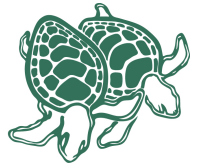




Environment Centre NT
protecting nature | living sustainably | creating a climate for change



The Wilderness Society Inc.

The Environment Centre NT

**Submission to the Senate Inquiry into Logging,
Landclearing and Mining on the Tiwi Islands**

March 2009

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Introduction

The Wilderness Society and the Environment Centre of the Northern Territory

The Wilderness Society is a community-based environmental protection organisation. We work to safeguard our sources of clean water and air, to tackle devastating climate change, to create a safe future for life on Earth, and to give a better world to our children. The majority of our work is in Australia, with a strong focus on natural environments and the role they play in keeping our world safe. We were born in 1976, and our first major victory was Australia's most famous environmental campaign - saving the Franklin River. Since then, with the support of thousands of concerned people across the country, we've worked to protect millions of hectares of our greatest wild places.

The Environment Centre of the Northern Territory was established in 1983 and has played a crucial role in improving environmental protection and management throughout the Territory.

The Environment Centre NT is the peak non-government environment group in the Territory. We rely heavily on our members, both to help direct and run the Environment Centre NT's activities and for the contribution that membership subscriptions make to our limited resources. The Environment Centre NT works to:

- » promote environmental awareness;
- » involve the public in conservation issues;
- » provide information via our library and files;
- » lobby government and industry;
- » inform the public on environmental issues via the media;
- » assist other groups to protect the environment;
- » liaise with other conservationists, both nationally and internationally;
- » publish a regular and informative newsletter; and
- » support the recognition of Aboriginal rights and aspirations.

TWS and the Environment Centre NT have had a long-standing interest in the environmental and other impacts of landclearing, logging and plantation and forestry operations in the Northern Territory and elsewhere on the Australian continent. We appreciate the opportunity to comment on a range of issues pertaining to landclearing and plantation establishment on the Tiwi Islands.

The landclearing and plantation operations

With regards to the landclearing on the Tiwi Islands, there are a series of ecological and environmental impacts directly resulting from the plantation establishment. These

operations additionally have economic, social and cultural costs and consequences, and the project has been subject of much disagreement and dispute amongst Tiwi Islanders.

The current plantation project was approved in 2001 by the former Commonwealth Environment Minister Robert Hill. It was approved under the *Environment Protection and Biodiversity Conservation Act* (1999) (EPBC), with eleven legally binding conditions attached to the approval.

Since then, approximately 26,000 hectares of native forest on the Tiwi Islands have been cleared by Great Southern and its predecessor, Sylvatech, on Melville Island.



Figure 1: Vast areas of forest cleared, Tiwi Islands, 2004 (ECNT).

This is the single largest native forest/woodland clearing operation in the whole of Northern Australia, and clearing in recent years has been equivalent in size to the clearfelling of native forests in Tasmania.

Between 50,000 and 70,000 hectares of additional forest on both Melville and Bathurst Islands has been earmarked for further clearing and conversion to plantation mono cultures of the exotic species *Acacia mangium*. If approved, this would mean that approximately 80,000 to 100,000 hectares of the total 800,000 hectares, or one eighth, of the Tiwi Islands would be converted to plantations for woodchip. Most importantly, this clearing would represent an obliteration of a large proportion of the highest quality, most productive eucalypt forest on the Tiwi Islands.

The scope of this Senate Inquiry includes sand mining developments and activities on the Tiwi Islands. This submission deals directly with the logging, landclearing and plantation operations on the Tiwi Islands. This focus is not intended to downplay the economic, environmental and social aspects of the sand mining operations, which are similarly significant and need an equal degree of scrutiny.

Approaches to land use – landscape conservation and economy planning

There are many good reasons to manage landscapes well. The disaster of the Murray-Darling basin, with its compromised river health, decline in economic output, struggling industries and suffering local communities, sounds a warning to those making decisions about land use across Australia. The challenges to mediate, repair and avoid the problems of the Murray-Darling disaster are profound, and are politically, socially and financially costly.

The Murray-Darling is one example of a failure of industry, government and community to develop landscape management plans that protect and maintain vital environmental flows and services in order to support nature and human communities living in, and dependent on, the landscape.

There are complex legal, policy, economic, social and environmental issues that must be carefully considered in order to avoid a similar outcome for the Tiwi Islands – a region which forms part one of the Earth's most significant and intact landscapes: northern Australia.

We are hopeful this Senate Inquiry will indeed give all aspects of large scale landclearing and plantation establishment on the Tiwi Islands full and careful consideration.



Figure 2: Intact Tiwi forest (ECNT).

Senate Inquiry Term of Reference

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

Current and proposed large scale landclearing and woodchip plantation establishment are of no environmental benefit to the Tiwi Islands, are of dubious economic benefit to Traditional Owners, and have divided the Tiwi Islander community.

Since approval for these developments was granted in 2001, it has become increasingly apparent that clearing and destroying the Tiwi's for exotic woodchip plantations is not without economic, social and environmental pitfalls.

We address here the environmental impacts, including the breaches of some of the eleven legally binding environmental conditions set down when approval for the landclearing and plantation establishment was granted. The social and economic impacts are described elsewhere in this document.

Environmental Values and Processes, and their Threats

Establishment of Great Southern's Tiwi woodchip plantation estate has required the destruction of 26,000 ha of primary native eucalypt forest. Environmental flows, processes and biodiversity on the Tiwi Islands generally are impacted or degraded as a result of large-scale landclearing and plantation establishment, with attendant environmental, social and cultural implications.

The environmental impacts of the logging, landclearing and plantation establishment and management are well documented and numerous.

- Removal and fragmentation of habitat
- loss of food sources
- altered fire regimes
- weed invasion
- disrupted hydro-ecology
- degraded carbon stores
- soil disturbance and associated increased erosion and sedimentation in waterways
- pollutants and pesticides in waterways and in the food chain

are amongst the most serious impacts of the landclearing and woodchip plantation establishment. The documented and suspected associated decline (see below) in abundance of certain flora and fauna as a result of these degrading processes and impacts of the industrial operations is significant and is of great concern.

Deforestation

Continued large scale landclearing on the Tiwi Islands without proper consideration of the full economic, social, and environmental ramifications of such developments would be disastrous. Calls for an end to large scale landclearing (deforestation) in the Northern Territory are not without precedent, with other states, including Queensland, having strong and binding laws that tightly limit and restrict forestry and other landclearing operations.

In addition, the clearing of native forests for plantation establishment anywhere in Australia is inconsistent with baseline prescriptions for forest conservation as outlined in the Commonwealth's *National Forests Policy Statement*.¹

The landclearing on the Tiwi Islands involves the removal of native forest to grow a crop. This is deforestation. Deforestation is banned in most states in Australia, and is not acceptable anywhere in Australia. Worldwide, deforestation in 2008 was conservatively estimated to be the cause of almost eighteen per cent of global greenhouse gases in the atmosphere.² No doubt that figure has increased, with some predictions almost tripling that estimate. As one forest and climate scientist points out: "if we are aghast at the thought of deforestation happening in our neighboring countries like Indonesia and Papua-New Guinea, we should be aghast at it happening here in Australia."³



Figure 3: Clearing of native forest - deforestation - to establish *Acacia mangium* crop on Tiwi islands (ECNT).

¹ "All States share the policy, consistent with ecologically sustainable management, of not clearing public land for plantation establishment where this would compromise regional conservation and catchment management objectives" in *National Forests Policy Statement: A New Focus for Australia's Forests*, Commonwealth of Australia, 1992, 1995, p.30
http://www.daff.gov.au/data/assets/pdf_file/0007/49732/nat_nfps.pdf

² Inter-Governmental Panel on Climate Change, 2007, Fig 3 Global Anthropogenic Greenhouse Gas Emissions.

³ Professor Brendan Mackey, in 'Timber, tax and the Tiwis' Background Briefing, ABC Radio, 16 September 2007, available at <http://www.abc.net.au/rn/backgroundbriefing/stories/2007>

National and International Environmental Significance of the Tiwi Islands

In the Northern Territory Government's Parks and Conservation Masterplan, the Tiwi Islands (Melville (570,000ha) and Bathurst (220,000ha) Islands) are identified as a "site of international conservation significance".⁴

The Tiwi Islands represent a highly unique area of biodiversity attributable to the high annual rainfall and isolation from the mainland. They are some of the last healthy and intact tropical savannas left on the planet.⁵ According to Professor Brendan Mackey of the Australian National University, the Tiwi Islands "are the most [...] biologically productive forests in Northern Australia. They have the best rainfall and the best soil, so they really are the jewel in the crown."⁶

Endemnicity and threatened species

In their study of biodiversity on the Tiwi Islands, Woinarski *et. al* note that "[s]pecies, or sub species, that occur nowhere else than on the Tiwi Islands require some special consideration...because these have no options offer protection elsewhere, and are totally reliant on appropriate management on the Tiwi Islands."⁷ In addition to this level of consideration, the intrinsic worth of species must also be taken into account in deciding land use and management. *The UN World Charter for Nature* states that "[e]very form of life is unique, warranting respect regardless of its worth to Man".⁸

The Tiwi Islands support about twenty endemic plant and vertebrate animal taxa, and about forty-four taxa threatened at Territory or national levels (including fourteen taxa listed under the EPBC Act).

The number of threatened or endangered plants species by broad habitat is 15 (rainforest - the highest) and 3 (eucalypt open forest - next highest). The number of threatened or endangered animal species by broad habitat is 9 (eucalypt open forest - the highest), 5 (eucalypt woodland) and 3 (rainforest).

Tiwi eucalypt forests, which are being cleared for exotic plantations, are better developed in this bioregion than anywhere else in northern Australia, and provide habitat for a

⁴ Northern Territory Government, Department of Natural Resources, Environment, the Arts and Sport (2008) *Parks and Conservation Masterplan: Sites of Conservation Significance, Tiwi Islands* http://www.nt.gov.au/nreta/environment/conservation/pdf/09_tiw.pdf

⁵ Up to seventy per cent of the world's tropical savannas have been lost. Northern Australia has a quarter of what remains. (Professor Brendan Mackey in 'Timber, tax and the Tiwis', ABC Radio.)

⁶ 'Timber, tax and the Tiwis' ABC Radio.

⁷ Woinarski, J., Hadden, K., Hicks, J., and McLeod, D. (2003c) *Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 3. Management and Planning for biodiversity conservation*. Department of Infrastructure, Planning and Environment, Darwin.

⁸ United Nations (1982) *The UN World Charter for Nature*, in Woinarski, J., Mackey, B., Nix, H., and Traill, B. (2007) *The Nature of Northern Australia: Natural Values, Ecological Processes and Future Prospects*, ANU E Press, Canberra.

number of declared species. In fact, many of the threatened, vulnerable or endemic species of the Tiwi Islands are largely restricted to the tall eucalypt forests. These are the forests targetted for landclearing in order to establish the Tiwi Island *Acacia mangium* plantations.

Tiwi Islands fauna (some endangered, some endemic) potentially impacted or known to be impacted by landclearing and woodchip plantation operations include the Red goshawk, Partridge pigeon, Masked owl, Butler's dunnart, False water rat, Bare-rumped Sheath-tailed bat, Black-footed tree rat, Tiwi hooded robin and the Brush tailed rabbit-rat, which is considered by some ecologists to extremely vulnerable and may be the 23rd mammal extinction recorded in Australia since European settlement.

