for the next six months and eventually ship one million tonnes a year by 2013 **earning the Tiwi people several million dollars a year.**”

[Source: ABC NT Country Hour Summary: 10 August 2004: 'Tiwi timber sets sail']

“**Timber worth \$1.5 million** will leave the Tiwi Islands tomorrow bound for southern China. It is the largest shipment of timber from the island's fledgling forestry industry. The 15,000 tonnes of tiwi red eucalypt will be used for **high quality furniture and flooring.**”

[Source: ABC News: 10 February 2006. 4:13pm (AEDT): 'Tiwi timber sets sail for China']

“With an operational port and more than 35,000 tonnes of logs ready to go, Sylvatech has scheduled shipments every three weeks for the next five years, **generating more than \$95 million for the Tiwi people.**”

[Source: Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF): 'Contours' newsletter, June 2005: 'Forestry - key to the Tiwi Islanders future'. Note: DAFF has been a strident supporter of the Tiwi forest destruction project]

“**Pentarch's** involvement with the rapidly developing Tiwi Forestry Project reached a significant milestone recently, with the departure of the first 7,000 tonne export shipment of sawlogs from Port Melville for Indonesia and China. The shipment is a practical demonstration of the breadth of the Pentarch Group. ‘Our business has a number of divisions involved in the facilitation of what will be a 5 year, one million tonne hardwood export program **worth some US\$100 million,**’ explains Pentarch Managing Director, Malcolm McComb.

“**‘The success [sic] of this first shipment** is testimony to our expertise in the areas of marketing, transporting, marshalling and shipping.’

“The company’s forestry division, Pentarch Forest Products, has driven the marketing of Tiwi timber to a number of customers, initially in **China, Indonesia and Vietnam.** Stage 1 of the Tiwi Forestry Project saw construction of the \$4.29 million Port Melville wharf and log storage facility which was supervised by Pensyl, a joint venture between Pentarch and Sylvatech. Pensyl is also responsible for the ongoing operation of the port, which will accommodate vessels of up to 24,000 tonnes.”

[Source: THE PENTARCH NEWS December 2004, Volume 2 Issue 3]

“More than 14,000 eucalypt logs set sail for China from the Tiwi Islands north of Darwin late last year, in a historic first for the commercial partnership between the Tiwi Land Council and Pentarch Forest Products. Pentarch is managing a sustainable forestry program on behalf of the Tiwi people, from Melville and Bathurst Islands, that has seen extensive logging of native forest and replanting with fast-growing plantation timber. The first shipment, of 6498 cubic metres of Eucalyptus tetradonta and E. miniata, was the culmination of the cycle **so important to the future economic well-being of this small indigenous community.**”

[Source: Commonwealth Department of Agriculture, Fisheries and Forestry (DAFF):
http://www.daff.gov.au/corporate_docs/publications/pdf/quarantine/bulletin/bulletin_feb05.pdf February 2005]

Contrary to this patronising claim, this shipment, together with the five subsequent ones, ended up costing the “small Indigenous community” \$600,000 in lost income!

“December saw the first shipment of Melville Island *Pinus Caribaea* to China. The shipment was made via the aptly named tug MT Destiny and the barge Dynaroy 3. The shipment contained Red Tiwi hardwood for Indonesia which was discharged at the port of Semarang and then sailed to the southern Chinese ports of Gaolan and Zhangzhou for the Caribaea delivery.

“Ben Knight, Stratus Shipping, Superintendent Ship Loading and Operations, worked with Pentarch’s Chinese Agent Montis Chen who oversaw the discharging operations at both Chinese ports. The Gaolan timber was sold to long term customer CIMC for container flooring. After discharge, the tug then embarked on a two day voyage to Zhangzhou, discharging the balance of the cargo in 24 hours. This cargo was consigned to a number of small peeling facilities for processing into paper, pulp and associated products.

“**“All stakeholders and concerned parties were satisfied with the outcome of our first softwood shipment out of Melville Island’**, explained Ben. ‘This has laid the groundwork from which we can build to ensure **continued successful barge shipments** into the significant Chinese market.’

“The shipment consisted of 6,200 cubic metres of which 2,100 was red tropical hardwood and 4,200 was Caribaea for China.”

[Source: *THE PENTARCH NEWS* April 2005 Volume 3 Issue 1 ‘Melville Island first for Caribaea Pine to China’]

It is clear that the various companies involved in the Tiwi logging fiasco, and the timber merchants in Asia, did very well out of these log shipments at the same time as the TO’s - the original owners of the logs - lost out completely.

According to TLC Secretary John Hicks, the Traditional Owners,

“Were being paid \$5 a tonne that the company negotiated with us.” [Presumably “the company” means either GSL or Pentarch.]

[Source: Official Committee Hansard; Senate Standing Committee on Community Affairs; Budget Estimates; Monday 28 May 2007]

Any examination of the price that Australian log owners/sellers – private or government – receive for the sale of **high grade hardwood sawlogs** will show that \$5/tonne is at least 10 times below market value.

In other words the Tiwi TO's should have received at least \$50/tonne for these logs – logs which would no doubt have been sold in Asia for hundreds of dollars per tonne, and which would in turn have been sold for thousands of dollars per tonne by the Asian timber merchants as sawn timber or furniture.

The Senate Inquiry must examine this log export and sale fiasco and determine: How this financial outcome was achieved; what income was derived at each stage of the sale process by the various companies involved; if serious misconduct, e.g. fraud, was involved, and; what has changed to prevent it continuing into the future with further log shipments.

4. Woodchip sales

According to GSL and the Tiwi Land Council, under the existing commercial arrangement the Tiwi Traditional Owners will receive “2% of net harvest proceeds” from the eventual sale of *acacia mangium* woodchips from Melville Island.

This means that only after all the other corporate parties involved – GSL and its tax minimisation investors, Pentarch, Stratus Shipping, etc – have taken their cut of the income and profits will the Traditional Owners receive a potentially miniscule residual income.

In fact, based on the log sale fiasco, it is quite plausible that they will end up receiving **nothing at all**, especially if there is a fall in the overseas commodity price for woodchips, which is entirely foreseeable.

The Senate Inquiry must examine this financial arrangement and confirm whether there is in fact any guarantee that the TO's will receive ANY income from the sale of the woodchips, and if so, whether that guaranteed income is fair and equitable relative to similar woodchip plantation schemes on private land elsewhere across Australia.

5. Conclusion: Alternatives

It is extremely important that this long-overdue investigation into the Tiwi (Melville Island) plantation project and related matters is done thoroughly. There are many aspects of the project – from its inception to the present day – that require full, open and transparent investigation and

reporting. Without this accountability, the Islands' Traditional Owners and the wider community will be left in the dark about the real implications, costs and risks of the project.

In the final analysis, there is a much better future for the Tiwi Islands than being turned into a woodchip quarry for the benefit of tax-minimisation investors from southern Australia.

With help from government, business, scientists, conservation organisations and the public, a future based on the protection, management and appreciation of the unique cultural and environmental riches of the Tiwi Islands will provide secure, sustainable long term economic benefit to the Island's communities.

The existing ~25,000ha of *acacia mangium* woodchip plantations should be progressively replanted to native species and used for sustainable (long rotation) high value timber and craft products, carbon sequestration and for native wildlife habitat.

Tiwi Islanders should be paid to protect and manage their native forests (and other ecosystems) for their outstanding cultural, biodiversity and carbon sequestration values. **ENDS**