



9<sup>th</sup> May 2009.

Dr. Ian Holland,

Committee Secretary.

Committee on Environment, Communications and the Arts,

P.O.Box 6100.

Parliament House.

CANBERRA. ACT.

Dear Dr. Ian Holland,

## **INQUIRY INTO FORESTRY AND MINING ON THE TIWI ISLANDS**

### ***Re: Response to Adverse Comments made against the Tiwi Land Council and Secretary John Hicks.***

Thank you for your letter of 28 April 2009 and the opportunity provided to the Tiwi Land Council and Secretary John Hicks to respond the adverse comments made by The Environmental Defenders Office and Mr. V. Collins.

Each of these two submissions contains factually incorrect or unfounded statements and our responses to these statements are set out below.

The Land Council has met earlier and has discussed all the “adverse comments” directed at the Land Council and its staff. The Land Council, its Committees and Staff insist upon a single identity in providing the following responses to these allegations, and as a group seek to also address the Senate Committee when they visit the Tiwi Islands.

By submitting this written response, we are not waiving the confidentiality request made in respect of our own submission to this Inquiry.

### **Response to “adverse comments” EDO submission**

1. *Acacia mangium* is not recognised as a weed in the Northern Territory.
2. Observation on the Tiwi Islands shows that native species do use the *Acacia mangium* plantations.
3. No clearing occurred for forestry plantations in 2009.
4. The process for the commencement of the Tiwi Islands Forest Project (a sham according to the EDO submission) occurred as follows:
  - a) In 1995 discussions commenced between Sylvatech Australia Pty Ltd and the Tiwi Land Council, with a view to establishing 30,000ha of plantation forestry on the Tiwi Islands.
  - b) On 6 February 1998 the Tiwi Land Council commissioned an environmental impact assessment for the proposal, clearly stating the intention to establish approximately 30,000ha of hardwood plantations. The completed document was provided to the NT Government's Environment department.
  - c) In 1999 the NT Government assessed an initial planting of 2,700ha under the *Environmental Assessment Act 1982*, and concluded that adequate information existed for planting to proceed. The Federal Government supported the NT Government's assessment.
  - d) In 2000 the NT Government assessed a subsequent application for an area of 2,500ha and provided a set of recommendations that would avoid or mitigate long term impacts. The Federal Government supported the NT Government's assessment.
  - e) In 2000 the Interdepartmental Committee on Tiwi Islands Forestry Development was formed to provide direction and guidance for the development of the Tiwi forestry project. Members of the Committee included the CEO of the NT Department of Primary Industries, the Secretary of the Parks and Wildlife Commission of the NT, the Secretary of the Department of Industry and Business and the Director of Natural Resource Management within the Department of Lands Planning and Environment. The Committee oversaw the development of the Tiwi Islands Plantation Forestry Strategic Plan, and endorsed it for assessment under the EPBC Act.
  - f) In 2001 the forestry project was approved under the EBPC Act.
5. According to Woinarski (2003a) 11 plant species are endemic to the Tiwi Islands, not 22. 6 of these occur within rainforest or wetlands, which are buffered from plantation development. Of the 6 threatened plant species on the Tiwi Islands, 4 occur only in rainforest. The 2 species that occur in Eucalypt woodland have been located outside of plantation areas and these locations are protected from forestry development.
6. The Interdepartmental Committee on Tiwi Islands Forestry Development assessed and considered the impact of clearing on Eucalypt forests and NT listed species. Condition 4 of the EPBC Act approval requires strategies for the protection of all ecological communities on the Tiwi Islands, including Eucalypt forests.
7. In 2004 the NT Government advised the Tiwi Land Council that the Northern Territory Planning Scheme – Clearing of Native Vegetation development provisions do not impact on the existing 30,000 hectares of forestry approvals on Melville Island, and that any new proposals under the EPBC Act would also be exempt from NT Planning Scheme requirements (see attached p.11).
8. There have been two newly listed fauna species under the EPBC Act since the forestry project began – the brush-tailed rabbit rat and hooded robin. Rather than being classified

as “common”, the last known record of the hooded robin was in 1992, significantly prior to plantation development. In 2003 Woinarski stated that the most likely reason for the apparent decline in population was a change in fire regime from historical Aboriginal burning patterns, an event that occurred long before forestry development. Similarly, studies carried out for the brush-tailed rabbit rat have resulted in low trapping rates; most recently in 2000 and 2001 when under 3,000ha of plantation had been established. Brush-tailed rabbit rats have subsequently been captured during threatened species surveys carried out by Great Southern.