In addition to those species, there exist fourteen rainforest species that occur nowhere else but the Tiwi Islands, at least fifteen endemic subspecies of birds and mammals, and two rainforest types which are restricted to the Tiwi Islands.

Small-mammal research conducted on the Tiwi Islands and published in 2007 found that of the twelve native mammals species examined in that study, seven were not found at all in the *Acacia mangium* plantations. According to the authors, the absence of these species in the plantations suggests that the landclearing and plantation operations have disadvantaged them.⁹

Almost every part of the islands supports some significant ecological features. The 2003 Woinarski *et. al.* Tiwi Biodiversity series argues for the development of an integrated conservation management initiative across the whole islands area.¹⁰

The Tiwi Islands have a distinctive biota, and in order to mitigate the threats to the conservation of this biota and other high conservation values, further research and analysis is essential.

It has been fifteen years since the last comprehensive flora and fauna survey, and no government could responsibly consider approval for further high-impact operations on the Tiwi Islands prior to this work being done.

1 Recommendation: Further flora and fauna survey work, with comprehensive and extensive baseline data collection components, should be conducted for the Tiwi Islands. Part of this body of work should include broadscale and systematic monitoring designed to produce proper retrospective assessment of the impacts of landclearing and plantation establishment upon Tiwi Island flora and fauna.

⁹ Firth, S.C., Woinarski J., Brennan, K., and Hempel C. (2007) "Environmental relationships of the brush-tailed rabbit-rat, *Conilurus penicillatus* and other small mammals on the Tiwi Islands, northern Australia", *Journal of Biogeography*, pp.1820-1837.

¹⁰ Woinarski, J., *et. al.*, *Biodiversity Conservation on the Tiwi Islands Part 3*.

Weeds

The impact of invasive plants on Northern Australian landscapes is well known. The authors of *The Nature of Northern Australia* point out that weed control and management actions vary greatly in terms of success, and are usually expensive. Weeds displace native plants, diminishing species richness. They pervade land tenures, crossing 'boundaries'.¹¹ Invasion of woody weeds has elsewhere resulted in a serious decline in native species.¹²

The Tiwi woodchip plantation preferred species, *Acacia mangium*, has been assessed under the NT Government's Weed Risk Management System as being of 'high' risk. It will therefore likely be declared a weed in the Northern Territory under the *Weed Management Act*.¹³

Should this occur, it should then be illegal to plant the species in the Territory, including on the Tiwi Islands. The broad management responses identified for such 'high' risk weeds are 'Prevent entry \ Contain regional spread'.

Acacia mangium escapees occurring outside the plantation boundaries have been reported. A key question is how will the weed *Acacia mangium* be managed so it doesn't become an even bigger environmental problem?

- 2 ***Recommendation: Acacia mangium should not be allowed to be planted on the Tiwi Islands due to its high risk weed rating. This could be achieved by declaring the species as a 'Class B\C' weed under the NT Weed Management Act. This would require its spread to be contained and controlled, but would not require eradicated. However, post harvest the declaration could be amended to an A\C level which would require its eradication and control.***

Fire

Fire plays an important ecological role in Northern Australia, at times causing disturbance, but importantly generating diversity and difference in the landscape. Traditional and consistent use of fire in considered, systemic and cultural ways by indigenous landowners for tens of thousands of years produced a landscape with species abundances derivative of this fire regime.¹⁴

¹¹ Woinarski, J., et. al., *The Nature of Northern Australia*, p.78.

¹² Woinarski, J., Brennan, K., Cowie, I., Kerrigan, R., Hempel, C. (2003a). *Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 1. Environments and plants*. Department of Infrastructure, Planning and Environment, Darwin.

¹³ NT Weed Risk Management Technical Committee (2008) *Developing a Weed Risk Management system for the Northern Territory* (Draft). Departments of Natural Resources, Environment, The Arts and Sport, Darwin. Draft. See Table 1, p10.

¹⁴ Woinarski, J., et. al., *The Nature of Northern Australia*, pp.34-5.

Prescribed burns designed to protect Great Southern's *Acacia mangium* plantations are imposing an artificial fire regime on parts of the Tiwi Island landscape. The hard, hot burns impact negatively upon the local ecology – particularly fires sensitive rainforest patches. Such burns also aid the spread of weeds.

- 3 *Recommendation: The risks and threats to native plant communities (especially but not limited to rainforests), as a result of frequent prescribed burns intended to protect Acacia mangium plantations from wildfire, should be properly assessed and reported. These should be evaluated as part of the environmental costs of the project, and factored into long term Tiwi Island landscape conservation planning.***

*Pesticides*¹⁵

Pesticide use in exotic, mono-culture plantations can create an environment that is simplified and hostile to many native insects, birds and animals and associated understory species and food plants.

Research conducted elsewhere in Australia on the organochlorine pesticide contamination in three species of predatory birds revealed that pesticide use had a direct impact of rates of fertility.¹⁶ Given the presence of the Red Goshawk and Masked Owl around the plantation operations, research should be conducted to ascertain impacts of pesticide use on these threatened predatory birds, and if findings indicate decline in the species due to plantation pesticide use, whether compliance with conditions set under the EPBC is being met should be reviewed, and plantation management altered so as to avoid impact upon such species.

- 4 *Recommendation: Given that plantation pesticide use is harmful to ecosystems and people, research should be undertaken to ascertain, and manage, any effects of pesticide use in Great Southern's plantations upon the ecology of the Tiwi Islands generally and threatened species particularly.***

Rainforests

Tiwi rainforests are floristically-rich with high numbers of endemic or threatened plant species. Some plant species on the Tiwi Islands are not endemic, but over fifty per cent of

¹⁵ The term "pesticide" refers to all substances designed to protect desired trees from harmful organisms. Pesticides include fungicides, herbicides and insecticides, and can be chemical or biological.

¹⁶ Falkenberg, I.D., Dennis, T.E., Williams B.D., (1994) "Organochlorine Pesticide Contamination in Three Species of Raptor and Their Prey in South Australia" in *Wildlife Research* 21(2) 163 – 173.

their population are found on the Tiwis, rendering these populations significant. Wet rainforest patches contain a number of such populations.¹⁷

Rainforests on the Tiwi Islands are spring fed, and are thus vulnerable to drying out and decline as a result of plantation-induced changes in the ecological water flows (hydro-ecology) on Melville Island.

Weeds can colonise and severely alter the floristic structure of rainforest patches. *Acacia mangium* wildlings from the plantation estate have already entered into and established in rainforest patches. This invading process will be accelerated by inappropriate fires regimes. In addition rainforests are susceptible to disease and wind-drying as a result of the fragmentation or removal of buffering drier forest types.

Plants forming the basis of traditional use come from rainforest areas; these species of plants also have important commercial arts and crafts use. The availability of these plants is being compromised by poor land management.¹⁸

The 2003 Woinarski *et. al.* series of reports on the biodiversity on the Tiwi Islands suggests that the main threats to rainforest patches are pigs, altered hydrology, changed fire regimes, weeds and landclearing.

Significant rainforest patches have been cleared on the Tiwi Islands in breach of the conditions attached to the approval granted in 2001 under the EPBC Act. Further description of the environmental impacts on rainforest is below where the compliance issues are discussed.

5 *Recommendation: An assessment of the environmental, cultural, social (health) and economic services provided by the rainforest floristic communities on the Tiwi Islands are undertaken to establish the impacts of degradation of the rainforest patches upon the ecology of the Islands, social (health) and traditional culture.*

Woodlands

After wet rainforest patches, eucalypt open forests are the most important vegetation types for plant biodiversity. This vegetation type has been extensively cleared for plantation forestry. The Tiwi Island eucalypt open woodland forests are some of the most productive eucalypt forests in Northern Australia.¹⁹

¹⁷ Woinarski, J., *et. al.*, *Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 1. Environments and plants.*

¹⁸ Puruntatameri, J., *et. al.* (2001) *Tiwi Plants and Animals: Aboriginal flora and fauna knowledge from Bathurst and Melville Islands, northern Australia*, Parks and Wildlife Commission of the Northern Territory, and Tiwi Land Council, Darwin.

¹⁹ Woinarski, J., *et. al.*, *Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 1. Environments and plants.*

As early as 1994, a study of sparsely wooded plains on Melville Island (in areas now cleared for the Great Southern plantations), identified some of the plant communities now likely obliterated as unique and in need of preservation initiatives. They were described as floristically and structurally distinct from mainland vegetation types, and the authors called for the plains area of vegetation to be excluded from further developments.²⁰

- 6 Recommendation: That on the basis of evidence documented to date regarding the unique and biodiverse-rich Tiwi Island eucalypt woodlands, the ecological services provided by them, and regarding the impacts of large scale landclearing, no further approvals for clearing of this vegetation type for plantation establishment be granted by the Commonwealth Department of Environment, Heritage, Water and the Arts.**

Water and Soil

Irrespective of the buffer zones set as conditions of forestry on the Tiwi Islands under the EPBC, publicly available studies into the effect of broad-scale land clearing and plantation development confirm that the forestry activities on Melville Island will in all likelihood lead to a significantly altered hydrologic regime. This is likely to lead to increased surface runoff and resultant erosion (for example the catastrophic erosion of Tarracumbi waterfall), increased sedimentation with impacts on aquatic ecosystems, and a reduction in groundwater recharge due to reduced infiltration through compaction or loss of topsoil associated with exposed soils on cleared lands during storm events. These factors will affect rainforest ecosystems and the listed species found within them (for example *Elaeocarpus miegei*, (listed in the NT as threatened) which is affected by changes in hydrology (caused for example by forestry)).²¹ Wet rainforest patches are dependent on continuous availability of water.

Altered hydrology is also a key threat to treeless plains (an endemic vegetation type), melaleuca low woodlands, melaleuca open forests, sedge and grasslands. Land clearing is predominantly occurring in eucalypt open woodland which is known to be the key habitat for nine listed animal species including Red Goshawk and Masked Owl. This indicates that an altered hydrologic regime and land clearing for forestry are likely to have significant impacts on species listed under federal and state conservation legislation. It is likely that the majority of the listed species on the Tiwi Islands are being significantly impacted by forestry activities regulated by EPBC.

Monsoon forests are likely to be susceptible to changes in ground water hydrology as a result of high water use from *Acacia mangium* plantations proposed for areas within the

²⁰ Wilson, B.A. and Fensham J., (1994) "A Comparison of Classification Systems for the Conservation of Sparsely Wooded Plains on Melville Island, Northern Australia" in *Australian Geographer* 25 (1), May, pp18-30.

²¹ http://www.nt.gov.au/nreta/wildlife/animals/threatened/pdf/plants/Elaeocarpus_miegei_CR.pdf

Tiwi Islands.²² Further, the close proximity of clearing and other human activities is likely to increase the risk of invasion by introduced grassy weeds.²³

- 7 ***Recommendation: Given that a key threatening process for rainforests is an altered hydrologic regime,²⁴ a comprehensive assessment of the water resources of the Tiwi Islands is needed. This assessment should include, but not be limited to, a systematic monitoring regime of surface water resources through a series of stream gauges in key rainforest and wetlands sites adjacent to cleared / plantation areas. Monitoring of groundwater in soil / alluvial profiles should be undertaken by monitoring bores located in close proximity to rainforest / wetland areas adjacent to cleared / plantation areas. Gauges and bores should be set on benchmark sites to get an undisturbed or reference baseline. Such a monitoring program should be developed by NRETAS, with scope for public input. The results of this monitoring should be publicly available.***

The Environmental Impact Statement (EIS) and water

The EIS of Establishment of Fast Grown Plantations on the Tiwi Islands was prepared on behalf of the Tiwi Land Council by ForSci Pty Ltd.²⁵ The plantation development process occurred without public scrutiny of this or any environment impact statement.

With regards to water, the EIS suggests buffer strips will protect the hydrologic regime, research would not however support this. The EIS presents a simplistic understanding and ignores the importance of a flow regime e.g. quantity and timing of water flows – moderated peak, attenuated flood tail and significant infiltration to sedimentary and alluvial aquifers. All these are likely to be lost under clearing and plantations.

The EIS does however quite rightly recognise that water demand for plantations will be greater than for native vegetation, therefore increased draw down of groundwater levels with likely adverse impacts on rainforest patches. The EIS also does recognise likelihood of contamination of surface and ground waters with pesticides and fertilisers.

- 8 ***Recommendation: Annual monitoring for contamination, combined with stream flow and groundwater monitoring, should take place to ascertain the impacts of toxins on environmental flows and the broader Tiwi landscape.***

²² Woinarski, J.C.Z., (2000) 'The conservation status of rodents in the monsoonal tropics of the Northern Territory' in *Wildlife Research* 27, pp.421-435.

²³ Kerrigan, R., Cowie, I., Baker, B. (2004) Threatened species information sheet, *Mitrella* sp. Melville Island. (Darwin Herbarium, Department of Infrastructure, Planning and Environment, NTG).

²⁴ Woinarski, J., et. al., *Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 1. Environments and plants.*

²⁵ ForSci Pty Ltd. (1999). Environmental Impact Assessment of fast grown plantations on the Tiwi Islands. Report to Tiwi Land Council. (ForSci Pty Ltd.).

Gauges and bores should be set on benchmark sites to get an undisturbed or reference baseline.

- 9 Recommendation: Should any approvals be granted for further landclearing, plantations or other industrial developments on the Tiwi Islands, they should be subject to a rigorous and transparent public EIS process.***

Biologically-productive and carbon-rich native forests

On the Tiwi Islands – the ‘jewel of northern Australia’ - the highest productivity and carbon dense forests have been targetted for clearing. The clearing has occurred in the highest quality, most productive eucalypt forest ecosystems on Melville Island. This destruction has impacted upon species dependent upon these forests for food and habitat, as it is the most productive forests that provide highest quality habitat with the largest quantities of hollows for nesting.

Concurrently, these productive forests have the richest carbon profile. From a climate change perspective, clearing such productive forests has substantial negative impact.

Productive forests are photosynthesising rapidly, sequestering carbon dioxide and storing it as carbon in the living biomass, debris, and in the soil profile. Logging and clearing these forests re-releases the carbon back into the atmosphere, contributing to climate change.

The environmental impacts of logging and clearing on the Tiwi Islands from a carbon perspective are two-fold. Firstly the landclearing (deforestation) results in a major greenhouse gas event with carbon dioxide previously stored as carbon in the intact native forest landscape released when the forest was logged, milled, chipped or burnt. It is estimated that a massive 9.5 million tonnes of carbon has been released from the large scale deforestation of the Tiwi Islands.²⁶ Secondly, removal of the intact, native forest ecosystem not only causes climate change through the release of greenhouse gases, it diminishes the environment’s capacity to safely sequester carbon dioxide out of the atmosphere. In order to solve climate change emissions must be reduced, *and* something must be done about all the excess carbon dioxide already in the atmosphere already.²⁷ Trees are the only safe, proven, reliable and cost-effective method currently available to pull carbon dioxide out of the atmosphere.

Plantations are a less effective and secure store of carbon than intact, ecologically mature and diverse native forests. Plantations are more vulnerable to pests, fire and disease, and

²⁶ ‘Timber, tax and the Tiwis’ Background Briefing, ABC Radio, 16 September 2007, available at <http://www.abc.net.au/rn/backgroundbriefing/stories/2007>

²⁷ Globally, it is estimated that at least thirty-five per cent of greenhouse gases in the atmosphere today are due to release of carbon dioxide and other greenhouse gases through deforestation and degradation of the Earth’s forests, woodlands and savannas.

are not self-perpetuating. They are relatively low in carbon biomass and floristically simple – in this case a monoculture of *Acacia mangium*, devoid of an understory. Clearing plantations on short, medium or long rotations removes the carbon from the landscape, and, given the Tiwi plantations were established for the purposes of export woodchip, the carbon life-cycle post harvest will be extremely poor.²⁸



Figure 4: Largescale landclearing and burning of Tiwi Native forest (ECNT).

- 10** ***Recommendation: To minimise and remediate the carbon emission impacts of the existing logging and landclearing on the Tiwi Islands, further clearing should not be permitted. The plantation areas should be restored to a multi-species, multi-aged native forest ecosystem that is allowed to recover, and eventually regain its carbon carrying capacity.***

²⁸ Mackey, B.G., Keith, H., Berry S.L., Lindenmayer, D.B. (2008) *Green Carbon: The role of natural forests in carbon storage: Part 1. A green carbon account of Australia's south-eastern eucalypt forests, and policy implications*, ANU E Press, Canberra.

Breaches of Environmental Conditions associated with project approval and set out under the EPBC Act

In 2006 it was established by the Environment Centre NT, Traditional Owners and other stakeholders that Great Southern had breached environmental and planning laws in the Tiwi Island landclearing operations. The company itself admitted that it had 'accidentally' cleared buffers.

Given the seriousness of the breaches over several years, the operators of the project should have been prosecuted and approval for the landclearing immediately withdrawn.

Analysis of mapping imagery and documents, and field trips and survey work showed that operators of the plantation project had seriously and repeatedly breached most if not all of the buffer requirements set out in Condition 2 of the EPBC Act Conditions relating to approvals for landclearing on Melville Island. Sensitive rainforest patches of high conservation significance were cleared, in violation of the prescription in Condition 2 that vegetation not be cleared within 400m of wet rainforests. Forest around sensitive nesting sites for the Red Goshawk and the Masked Owl was cleared.

Condition 5 required submission of tranche plans no greater than 5,000 ha to the Minister for all forest slated for clearing. Ecological studies of threatened species and their habitats were required by Condition 5, and plans for the monitoring of the impacts on listed threatened species by Condition 7.

Until 2007, the Commonwealth, through the Department of Environment and Heritage, failed to ensure compliance with the eleven legally binding conditions placed on the project under the EPBC Act.

Findings of a retrospective Voluntary Environmental Audit conducted by a consultant employed Great Southern revealed that there had indeed been serious breaches of some of the eleven conditions associate with the approval given under the EPBC Act. These included logging of around 7,000 ha of buffers around rainforest patches, and a lack of clarity and rigour in compliance with condition relating to threatened species.

In 2008 the Federal Government investigation into the alleged breaches found that serious violations of the environmental conditions had occurred, and Great Southern was 'fined'. What was described by some as a 'fine', was in fact money paid into a bond account, and, more importantly from a social perspective, payment of \$1.35 million to the Tiwi Land Council for an Aboriginal ranger program.

There is an inherent conflict of interest that arises when large companies, who are involved in the destruction of natural and cultural values, are able to garner social license by funding employment and training prospects and opportunities in the remediation and management of their activities. This argument is especially relevant in relation to companies in violation of environmental conditions such as Great Southern.

The Federal Government's imposition of measures has created an ethical issue by enabling Great Southern to promote employment and training opportunities as positive corporate social responsible behavior when in fact, these measures are in substantial part, the outcome of fines for serious corporate mis-management, non-compliance as well as regulatory failure.

Furthermore, many Tiwi Traditional Owners retain strong connections to their homelands and traditional obligations to care for their Country. Providing employment to support the destruction of natural and cultural values at the same times as employment to remediate environmental breaches creates an ethical dilemma and conflict of interest for the Traditional Owners themselves who are forced to choose between jobs and the environment.

In response it is proposed that funding for the existing Aboriginal Ranger Program be guaranteed through the Commonwealth Government's Caring for Our Country Indigenous Ranger program, that has been recently expanded.

We contend that penalties for non-compliance with the breaches, and illegal activity, have not been applied rigorously. Clearing has continued despite the proven lack of compliance with the conditions. It remains unclear whether in fact tranche plans have been submitted as required. If the required ecological studies have been conducted with rigour, and submitted to the Minister, they have not yet been made publicly available.

These and other documents associated with the conditions should have been made available in course of investigation into breaches. Very few outcomes of the investigation have become public, so it remains unclear what reports have in fact been finalised and where they are in the public domain. If tranche plans or ecological studies have not indeed been completed, are the plantation managers and project proponents not then in further breach of environmental conditions? A key area that requires resolution is whether or not these documents and plans as required by the Environmental Conditions have now finally been produced.

The remediation plan to be prepared by CSIRO under contract from Great Southern needs to be released publicly, assessed and reviewed. The remediation plan must address ongoing ecological damage done to the Tiwis, the risks such as *Acacia mangium* weed invasions, and not result a minimalist rehabilitation outcome. Buffer zones should be replanted with an appropriate mix of native species.

In conclusion, clearing should not have continued, or continue to be approved, while substantive issues concerning ongoing breaches of conditions are unresolved.

- 11 *Recommendation: That the nexus between Great Southern Ltd and the Tiwi Land Council for the Tiwi Land and Sea Management program be disclosed, be dismantled, and that the fine ordered to be paid to the Tiwi Land Council be redirected to the Federal Governments Caring for our Country Program, which in turn, will then contract the Tiwi Land Council to fulfill the management program's objectives.*
- 12 *Recommendation: Great Southern should be prosecuted for violation of the Environmental Conditions made under the EPBC Act; and approval for the landclearing component particularly, and the plantations establishment secondarily, immediately suspended.*
- 13 *Recommendation: Establish whether plantation managers and project proponents remain in breach or have further breached legally binding environmental condition, and if so, firstly whether on that basis the projects should and can continue operations, and secondly take appropriate action under the EPBC Act.*
- 14 *Recommendation: The status of all reports, audits and surveys legally required by the EPBC environment conditions is disclosed, and any content made publicly available.*
- 15 *Recommendation: The remediation plan, to address the proven breaches of environmental and planning laws, being prepared by CSIRO under contract from Great Southern needs to be released publicly for assessment, and reviewed, and peer-reviewed by scientists expert in the field. The remediation plan must address ecological damage done to the Tiwi Islands, and should not afford a minimalist rehabilitation outcome.*

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- 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*

Consent

The landclearing and plantation establishment on the Tiwi Islands has generated substantial dispute and dissent amongst Tiwi Island Traditional Owners. Issues of coercion, manipulation, intimidation, exclusion and transparency with regard to decision-making, and to gaining and giving of consent for the landclearing and plantation establishment, have been raised, often repeatedly.

The more recent protestations about the Great Southern/Tiwi Land Council developments are not without precedent. Appendix 1 "Tiwi Turmoil: We will end up in the long grass

and town camps on our own land”,²⁹ contains an overview of historical and contemporary manifestations of the abovementioned issues as they relate to the 99 year leases, the sandmining, and to the landclearing and plantation operations.