9. The submission is incorrect in its listing of impacts controlled by the EPBC Act. The False Water Rat is not listed in the EPBC Act approval, nor is *Burmanna*, which only occurs on Bathurst Island and therefore is not impacted by plantation forestry. Great Southern has extensive operational procedures for the management of species listed under the EPBC Act.
10. Breaches of the EPBC Act were not assessed as systematic, and further detail is provided in the submissions by Great Southern.
11. Studies on all bird species listed in the EPBC Act approval commenced in 2001, even though action under the approval did not commence until 2004. Further detail is provided in Great Southern’s submission.
12. The strategy of the Tiwi Land Council was to obtain the necessary information and recommendations from reputed scientists prior to the commencement of large scale clearing. This is evidenced by the commissioning of the Environmental Impact Statement in 1998, the development of a Strategic Plan through the NT Government, seeking and supporting biodiversity surveys throughout 2000 and 2001, and subsequent joint projects with the NT Government on threatened species management. A discussion about the history surrounding the breaches, and the assessment by DEWHA is contained in the submissions from Great Southern.
13. There have been five newly listed flora species under the EPBC Act since the forestry project began. Of these, three occur in rainforest and are not impacted by the forestry development. The remaining two species have been located outside of plantation areas and these locations are protected from forestry development. Listing of the rainforest species was largely a result of new information gathered through a joint NT Government/Tiwi Land Council project.
14. The Masked Owl now has greater protection due to studies carried out by Great Southern. Interestingly, it has been shown that Masked Owls regularly roost in the *Acacia* plantations.
15. The assertion that all the parts of the Tiwi environment are seriously affected by the clearing is not supported by facts. Coastal, riparian and mangrove communities are foci for hunting by Tiwi Landowners, and no changes have been detected.
16. Ground and surface water quality monitoring has been carried out since 2003 in catchments that both contain and do not contain plantation forestry. No contaminants have been detected.
17. As mentioned elsewhere in the EDO submission, the Tiwi Islands are at risk of the threats of incursion of weeds and pests in the absence of forestry development. Support from Great Southern has increased the local capacity to manage these and other environmental threats, as detailed in the Tiwi Land Council submission.

18. Waste products from forestry operations are either recycled, returned to the mainland or disposed of in a licensed landfill.
19. Groundwater level monitoring has been carried out since 2003 in catchments that both contain and do not contain plantation forestry. No significant change has been detected.
20. The location of developed areas is determined by strict environmental criteria, not for insurance against the threat of cyclones.
21. Taracumbi falls was first inspected by soil conservation officers from the NT Government in 1995. Their advice was that the falls and associated banks were common to many other areas, were naturally unstable and would eventually collapse. During the 2005/06 wet season (prior to any forestry development in the area), the face of Taracumbi falls collapsed. The 2007/08 wet season had record rainfall for many areas on the Tiwi Islands, resulting in slipping along the saturated, incised creek walls. This is a common phenomenon of these types of landscapes. This information was provided to the ABC, but they chose not to include it in their television report.
22. The Interdepartmental Committee on Tiwi Islands Forestry Development considered all aspects of associated infrastructure, and the Department of Transport and Works delivered a report on Infrastructure requirements in 2000. An Officer from the Department was a member of the Committee.
23. Most of the infrastructure was built on existing disturbed sites, including Maxwell Creek and Tiwi College (although Tiwi College has limited relevance here).
24. There has been no significant erosion, contamination or additional spread of weeds and pests from the infrastructure and shipping operations associated with mining or forestry. Operation of Port Melville is subject to all AQIS and Customs procedures, processes, notifications, inspections and approvals each time a ship berths. The Port is operated in accordance with the NT Marine Act, NT Marine Pollution Act, Commonwealth Marine Transport and Offshore Facilities Act and the Commonwealth Primary Industries Levies and Charges Collection Act.
25. Discussions on carbon are included in the Tiwi Land Council submission.
26. The assertion that clearing all of Australia's forests is comparable to clearing 5% of the forests on the Tiwi Islands is strange.
27. The assertion that the plantation forestry probably affects close to half of Melville Island is not supported by facts. The Tiwi Land Council submission details the increased capacity for environmental management across the whole of the Tiwi Islands that has been achieved through industry support.
28. Action under the EPBC Act commenced in 2004, and visits to the site by the Commonwealth Government commenced from 2005. Further detail is provided in the submissions from Great Southern.
29. The response of Great Southern and the Commonwealth Government to the breaches is discussed in Great Southern's submissions. The breach in conditions was not assessed as "extremely serious" or "systematic".
30. The Tiwi Land Council took the issue of breaches seriously, and committed significant resources to both internal and external investigations.