Issues of signature forgery, payments, and the discussion of complex commercial and contractual arrangements being discussed in English, a second language for most Tiwi, have been raised with regards to the 99 year lease at Nguiu.³⁰ Issues and concerns of the same nature, figuratively and literally, have been associated with the landclearing and plantation establishment.³¹

Appendix 2 reveals that concerns held by some Tiwi Island Traditional Owners regarding industrial developments on Tiwi land have long been held. Published in *The Age* newspaper in February 1992, this letter describes a lack of approval and consent among at least 126 Tiwi Island Traditional Owners at that time for the sand mining operations.

There are parallels between concerns raised then, seventeen years ago, and grievances raised by Traditional Owners more recently. The 1992 letter points out that “The Tiwi land council [*sic*] which made the agreement to sandmine our islands does not speak for all Tiwi people. The council is managed by a white man and there are no women on it.”

These are the very concerns that continue to be raised by some Tiwi Traditional Owners today in relation to the Great Southern / Tiwi Land Council plantation venture. A petition signed by Tiwi Island women Traditional Owners expressing their concerns over the clearing of native forests is in Appendix 3. The Tiwi Land Council is still today comprised of men only.

In October 2006 Tiwi Islander concern about the lack of transparency and accountability with regards to the landclearing and plantation establishment resulted in a community petition signed by almost six hundred people calling for an inquiry into the Tiwi Land Council (Appendix 4). This petition was presented to Federal Parliament, but was dismissed by the then Indigenous Affairs Minister, Mal Brough.

²⁹ “Tiwi Turmoil: We will end up in the long grass and town camps on our own land” paper produced by Friends of the Tiwi, n.d.

³⁰ ‘Tiwi lease case: Goliaths 1, Davids 0’, Criekey!, Wednesday, 15 August 2007, Samanti de Silva, <http://www.criekey.com.au/Politics/20070815-99-year-lease-Tiwi-Islands-outcome-Goliath-1-David-0.html>

³¹ In 2005 the ECNT described attempts to improperly gain Traditional Owner’s endorsement for the expansion for the landclearing and woodchip plantations project: “It appears that at very short notice (i.e. about one day) a meeting of some TO’s was held outside the Post Office and a piece of paper was passed around purporting to be some form of approval or endorsement for the project expansion, which TO’s were encouraged to sign. No opportunity appears to have been provided for answering questions or providing more information”, letter to NT Minister for Natural Resources, the Environment and Heritage, Parks and Wildlife, 20 July 2005. “Tiwi Turmoil: We will end up in the long grass and town camps on our own land” paper produced by Friends of the Tiwi, n.d. ‘Timber, tax and the Tiwis’ ABC Radio, 16 September 2007.

Free and Prior Informed Consent

The internationally accepted principles of Free and Prior Informed Consent (FPIC) describe the obligations, standards and determinants for seeking and giving consent.³² With regards to consent, approval and governance processes and issues (as they have manifested on the Tiwi Islands throughout the duration of the planning and implementation of the landclearing and plantation projects), it would appear from the evidence on the public record alone that these internationally accepted principles have not been met.

Some of the published evidence (referenced herein), and the high level of dissent (for example Appendices 3 and 4), provide the basis for our assessment.

The UN Permanent Forum on Indigenous Issues conducted a workshop defining each element of free, prior and informed consent. These should set the standard for consultation. It is summarised in Appendix 5, but three pertinent elements are included below that relate most directly to concerns raised by some Tiwi Island Traditional Owners

:

- No coercion or manipulation is used to gain consent.
- Full and legally accurate disclosure of information relating to the proposal is provided in a form that is understandable and accessible for communities and affected peoples.
- Communities and affected peoples have meaningful participation in all aspects of assessment, planning, implementation, monitoring and closure of a project.³³

³² Working Group on Indigenous Peoples, *A preliminary working paper on the principle of free, prior and informed consent of indigenous peoples in relation to development affecting their lands and natural resources that would serve as a framework for the drafting of a legal commentary by the Working Group on this concept*. UN Doc E/CN.4/Sub.2/AC.4/2004/4, 8 July 2004 <http://www.ohchr.org/english/issues/indigenous/docs/wgip22/4.pdf>; Permanent Forum on Indigenous Issues, *Report of the International Workshop on Methodologies regarding Free, Prior and Informed Consent and Indigenous Peoples*, UN Doc E/C.19/2005/3, 17 February 2005 www.humanrights.gov.au/social_justice/conference/engaging_communities/report_of_the_international_workshop_on_fpip.pdf; Aboriginal and Torres Strait Islander Social Justice Commissioner, *Partnerships between Indigenous Peoples, governments and civil society*, United Nations Workshop on Engaging the Marginalised, 2005 International Conference on Engaging Communities, Brisbane, Australia, 15 August 2005. Conference proceedings www.humanrights.gov.au/social_justice/conference/engaging_communities/index.html#link1; Working Group on Indigenous Populations, *Standard-setting: Legal commentary on the concept of free, prior and informed consent. Expanded working paper submitted by Mrs. Antoanella-Iulia Motoc and the Tebtebba Foundation offering guidelines to govern the practice of Implementation of the principle of free, prior and informed consent of indigenous peoples in relation to development affecting their lands and natural resources*, UN Doc: E/CN.4/Sub.2/AC.4/2005/WP.1, 14 July 2005 www.ohchr.org/english/issues/indigenous/docs/wgip24/2005-wp1.doc.

³³ UN Permanent Forum on Indigenous Issues Report of the *International Workshop on Methodologies Regarding Free, Prior and Informed Consent and Indigenous Peoples*, New York,

Traditional Owners have said they are not represented by the TLC, and feel excluded from decision making forums. Questions have been raised about the complexity of commercial and legal arrangements and the disclosure of these. It appears that the principles of Free Prior and Informed Consent (FPIC) have been neither adhered to nor has FPIC been achieved.

These are very important issues and it is vital that Traditional Owners have their rights met on these matters.

Given it would appear that Free and Prior Informed Consent from sufficient Tiwi Traditional Owners has been neither sought nor achieved such that the rights of Traditional Owners have been met and the developments are not vigorously opposed, governance, consent and approval processes pertaining to developments on Tiwi land should be reconstituted according to the internationally accepted principles and obligations of FPIC.

- 16 *Recommendation: The governance, consent and decision-making processes regarding development on Tiwi land be reconstituted in such a way that the concerns of Traditional Owners are better heard and addressed (within a reasonable timeframe and by an independent broker) and that a new level of consent is achieved amongst the Traditional Owners whose right it is to speak for Country.***

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- 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***

Land, logs and woodchips; and commercial, legal and contractual arrangements

The clearfelling of intact native ecosystems, the use of the land to grow plantations of a soon-to-be-classified weed, the shipment and sale of logs under the 'Red Tiwi' label, and future logging and sale of plantation woodchips, have all been subject to interrogation and dispute. Yet it remains unclear what exactly, in nature and quantity, the economic benefits of these developments are, and to whom they are rightly, and actually, afforded. It is then, not just a question of what happened to the land, and what happened to the logs, but what happened to the revenue? What will, then, likely happen to *Acacia*

January 2005, para 23-26 incl., and Human Rights and Equal Opportunity Commission and United Nations Permanent Forum on Indigenous Issues, *Engaging the marginalised: Report of the workshop on engaging with indigenous communities*, HREOC, Sydney, www.humanrights.gov.au/social_justice (26 June 2006).

mangium woodchips, and any associated revenue, if harvesting commences, as anticipated in 2014?

A lack of transparency around these issues is underpinned by unclear commercial, contractual and legal arrangements between companies and groups associated with the landclearing and the plantations. For example, Tiwi Island Traditional Owners, company shareholders and other stakeholders were variously told two things: that the sale of native forest timber would be worth millions of dollars to Traditional Owners,³⁴ and conversely that the timber was worthless.³⁵

Previously, the Commonwealth allowed this project to be run while these longstanding issues and questions about contractual, legal and commercial arrangements, and about revenue trails, remained unresolved and the subject of much dispute.

This Senate Inquiry is an opportunity to ensure this not the case now and in future with regard to this, and any other development, and proponents, on the Tiwi Islands.

Great Southern and other entities

Great Southern is one of the biggest agribusiness companies in Australia, with huge landholdings. It operates managed investment scheme (MIS) tax minimisation schemes, whereby investors receive substantial tax benefits through funding the conversion of farmland, and in the case of the Tiwi Islands, native forests to plantations.

When Great Southern acquired Sylvatech in 2005, the company boasted of the huge financial advantage of establishing plantations on the Tiwi Islands.

An excerpt from the company's announcement of the takeover reveals the benefits for Great Southern, and illuminates the pitfalls for Traditional Owners: "The Sylvatech acquisition will provide 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." Great Southern's Annual Report of that year described the expected benefit for their accounts, and therefore return to shareholders: "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".³⁶ Among the strategic benefits to Great Southern of the Sylvatech acquisition, the

- "- Low cost source of land
- Potential to access further land on Tiwi Islands for plantation purposes
- Low haulage rates due to location near port infrastructure
- Proximity to Asian customers reduces shipping costs [and]
- Closer working relationship with the Federal Government"

³⁴ In 2004 timber company Pentarch projected that the sale, marketing and transport of Tiwi owned timber was potentially worth \$100 million. 'Interview with the secretary of the Tiwi Land Council, John Hicks', Stateline Northern Territory, ABC Radio, 29 September, 2006.

³⁵ 'Forestry on the Tiwi Islands' Stateline Northern Territory, ABC Radio, 29 September, 2006.

³⁶ Great Southern Plantations Limited, *Annual Report*, 30 June 2005, p.8.

were variously listed in 2005 as advantageous.³⁷

Great Southern has as its partner company in the landclearing and plantation venture the Tiwi Land Council (TLC). In addition to these two entities, at least four other companies are involved. They are Pirntubula Ltd, Pentarch Forest Products Ltd; PenSyl Ltd; and Stratus Shipping Ltd.

TLC is a Commonwealth Statutory Authority and as such has a suite of accountability obligations that must be met.

There is very little publicly available information about the commercial, contractual, legal and financial arrangements between these companies and groups, and their agreements about logging, transporting and selling the Tiwi Islands native forest logs and exotic *Acacia mangium* chips.

Significantly, there is little publicly available information about Pirntubula Pty. Ltd., which was created by the TLC in 1987 on behalf of the Traditional Owners.

Disclosure of the associations between these companies and groups involved in the logging, landclearing, plantation establishment, shipping and sale of saw logs and future pulp logs from the Tiwi Islands is vital for transparency, and is in the interests of all stakeholders.

As with the concerns and issues raised above regarding governance, consent, and approval mechanisms and processes, we contend that transparency around commercial, contractual, financial and legal arrangements need be made so as to enable rigorous analysis of rightful economic gain, and environmental and social impacts.

- 17 *Recommendation: A review should be undertaken of the adequacy of requirements for greater transparency and accountability for all industry proponents on Tiwi Islands, and for TLC, should be undertaken.***
- 18 *Recommendation: A project financial audit, including disclosure and audits of the financial arrangements between the various companies involved in the landclearing, plantations, and timber and woodchip sales should be conducted.***

Global decline in demand for woodchips

If the revenue trails of the native forest logs appear unaccounted for, and returns to Traditional Owners minimal (despite claims of huge returns of millions of dollars to Traditional Owners for the exploitation of Tiwi native forests), what kinds of returns

³⁷ Great Southern Plantations Limited, *Sylvatech & Environinvest Roadshow Presentation*, 17 February 2005.

might be expected if and when the *Acacia mangium* plantations are logged for export woodchip?

Given the capacity of processes threatening to plantations, including fire, cyclonic weather and pests, to degrade or destroy *Acacia mangium* woodchip plantations, the risks are not insignificant.

Reports are that the quality of the Tiwi Island *Acacia mangium* plantations is poor to deplorable. This raises questions not only about the harvest date, but about the quantity and quality that can be expected from these pulp logs.³⁸

According to the *Wood Resource Quarterly*, global wood fibre prices suffered the largest drop in over twenty years in the fourth quarter of 2008. Price indicators across the global forest logging sector pointed downwards for pulp, paper, lumber and wood panels, sawlogs, pulpwood and wood chips alike.³⁹ With regards to production, availability of Australian-plantation-grown hardwood pulp logs (for domestic use and export) will trend upwards, especially from 2010 when Australia's hardwood plantations come on line, flooding the market.⁴⁰

The factors of plantation vulnerability and poor quality, when coupled with the current and expected decline in global demand for woodchips, do not indicate a bright future of good economic returns to the Tiwi island communities from the logging of the *Acacia mangium* plantations.

In addition, Traditional Owners are entitled to a mere two per cent of any revenue raised from the sale of the *Acacia mangium* plantations,⁴¹ with the bulk of the profit then presumably going to the above mentioned companies, their directors and shareholders.

A quality harvest and sale to a global market demanding hardwood pulp logs, resulting in good economic returns to Tiwi Island communities, would on the basis of this information, appear unlikely.

19 *Recommendation: Establish whether Traditional Owners were provided with the best legal and commercial advice (available at the time) regarding global native forest sawlog and plantation hardwood woodchip prices, and trends and forecasts relating to supply and demand, and if not, whether contractual, legal and moral obligations have been met.*

³⁸ 'Tiwi Forestry Project' Ken Eldridge in *Newsletter of the Environment Centre NT*, p.10, September 2008.

³⁹ <http://forestsandtimber.com.au/dtn/details.asp?ID=195>

⁴⁰ Ajani, Judith, *The Forest Wars*, Melbourne University Press, 2007.

⁴¹ Senator Eric Abetz, Commonwealth of Australia, Parliamentary Debates, The Senate, Questions on Notice, Forestry Plantations, Question 1576, Thursday 11 May 2006
http://parlinfo.aph.gov.au/parlInfo/genpdf/chamber/hansards/2006-05-11/0204/hansard_frag.pdf;fileType=application%2Fpdf

Land Valuation

Tiwi Island Traditional Owners are paid well below market rates for the use of their land. In 2006, reference to lease rates was made publicly available: Great Southern agreed to lease the land for \$17 per hectare + 2% of net harvest proceeds.⁴²

A comparison of prices paid for lease of land for plantation purposes elsewhere in the country demonstrates that the highest amongst other lease values are ten times what Great Southern agreed to pay Tiwi Island Traditional Owners, and even the lowest are five times what Great Southern agreed to pay Traditional Owners.

By way of further illuminating the disparity: if Tiwi Traditional Owners received the return for land leased that landowners elsewhere gain (conservatively \$80/ha/yr), their income would increase from approx. \$510,000 per annum to approx. \$2.4million per annum. Or, taking as a benchmark the average lease payment elsewhere (around \$150/ha/yr), Traditional Owners would be entitled to \$4.5million per annum – or around ten times as much as they currently receive.⁴³

It is noteworthy that these rates of payment for plantation leases refer to land which is lower rainfall than the Tiwi land, and more distant from markets than Tiwi land, and further that these figures date from 2000.

We contend that provision of an independent valuation of Tiwi Island land for plantation leases needs to be made to Tiwi Island Traditional Owners, in order for expected economic returns to then be properly considered in the full context of social and environmental risks and benefits.

20 *Recommendation: A genuine, independent and professional land valuation must be undertaken to properly establish the value of Tiwi Island land for plantation forestry leasehold use.*

⁴² Senator Eric Abetz, Parliamentary Debates, The Senate, Questions on Notice 1576, Thursday 11 May 2006.

⁴³ 'Rents for plantation land leases', Australian National University (ANU) Market Report 13. September 2000.

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- d) an examination of the economic opportunity costs associated with existing developments including forestry operations***

Landclearing - ‘costing’ out opportunities through degradation

Economic opportunity costs as a result of pursuing landclearing and plantation establishment include degradation of carbon stores, impacts on biodiversity tourism, and cultural, social and health costs. The decline of species as a result of landclearing, that were previously hunted and formed part of a subsistence diet, has implications for social and cultural continuity, health and wellbeing.

A decline in Australian Bustard numbers, for example, is due to hunting with firearms, increased access to vehicles, altered burning regimes, landclearing and plantations establishment. Previously forming part of subsistence diets, which assist social and cultural health, the decline in bustards is one example of the way in which analysis of species, processes and traditions⁴⁴ is relevant for assessing opportunity costs in relation to Great Southern’s projects.

Generally, when it comes to opportunity costs, the matter is one of whether landclearing and growing *Acacia mangium* for woodchip export represents the best (economic) use of the land, and presenting best returns to Traditional Owners culturally, socially and economically? What economic opportunities are being ‘costed’ out as a result of the landclearing and plantation establishment?

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- 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***

Social and Economic Alternatives

Opportunities to build a sustainable, less economically risky future for the Tiwi Islands and Tiwi Traditional Owners exist. Alternative futures and visions that are not vigorously protested and disputed by any part of the Tiwi community are vital for the ongoing health of the Tiwi landscape and people.

⁴⁴ Puruntatameri, J., *et. al.*, *Tiwi Plants and Animals*, p.93.

It is important that opportunities are pursued for the people of the Tiwi's, including opportunities to enter the carbon economy, to support international renowned art and cultural industries and to provide ongoing support for land management activities such as fire and weed management and other ranger activities are maintained and developed.

On the other hand, claims that there will be enormous benefit to Traditional Owners from the extractive exploitation of their natural resources need to be clearly and rigorously substantiated. This has not been the case with large scale landclearing and plantation establishment.

Tourism on the Tiwi Islands formally began in 1979 with the first 'Tiwi Tours' to Nguiu and Pirlangimpi. Since then tourism has expanded. The increased sale of various Tiwi arts, crafts and clothing has been a by-product of high tourist numbers.⁴⁵ These industries represent examples of alternatives to the landclearing and export of woodchips, with lower environmental impact and less risky economic, social and cultural benefits.

Indigenous Rangers

Indigenous Land and Sea Rangers provide a critical role in managing and protecting the environmental and cultural values of country.

Ranger programs also provide a opportunity for traditional owners to actually work on country and maintain connections to culture.

Significant amounts of funding are now provided by the Commonwealth Government towards the employment of Indigenous Land and Sea Rangers through the Caring for our Country program. In January 2009, an additional \$31 million was made available by the Commonwealth government to employ Indigenous Land and Sea Rangers.

It is recommended that this program be greatly expanded on the Tiwi Islands given the outstanding natural and cultural conservation significance of the Islands and the pressing need for sustainable employment opportunities.

Land Use – Carbon

Carbon markets (voluntary or regulated) and landscapes provide opportunities for reconsidering how land might be used in Northern Australia in a revolutionary way, with multiple benefits. In a carbon-focussed world, relatively intact landscapes and the environmental carbon store services they provide, need to be evaluated when assessing any potential other land uses.

⁴⁵ Puruntatameri, J., *et. al.*, *Tiwi Plants and Animals*, p.15.

It is noteworthy that current lease payments for Tiwi Land of \$17/ha/yr do not match the carbon store value alone, which at a nominal \$20/tonne would amount to thousands of dollars per hectare.

Studies conducted in West Arnhem land about fire, carbon, biodiversity, indigenous land management and economic sustainability indicate the kinds of opportunities that can provide care for and management of Country and economic sustainability for remote indigenous communities, and are additionally net-social benefit enterprises. The West Arnhem project ideas and technology could be transferred to the Tiwi Islands. To paraphrase the authors of a paper considering the carbon sequestration potential of Australia's northern savannas, the impact of fire on this potential, and the capacity for land management opportunities that have net-carbon and net-social benefits: Does the extent, intactness and fire-prone nature of Australia's savannas have implications for carbon budgets? What are the carbon stocks, and the carbon fluxes in northern landscapes? Are they a carbon source, or a carbon sink?⁴⁶

This is the kind of alternative future that ought to be considered and pursued, should Tiwi Islander Traditional Owners choose to determine that future for managing their Country.

Tiwi Islanders could then be paid to protect and manage their native forests, landscapes and ecological processes in ways that support and capitalise on the natural values, cultural connections with Country and new opportunities in new (carbon) markets.

The Commonwealth Government has committed to provide opportunities for indigenous participation in fledgling carbon markets by establishing the legal framework for creation of carbon credits from altered fire management and providing \$10 million to build local capacity, build partnerships between the private sector and Indigenous communities, research its scientific and market potential and promote sales to growing national and international markets.

21 *Recommendation: Commonwealth Government develop a carbon abatement project for the Tiwi Islands to build on the indigenous engagement in carbon markets policy and associated funding commitment.*

Impediments

Obstacles or hindrances to achieving alternative futures might include an insufficient analysis of the complex of environmental, social and cultural costs of current industrial developments (for example as per Recommendation 5 about gaining a more complete understanding of the 'services' provided by Tiwi rainforest).

⁴⁶ Williams, R.J., Hutley, L.B., Cook, G.D., Russell-Smith, J., Edwards, A., Chen, X., (2004) "Assessing the carbon sequestration potential of mesic svannas in the Northern Territory, Australia: approaches, uncertainties and potential impacts of fire" in *Functional Plant Biology*, 31 pp.415-422.

Resistance on behalf of current decision-makers to considering the full range of alternative futures that may be the preference of other sectors of the community might be another impediment.

- 22 *Recommendation: Partnered research projects with social and economic development facilitators, the TLC, other Traditional Owners and relevant stakeholders to make qualitative assessments of alternative economic and social visions for the Tiwi Islands that can then inform reliable, transparent and professional longer-term planning for Tiwi futures.*
- 23 *Recommendation: Reliable research be conducted into, and due consideration given to the possibilities and scope for transfer of the West Arnhem carbon abatement program and technology to the Tiwi Islands.*
- 24 *Recommendation: Strategic landscape assessment should be undertaken to facilitate landscape planning – broadscale and systemic monitoring, active land management with restoration of fire regimes, adequate pest control prescriptions, and landscape social benefits components.*
- 25 *Recommendation: A comprehensive picture of the economic structure of the Tiwis must be developed including the potential opportunities and alternatives, and the vision for the future sustainable development? These must be thoroughly researched and given due consideration in scoping alternative futures for the Tiwi Islands.*

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f) any related matters

Hearings at Nguiu

Great Southern and TLC's landclearing and plantation developments are subject to a considerable difference of opinion amongst Tiwi people.

It is vital that Traditional Owners determine their own and their Country's future, in their own language. The range of Traditional Owner voices and opinions on this matter needs to be captured, including those of Tiwi women.

TWS and the Environment Centre NT are supportive of the Standing Committee conducting hearings at Nguiu, Bathurst Island. This would enable Traditional Owners to make verbal submissions, in language. We believe the holding of such a hearing, with capacity for confidentiality of transcripts and *in camera* status is vital in order for the Standing Committee to gain a perspective of the full spectrum of Tiwi opinion about the landclearing and plantation operations.

A trip to the Tiwi Islands to hear from Traditional Owners would also enable the Standing Committee to see first-hand the landclearing, logging and plantation operations.

- 26 *Recommendation: Provision should be made for verbal submissions made in language, to be accepted by the Standing Committee at a hearing on Tiwi land. Separate hearings should be held for women and men, if requested by Traditional Owners.***

Documents

List of some Documents relating to some of the key issues for examination by the Standing Committee:

- The contracts / legal arrangements covering the plantation project effective between Pirntubula Ltd and / or Tiwi Land Council (TLC) and Great Southern Ltd; Pensyl Ltd; Pentarch Ltd; and Stratus Shipping Ltd.
- Contracts for sale of eucalypt logs
- Contracts for the sale of the *Acacia mangium* woodchips
- Land Valuation documents, including terms of reference for valuations
- Remediation plan for breaches prepared by CSIRO for Great Southern

Expert Witnesses

List of some Witnesses to be called:

- Australian Valuation Office
- Independent experts on land valuation for MIS plantations, and contracts for sale for logs and woodchips
- CSIRO re remediation plan and other matters
- NT Parks and Wildlife scientists re impacts of project on biodiversity
- DEWHA investigators regarding dispute over area of forest illegally cleared and other matters relating to breaches of environmental conditions
- Ken Eldridge
- Marjorie Liddy , Elder, Yimpinari lands, Melville Island
- An Environmental Non-Governmental Organisation representative

- 27 *Recommendation: The abovementioned documents be sought and tabled for the Standing Committee's consideration. The people or entities named in the 'List of Witnesses to be called' be invited by the Standing Committee to provide information to it about a suite of issues concerning the logging, landclearing and mining on the Tiwi Islands.***

Conclusion

The Tiwi Islands are part of a relatively intact bioregion. Landclearing and plantation establishment have altered the landscape and ecological processes, not without environmental, social and economic harm or disadvantage.

The biodiverse Tiwi flora and fauna needs to be re-surveyed. The operations have been heavily disputed in the Tiwi community, and concerns raised regarding consent being sought from and given by Tiwi Traditional Owners.

Breaches of Environmental Conditions which were part of the approval given to clear native forest in 2001 have been substantial and proven, yet the punitive measures or constraints expected by a range of stakeholders in relation to these serious breaches are yet to be exercised.

There is a lack of transparency around the legal, contractual and commercial associations and agreements between five companies and the TLC operating in some part of the landclearing or plantations on the Tiwi Islands. Disclosure of these arrangements will enable the revenue for native forest timber, sold domestically and at export, and plantation shipments, to be better ascertained in terms of rightful financial returns to Traditional Owners, and companies, respectively.

Declines in global demands for woodchips do not suggest that converting Tiwi land to exotic *Acacia mangium* woodchip plantations for export purposes represents the best use of that land. There are substantial economic opportunity costs as a result of the landclearing and plantation development. The most immediate perhaps, is the lost economic opportunity in carbon markets.

Real and sustainable economic development opportunities must be pursued with the people of the Tiwi Islands. Conservation economies, and/or entry into the carbon market should be considered. Alternative economic and social futures that deliver economic and employment opportunities, support ecological flows, conserve rare and threatened taxa, and deliver social and cultural benefit should be explored in partnership with Traditional Owners.

- 28 ***Recommendation: As they do not represent the best economic use of Tiwi land that protects Country and delivers net social benefit, no approval should be given for any further landclearing or plantation expansion; progressive replanting of existing mangium (weeds) to high value, native forest species to support restoration of ecological process, habitat and carbon stores should occur as part of a restoration effort that should be housed in a long-term strategic landscape plan for the Tiwis that supports economic, social and environmental best practice.***

Summary of Recommendations

- 1 *Recommendation: Further flora and fauna survey work, with comprehensive and extensive baseline data collection components, should be conducted for the Tiwi Islands. Part of this body of work should include broadscale and systematic monitoring designed to produce proper retrospective assessment of the impacts of landclearing and plantation establishment upon Tiwi Island flora and fauna.*
- 2 *Recommendation: The risks and threats to native plant communities (especially but not limited to rainforests), as a result of frequent prescribed burns intended to protect Acacia mangium plantations from wildfire, should be properly assessed and reported. These should be evaluated as part of the environmental costs of the project, and factored into long term Tiwi Island landscape conservation planning.*
- 3 *Recommendation: Acacia mangium should not be allowed to be planted on the Tiwi Islands due to its high risk weed rating. This could be achieved by declaring the species as a 'Class B\C' weed under the NT Weed Management Act. This would require its spread to be contained and controlled, but would not require eradicated. However, post harvest the declaration could be amended to an A\C level which would require its eradication and control.*
- 4 *Recommendation: Given that plantation pesticide use is harmful to ecosystems and people, research should be undertaken to ascertain, and manage, any effects of pesticide use in Great Southern's plantations upon the ecology of the Tiwi Islands generally and threatened species particularly.*
- 5 *Recommendation: An assessment of the environmental, cultural, social (health) and economic services provided by the rainforest floristic communities on the Tiwi Islands are undertaken to establish the impacts of degradation of the rainforest patches upon the ecology of the Islands, social (health) and traditional culture.*
- 6 *Recommendation: That on the basis of evidence documented to date regarding the unique and biodiverse-rich Tiwi Island eucalypt woodlands, the ecological services provided by them, and regarding the impacts of large scale landclearing, no further approvals for clearing of this vegetation type for plantation establishment be granted by the Commonwealth Department of Environment, Heritage, Water and the Arts.*

- 7 ***Recommendation:*** *Given that a key threatening process for rainforests is an altered hydrologic regime,⁴⁷ a comprehensive assessment of the water resources of the Tiwi Islands is needed. This assessment should include, but not be limited to, a systematic monitoring regime of surface water resources through a series of stream gauges in key rainforest and wetlands sites adjacent to cleared / plantation areas. Monitoring of groundwater in soil / alluvial profiles should be undertaken by monitoring bores located in close proximity to rainforest / wetland areas adjacent to cleared / plantation areas. Gauges and bores should be set on benchmark sites to get an undisturbed or reference baseline. Such a monitoring program should be developed by NRETAS, with scope for public input. The results of this monitoring should be publicly available.*
- 8 ***Recommendation:*** *Annual monitoring for contamination, combined with stream flow and groundwater monitoring, should take place to ascertain the impacts of toxins on environmental flows and the broader Tiwi landscape. Gauges and bores should be set on benchmark sites to get an undisturbed or reference baseline.*
- 9 ***Recommendation:*** *Should any approvals be granted for further landclearing, plantations or other industrial developments on the Tiwi Islands, they should be subject to a rigorous and transparent public EIS process.*
- 10 ***Recommendation:*** *To minimise and remediate the carbon emission impacts of the existing logging and landclearing on the Tiwi Islands, further clearing should not be permitted. The plantation areas should be restored to a multi-species, multi-aged native forest ecosystem that is allowed to recover, and eventually regain its carbon carrying capacity.*
- 11 ***Recommendation:*** *That the nexus between Great Southern Ltd and the Tiwi Land Council for the Tiwi Land and Sea Management program be disclosed, be dismantled, and that the fine ordered to be paid to the Tiwi Land Council be redirected to the Federal Governments Caring for our Country Program, which in turn, will then contract the Tiwi Land Council to fulfill the management program's objectives.*
- 12 ***Recommendation:*** *Great Southern should be prosecuted for violation of the Environmental Conditions made under the EPBC Act; and approval for the landclearing component particularly, and the plantations establishment secondarily, immediately suspended.*
- 13 ***Recommendation:*** *Establish whether plantation managers and project proponents remain in breach or have further breached legally binding*

⁴⁷ Woinarski, J., et. al., Biodiversity Conservation on the Tiwi Islands, Northern Territory: Part 1. Environments and plants.

environmental condition, and if so, firstly whether on that basis the projects should and can continue operations, and secondly take appropriate action under the EPBC Act.

- 14 Recommendation: The status of all reports, audits and surveys legally required by the EPBC environment conditions is disclosed, and any content made publicly available.*
- 15 Recommendation: The remediation plan, to address the proven breaches of environmental and planning laws, being prepared by CSIRO under contract from Great Southern needs to be released publicly for assessment, and reviewed, and peer-reviewed by scientists expert in the field. The remediation plan must address ecological damage done to the Tiwi Islands, and should not afford a minimalist rehabilitation outcome.*
- 16 Recommendation: The governance, consent and decision-making processes regarding development on Tiwi land be reconstituted in such a way that the concerns of Traditional Owners are better heard and addressed (within a reasonable timeframe and by an independent broker) and that a new level of consent is achieved amongst the Traditional Owners whose right it is to speak for Country.*
- 17 Recommendation: A review should be undertaken of the adequacy of requirements for greater transparency and accountability for all industry proponents on Tiwi Islands, and for TLC, should be undertaken.*
- 18 Recommendation: A project financial audit, including disclosure and audits of the financial arrangements between the various companies involved in the landclearing, plantations, and timber and woodchip sales should be conducted.*
- 19 Recommendation: Establish whether Traditional Owners were provided with the best legal and commercial advice (available at the time) regarding global native forest sawlog and plantation hardwood woodchip prices, and trends and forecasts relating to supply and demand, and if not, whether contractual, legal and moral obligations have been met.*
- 20 Recommendation: A genuine, independent and professional land valuation must be undertaken to properly establish the value of Tiwi Island land for plantation forestry leasehold use.*
- 21 Recommendation: Commonwealth Government develop a carbon abatement project for the Tiwi Islands to build on the indigenous engagement in carbon markets policy and associated funding commitment.*

- 22 *Recommendation: Partnered research projects with social and economic development facilitators, the TLC, other Traditional Owners and relevant stakeholders to make qualitative assessments of alternative economic and social visions for the Tiwi Islands that can then inform reliable, transparent and professional longer-term planning for Tiwi futures.*
- 23 *Recommendation: Reliable research be conducted into, and due consideration given to the possibilities and scope for transfer of the West Arnhem carbon abatement program and technology to the Tiwi Islands.*
- 24 *Recommendation: Strategic landscape assessment should be undertaken to facilitate landscape planning – broadscale and systemic monitoring, active land management with restoration of fire regimes, adequate pest control prescriptions, and landscape social benefits components.*
- 25 *Recommendation: A comprehensive picture of the economic structure of the Tiwis must be developed including the potential opportunities and alternatives, and the vision for the future sustainable development? These must be thoroughly researched and given due consideration in scoping alternative futures for the Tiwi Islands.*
- 26 *Recommendation: Provision should be made for verbal submissions made in language, to be accepted by the Standing Committee at a hearing on Tiwi land. Separate hearings should be held for women and men, if requested by Traditional Owners.*
- 27 *Recommendation: The abovementioned documents be sought and tabled for the Standing Committee's consideration. The people or entities named in the 'List of Witnesses to be called' be invited by the Standing Committee to provide information to it about a suite of issues concerning the logging, landclearing and mining on the Tiwi Islands.*
- 28 *Recommendation: As they do not represent the best economic use of Tiwi land that protects Country and delivers net social benefit, no approval should be given for any further landclearing or plantation expansion; progressive replanting of existing mangium (weeds) to high value, native forest species to support restoration of ecological process, habitat and carbon stores should occur as part of a restoration effort that should be housed in a long-term strategic landscape plan for the Tiwis that supports economic, social and environmental best practice.*

Appendix 1 – Tiwi Turmoil

TIWI TURMOIL:

We will end up in the long grass and town camps on our own land!

Big Picture, Small Minds

The Howard government's view of the 2006 amendments to the Aboriginal Land Rights (Northern Territory) Act 1976 was that it would lead to 'normalisation' of Aboriginal townships through the provision of 99 year head leases over township areas.² Prime Minister John Howard made his views clear during his visit to Wadeye in April 2006, stating: "I believe there is a case for reviewing the whole issue of Aboriginal land title, in the sense of looking more towards private recognition...I certainly believe that all Australians should be able to aspire to owning their own home and their own business".³ In relation to 99 year leases Howard stated that "it would not be at the expense of communal land rights".⁴ The amendments also 'provide for delegation of decision-making powers from Land Councils to regional groups'.⁵

Hand in hand with the amendments came the call for the removal of Aboriginal people from their land and the eradication of their communities. Michael Duffy, Sydney Morning Herald journalist and ABC broadcaster, has stated "most of the communities have no future and therefore should be shut down. Aboriginal people should be paid to move to the cities and assimilate. There is no other solution."⁶ Journalist Piers Akerman has asked "Why have remote communities?"⁷ Liberal Senator Gary Humphries has said that "remote Indigenous communities ... are irrevocably disadvantaged and the residents should be given help such as 'exit grants' to get out".⁸ Gary Johns, President of the Bennelong Society, and former Labor Minister in the Keating government, is on record as saying that "the future (for Aborigines) is an economic one and not necessarily in a remote community."⁹ Similarly, Mal Brough the current Minister for Indigenous Affairs believes "there is no future in some remote Indigenous communities".¹⁰

The scene was set: all the government and its supporters needed was a willing collaborator, which on the face of it, represented Aboriginal people. They found that in the Tiwi Land Council.

Tiwi Turmoil: 99 Year Lease



Misrepresentation, mistake, undue influence, duress, incapacity?
The muruntawi hover. Photo: Tiwi News, 22March 2006, p.4.

In May 2006, the Federal government signed a Heads of Agreement (HOA) with Tiwi Land Council (TLC) that would allow for home ownership and commercial business development through the granting of 99-year leases on and around the town of Nguiu, Tiwi Islands.¹¹ A HOA is a document "signed with the Australian Government that sets the framework for negotiations on a headlease ... before any final decisions on a headlease are made, there has to be detailed discussion with traditional owners and the Land Council".¹² Mal Brough's message to the Tiwi community was clear - a real job and home ownership depends upon signing the head lease. Brough told the Tiwi, "your people are capable, they can work - where are the jobs? - This is the whole point. There will never be any jobs here apart from the few that you've got on the outside until this changes because you won't have businesses invest, and when businesses invest they need to employ people. I can guarantee you, you

won't get businesses setting up, you won't have all of the other things that come with that which is jobs and prosperity and you will never own, even have the dream of owning your own home".¹³

This HOA was directly linked to the development of the Tiwi College (a proposed secondary education boarding school that will be located on Melville Island) and ten million dollars was allocated in the 2006 Federal Budget for this purpose. In a joint Media Release from Minister for Indigenous Affairs, Mal Brough and Minister for Education, Science and Training, Julie Bishop specific reference was made to a 'shared responsibility agreement'.¹⁴ The HOA was also linked to the proposal for the establishment of 99-year lease on the township of Nguiu, Bathurst Island. Under the SRA, the Tiwi Islands would get funding for the school if they adopted private ownership to replace collectively-owned land. Government information on SRAs states that: 'SRAs relate to funding that governments provide through special Indigenous mainstream programs. These SRAs don't put additional conditions on benefits or services that are available to all Australians'.¹⁵ Mal Brough has since been persuaded 'to provide the funding for the school regardless of whether the lease is signed'.¹⁶

There has been quite a deal of concern expressed about the 99 year leases, both external to and on the Tiwi Islands. Mick Dodson, Chair of the Institute for Indigenous Australia at the Australian National University in Canberra and Chair of the Australian Institute of Aboriginal and Torres Strait Islander Studies has said, "I think that's inviting trouble...once you have signed the head lease the traditional owners have lost the power to do what they want to do on their own land".¹⁷ Tom Calma, Aboriginal and Torres Strait Islander Social Justice Commissioner said, "There is no whitefella in Australia, including the Ministers in Government, who will sign over a lease without professional advice, but that's what they're asking you to do".¹⁸ Marion Scrymgour, the Member for Arafura, said, "there are many traditional owners that are part of the Manupi

Land Owning Group that have no idea about what's happening. You sit down and talk to them about this 99 year lease and they have no idea of the concept of this."¹⁹ Manyi Rioli of the Tiwi Island Local Government (TILG) said, "Once this head lease is signed we will lose our land forever. When the 99 years is up, they'll sign another one and another one. After the infrastructure has been put in, they won't want to leave. It'll stay forever. We will never get our land back".²⁰ Gawain Tipiloura, President of the Nguiu Community Management Board and up until recently, a member of the TLC, stated "I really believe the land owners don't even know what the 99 year leases mean."²¹ Clementine Puruntatameri said of the Nguiu community "all Tiwi people own this land. When Father Gsell came here (in 1911), only a few people were living in Nguiu. He asked everyone from surrounding land areas to come here for the Mission. So everyone left their traditional lands and came here. Now we only go to our home lands for holidays. So this is everyone's land now".²²

Tiwi Turmoil: Great Southern Plantations and Matilda Minerals

In 2005 Great Southern Plantation (GSP) took over Sylvatech Ltd which had been granted approval to commence a forestry industry on the Tiwi Islands. The project involves clearing 33,000 hectares of native eucalypt forest to grow plantations of an introduced acacia species for woodchips for export to China and Japan. GSP has repeatedly boasted about how cheap it is to gain access to land on the Tiwi Islands compared to southern Australia: "The Sylvatech acquisition will provide 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."²³

The TLC has granted GSP a 30 year lease on 33,000 hectares, with an option for another 30 years, and an option to enter further leases for up to 50,000 hectares. John Young, the Managing Director of GSP "is an intimate of Prime Minister John Howard and his project is

30
yr
lease

being closely followed in Canberra".²⁴ Young has stated that "the project enjoys very strong government support, both at a Federal and Territory level, and in fact last year (2004) won a Prime Minister's Award for Excellence in Community Business Partnerships".²⁵ Young has gloatingly remarked that "the Tiwi leases represents a valuable resource for Great Southern ... a capital saving to the company of about \$40 million annually over the next 8 years".²⁶

GSP has stated that it "is the largest private sector employer on the Tiwi Islands, providing non-subsidised, full time employment for 25 Islanders."²⁷ Norm Buchan, Chief Executive Officer of the TLC's Tiwi Island Training and Education Board (TITEB), has publicly promoted the work of GSP stating that "instead of being criticised it would pay governments and other communities to take heed of what the Tiwis (sic.) have done in partnership with Great Southern as they have developed a model which works and is worthy of recognition as a best practice model and one which encapsulates all of what government is trying to achieve for indigenous people living in remote areas."²⁸ Buchan says, "This is a truly amazing partnership" and dismisses any critics of GSP as being "knockers" and belonging to "a small malevolent minority group."²⁹ Given the role of TITEB and its close relationship with GSP, one would have to question Buchan's impartiality and his conduct as a CEO of a Registered Training Organisation in his support for GSP. Is there a conflict of interest here?

GSP has stated that they "ensure the project's activities are conducted in a way that is appropriate to Tiwi culture and tradition".³⁰ One would have to ask what cultural awareness training programs they provide for their "full time group of approximately 52 employees ... (and) ... fly in, fly-out contract workforce staff of up to 300 in peak periods".³¹ A recent 'fly-in, fly-out' British backpacker - Niki Maguire - has been employed as a land evaluator. He recently posted a blog in which he described Tiwi as 'local abos'. British backpacker Maguire describes his job as being "catagorised (sic.) as a land evaluation officer. This basicly (sic.) means we as a group head out to a specific

location in the bush marked up and chosen from arial (sic.) photographs instigating possible stretches of land that can be cleared for harvest!"³²



Local Abos to the camp.
Title and Photo Niki Maguire

After 4 years of operation, and up to November 2006, the bulk of those employed full time were muruntawi (non-Tiwi), and the 'fly-in fly-out' employees were mainly backpackers. At a Senate Estimates hearing, John Hicks - the Secretary of the Tiwi Land Council, Secretary of Pirntubula Pty Ltd, and legal adviser to Pirntubula Pty Ltd - stated that GSP "employed three full-time Tiwis (sic)."³³ More recently, and since this admission by Hicks, GSP has covered their tracks by stating in a media release "Great Southern now has 25 full-time Tiwi staff, including 10 land and sea rangers, two land evaluation officers who work in the environment team, two Tiwi liaison officers, and 11 Tiwis (sic.) in the forestry crew (including the nine apprentices graduating today). It is recruiting another 12 Tiwi forestry apprentices, who are due to start work on the forestry project in the next few weeks."³⁴ If these figures are correct, Tiwi still remain the minority in full-time employment and certainly are not included in the 'fly-in, fly-out' workforce, which continues to be the realm of cross-culturally ignorant backpackers such as Niki Maguire.

Another lease which the TLC has negotiated is with Matilda Minerals which has been granted a 25 year lease on 350 kilometres of Tiwi coastline. The venture has been described as a "real money spinner" with the TLC set to receive "5% of the gross royalties from future production".³⁵ Matilda Minerals managing director Bruce Maulish has said that

the "growth potential of the Tiwi Islands is still substantial" and that the "operation will only need to employ 15 full-time staff, a number of whom will be sourced from the local community".³⁶ The Tiwi Islands coastline, including many of its beaches, has been given to Matilda Minerals – with most of the royalties going elsewhere – but where are the Tiwi jobs? And who benefits most in this arrangement?

Tiwi have expressed concern about these leases. In March this year, a protest was staged outside GSP's Annual General Meeting in Perth. Nguui Community Management Board President and one-time member of the TLC, Gawain Tipiloura attended the protest. Tiwi women from the Wangatunga Strong Women's Group have asked for the forestry project on Melville Island to be stopped and have "expressed their concerns about the damage that is being done to Tiwi land and the fact that the forestry industry has not provided the jobs and prosperity that it promised."³⁷ Through a poem, Luke Morcom has expressed his concern: "Come on Tiwi Islanders it's time to stand tall, and protect your country voting no more trees to fall ... The destruction of native trees ravishing of sacred ground, is certainly no way to re-connect Tiwi to their land."³⁸ Tristan Mungatopi has said that he hopes "that other Tiwi people are voicing their concerns and realising the irreversible impact such a large scale forestry project could have on our environment, lives and culture."³⁹

The Tiwi Call: Petitioning the Muruntawi

Tiwi have expressed their growing concern and fear about the actions of the TLC, and in particular its Secretary John Hicks, and the implications the leases might have for future Tiwi generations. Concerned Tiwi formed the Tiwi Community Campaign for an Accountable and Transparent Land Council and gathered almost 500 Tiwi Island resident signatures – which represents 35% of the population aged over 15 years old – urging Mal Brough for an inquiry into the TLC's operations⁴⁰ and calling for the resignation of Hicks because of his excessive influence over the TLC.⁴¹ The petition reads:

To the Honourable Speaker and Members of the House of Representatives assembled in Parliament: We, the undersigned, are residents of the Tiwi Islands and wish to bring to your attention the concern of the Tiwi people regarding the actions of Mr John Hicks, the Executive Secretary/CEO of the Tiwi Land Council. We, the Tiwi people, feel that our interests are not being represented. After his 20 year involvement in the Tiwi Land Council, we feel that Mr Hicks exercises excessive influence over the respected Elders of the Tiwi Land Council. We, the Tiwi people, are not sufficiently consulted on the decisions made which have a significant impact on our land and our people. We have little information about the workings of the Tiwi Land Council which makes decisions about our future.

We do not have confidence in Mr Hicks playing such an influential role in the Tiwi Land Council and immediately call for his resignation. The undersigned petitioners therefore ask the House of Representatives to call on the Honourable Minister for Indigenous Affairs to acknowledge our call for Mr Hicks' resignation and to commission an inquiry into the Tiwi Land Council including their administrative procedures, land-use decision making processes and Pirntubula Pty Ltd.
Chief Petitioner: Gawain Tipiloura,
Nguui P0,
Bathurst Island, Phone: 0428 473 861
by Mr Snowdon (from 493 citizens)⁴²

Recently 90 women from the Wangatunga Strong Women's group also expressed their concerns about 99 year leases and the forestry on Melville Island. Their petition, which was forwarded to the Federal government's Department of Environment and Water Resources, reads:

We, the undersigned, are women of the Tiwi Islands and we would like to express our concerns over the clearing of our native forests. We are concerned for our future generations. Our forests provide not only food source/bush tucker for our people but also our ceremonial items and craft. Ironwood and Bloodwood for carving spears and Turtini/Pukumani poles for ceremony, Stringybark for Tunga (bark baskets) for ceremony. Pandanus for basket weaving and various other plants for dyes. You may be aware that ours is traditionally a matriarchal society although our voices are seldom heard. We have no representation on the Tiwi Land Council. We are not consulted properly and never in Tiwi language. We hear promises of jobs and financial benefits for our people, yet have not seen any results. Most Tiwi do not benefit from royalty payments. In the meantime our forests are still being cleared at a fast rate. Our call is to stop clearing Tiwi land.⁴³

And what has been the response? Mal Brough has ruled out an inquiry and the TLC has forced Gawain Tipiloura to step down because they believe he is not acting in the best interest of Tiwi. One of the three members of the TLC Executive Cyril Kalippa said, "Mr Tipiloura failed to fulfil his obligations as a member of the Land Council."⁴⁴ The same accusation could be made of the three-member TLC Executive whose task it is "to assess and monitor community responses to the impact of development and to develop strategies to further the harmonious development of Tiwi society."⁴⁵ Tipiloura says of Brough, "the Minister says they rule out an inquiry. Not enough evidence. What about the people's voice, do the people have a say in their lives?"⁴⁶ Tipiloura says of his actions which led to his removal from the TLC, "People come up to me now and talk to me about the issues -

and these are the clan members - and I'm only... going into bat for the people."⁴⁷

And in response to the women, there has only been silence. Tiwi women fear that they and other Tiwi generations will be pushed to the margins. One Tiwi woman lamented, "We will end up in the long grass and town camps on our own land".⁴⁸



Tiwi - this land, we people!
Photo: *Tiwi Now*, 22 February 2007

The Tiwi were among the first to have their rights recognised by the Aboriginal Lands Rights (NT) Act 1976. Thirty years on will they be the first to be dispossessed?

We shall never give it up! You white people have your own. And we black people - we Tiwi, we Tiwi - we shall not give up our own. We shall never give it up because we are not white people. We are Tiwi. We are black people. You white people live in a white man's way. You live in a white man's way, you white people. We are black people. We are Tiwi. Now then? Now do you understand? Do you understand now?⁴⁹

Prepared by Friends of the Tiwi. Please email your elected representatives in support of Tiwi and Tiwi Land Rights. For more information email: mantawi@hotmail.com

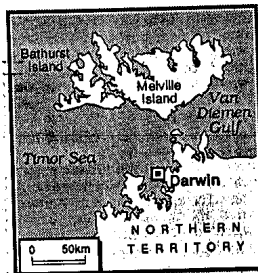
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12 THE AGE WEDNESDAY 26 FEBRUARY 1992

Edited by
JOHN KIELY



Money and cars come and go, our land is our mother

from E. Brooks, a Tiwi elder, and 126 other members of the Milikapiti community on Melville Island. We Tiwi people from Melville Island want to ask Aboriginal Affairs Minister Robert Tickner how he would like Renison mining company to sandmine his land without his approval.

The Tiwi land council which made the agreement to sandmine our islands does not speak for all Tiwi people. The council is managed by a white man and there are no women on it. Many of the traditional owners on the council are old men who cannot read or write and who would not understand the agreement made with Renison.

The Tiwi have always hunted, fished and gathered food here and our ancestors are buried in many places on our islands. These islands were given to us by our grandfathers to look after for our children and their children. Turtles lay their eggs on the beaches.

The sandmining dredges will destroy our land and use our fresh water up to wash the minerals from the sand. Royalty money will cause fighting and destroy the people.

Money, cars and boats come and go. Our land is our mother and is the only thing that lasts. We do not want sandmining on our beautiful island. We want all the people in Australia who care about this land to support us to stop this sandmining on the Tiwi islands.

Eleanor Brooks,
Milikapiti, Melville Island.

Appendix 3 – Tiwi Women's petition, first of eight pages below, the remainder submitted additionally

We the undersigned are women of the Tiwi Islands and we would like to express our concerns over the clearing of our Native Forests.

We are concerned for our future generations.

Our forests provide not only food source/bush tucker for our people but also our ceremonial items and craft. Ironwood and Bloodwood for carving spears and Turtini/Pukumani poles for ceremony, Stringybark for Tunga (bark baskets) for ceremony. Pandanus for basket weaving and various other plants for dyes.

You may be aware that ours is traditionally a matriarchal society although our voices are seldom heard.

We have no representation on the Tiwi Land Council.

We are not consulted properly and never in Tiwi language.

We hear promises of jobs and financial benefits for our people, yet have not seen any results.

Most Tiwi do not benefit from royalty payments.

In the meantime our forests are still being cleared at a fast rate.

Our call is to stop clearing Tiwi land.

| NAME | SIGNATURE | COMMUNITY |
|----------------------|-----------------------------|-------------|
| Teresia Pucutakamevi | <i>Teresia Pucutakamevi</i> | Nguiu. |
| Regina Kantilla | <i>R. Kantilla</i> | Nguiu. B.I. |
| ANITA TIPUNGWUTI | | " |
| JOSEPHA KANTILLA | <i>J. Tipungwuti</i> | " |
| Elizabeth Tipilawa | <i>E. Tipilawa</i> | Nguiu, B.I. |
| Monica Plakun | <i>M. Plakun</i> | " (1)" |
| Fiona Hussin | | Darwin |
| Greta Kerinaiva | <i>G. Kerinaiva</i> | Nguiu B.I. |
| Teresia Portamunni | <i>T. Portamunni</i> | Nguiu B.I. |
| Marta Kantilla | <i>M. Kantilla</i> | Nguiu, B.I. |
| Lura Plakun | <i>L. Plakun</i> | Nguiu. B.I. |
| Debbie Pucutjimi | | Nguiu B.I. |
| Commie Sipilawa | <i>C. Sipilawa</i> | " " |

Appendix 4 – Tiwi Islander Traditional Owner petition regarding John Hicks and TLC, the first of sixty pages below, the remainder submitted additionally

PETITION

**To the Honourable Speaker and Members of the House of Representatives
assembled in Parliament:**

We, the undersigned, are residents of the Tiwi Islands and wish to bring to your attention the concern of the Tiwi people regarding the actions of Mr John Hicks, the Executive Secretary/CEO of the Tiwi Land Council.

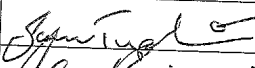
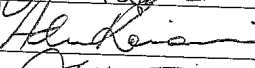
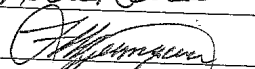
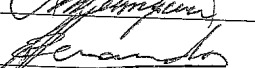
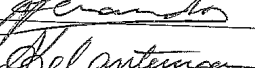
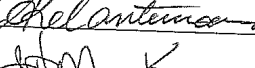
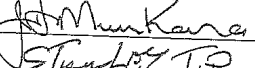
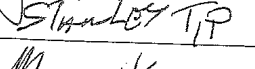
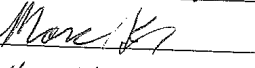
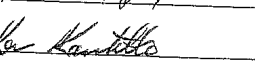
We, the Tiwi people, feel that our interests are not being represented.

After his 20 year involvement in the Tiwi Land Council, we feel that Mr Hicks exercises excessive influence over the respected Elders of the Tiwi Land Council. We, the Tiwi people, are not sufficiently consulted on the decisions made which have a significant impact on our land and our people. We have little information about the workings of the Tiwi Land Council which makes decisions about our future.

We do not have confidence in Mr Hicks playing such an influential role in the Tiwi Land Council and immediately call for his resignation.

The undersigned petitioners therefore ask the House of Representatives to call on the Honourable Minister for Indigenous Affairs to acknowledge our call for Mr Hicks' resignation and to commission an inquiry into the Tiwi Land Council including their administrative procedures, land-use decision making processes and Pirntubula Pty Ltd.

Chief Petitioner: Gawin Tipiloura, Nguiu PO, Bathurst Island, Phone: 0428 473 861

| | NAME | SIGNATURE | ADDRESS |
|----|---------------------|--|---------------|
| 1 | GAWIN TIPILOURA |  | PO ANTIMILLUI |
| 2 | ADAM KERINAIUA |  | STREET 549 |
| 3 | Maralampuu Kurrupuu |  | KNAAL ST |
| 4 | IVAN FERNANDO |  | 711 |
| 5 | Andrew Kelantemama |  | FOUR MILE |
| 6 | JOHN-LOUIS MUNIKARA |  | Nguiu |
| 7 | STANLEY T. PIRTSUET |  | FOUR MILE |
| 8 | Moss Kerian |  | NGUIU |
| 9 | Ken Kantilla |  | RIRKWA |
| 10 | Danny Munika |  | NGUIU |

Appendix 5 - Free Prior and Informed Consent

Summary of the UN Permanent Forum on Indigenous Issues workshop defining each element of free, prior and informed consent:

- No coercion or manipulation is used to gain consent.
- Consent must be sought well in advance of authorization by the State or third parties for activities to commence or legislation to be implemented that affects the rights of indigenous peoples.
- Full and legally accurate disclosure of information relating to the proposal is provided in a form that is understandable and accessible for communities and affected peoples.
- Communities and affected peoples have meaningful participation in all aspects of assessment, planning, implementation, monitoring and closure of a project.
- Communities and affected peoples are able to secure the services of advisers, including legal counsel of their choice and have adequate time to make decisions.
- Consent applies to a specific set of circumstances or proposal, if there are any changes to this proposal or to the circumstances this will renew the requirement for free, prior and informed consent in relation to the new proposal or circumstances.
- Consent includes the right to withhold consent and say no to a proposal.⁴⁸

ENDS

⁴⁸ UN Permanent Forum on Indigenous Issues Report of the *International Workshop on Methodologies Regarding Free, Prior and Informed Consent and Indigenous Peoples*, New York, January 2005, para 23-26 incl., and Human Rights and Equal Opportunity Commission and United Nations Permanent Forum on Indigenous Issues, *Engaging the marginalised: Report of the workshop on engaging with indigenous communities*, HREOC, Sydney, <www.humanrights.gov.au/social_justice> (26 June 2006)