31. The benefits from funding rangers is detailed in the Tiwi Land Council's submission. It is the Tiwi Land Council's stated aim to replace grant funding with self generated funding. This is the only true path to sustainability.
32. The 1998 EIS clearly states the intent to establish 30,000ha of hardwood plantation estate on the Tiwi Islands.
33. The biodiversity studies carried out in 2000 were specifically designed to inform the plantation proposal, and the 30,000ha project did not proceed until recommendations from the studies were included in the Strategic Plan. The Strategic Plan was subsequently endorsed by the NT Government, including the then Secretary of the Parks and Wildlife Commission of the NT.
34. Port Melville and Tiwi College were referred for environmental assessment. Maxwell Creek was an existing facility which has benefited from being re-used, and road upgrades do not normally require approvals. Despite this, surveys were carried out for Red Goshawks and Masked Owls along proposed road work routes.
35. There have been no continuing breaches of the EPBC Act.
36. The Tiwi Land Council, as with all other land councils, has sourced Natural Heritage Trust funding for a variety of environmental projects. From 2000 to date those projects are:
- Development of a natural resource management strategy,
  - Biodiversity conservation and planning,
  - Coastal monitoring,
  - Coastal cliff stabilisation,
  - Community weed control,
  - Natural resource management facilitation,
  - Mainland/Island quarantine,
  - Educational DVD's about land and water,
  - Marine turtle conservation,
  - Feral pig management,
  - Business support for natural resource management based enterprise,
  - Marine Rangers,
  - Implementing threatened species recovery plans, and
  - Coastal dune stabilisation.
- None of these grants were used to build forestry infrastructure or operate plantations.
37. In March 2001 the Tiwi Land Council developed a cane toad action plan in response to the rapid movement of cane toads towards Darwin. One of the components of the plan was to construct a quarantine washdown bay on the mainland, and develop inspection procedures. The washdown bay and associated procedures were also designed to be effective against the inadvertent spread of weeds. As part of the action plan, brochures and bookmarks were produced and distributed to all airlines servicing the Tiwi Islands, through contractors' accommodation on the Islands, to Local Government, and to all visitors. An education campaign was also run on the Islands that covered all schools and communities. To suggest that the washdown bay was constructed exclusively for the forestry plantations is ludicrous, as it is used for all suitable freight, a great majority of which is private and government vehicles, and machinery used in the day to day operations of local government. To suggest that it was only needed because of a high risk of penalties to the Land Council and Great Southern from "wilful and negligent introduction of weeds" is totally incorrect. In fact the Tiwi Land Council has received awards from AQIS and Landcare for its efforts to protect the Islands from mainland

38. To “doubt much frequent travelling occurs between communities” shows a total lack of knowledge about the Tiwi Islands and residents. Tiwi people regularly and frequently travel between communities, and the most requested assistance from Tiwi people is for maintenance and upgrades of roads.
39. The list of Natural Heritage Trust projects is provided above.
40. The Tiwi Islands Natural Resource Management Strategy was developed from recognition by Tiwi Landowners that a strategic approach to natural resource management was required to capture and guide land use aspirations and planning. The timing was somewhat influenced by the NT Government proposal to develop an NT Integrated Natural Resource Management Plan. In order for Tiwi people to contribute to the NT Plan, they needed to articulate their own aspirations for natural resource management in a way that could inform the NT Plan. The Tiwi Plan is a legitimate plan developed by Tiwi people for the land and resources that they themselves own. It is not a plan designed to support forestry, nor is it “self-supporting fluff”. The Tiwi Plan captures the aspirations of Tiwi people for economic development, sustainability of natural resources, and full participation in natural resource management. It contains Objectives and Recommended Actions for a host of natural resource management issues, including areas of high cultural and biodiversity values.
41. Staff employed by the Land Council are not daily operators of the Forestry Operations.
42. The Tiwi Land and Marine Rangers are funded, like most other indigenous rangers, through a mix of funding including industry support, land council funds, external grants and fee for service activities. They do not manage the environmental impacts of forestry plantations, nor do they do surveys for the plantation company unless it is on a fee for service basis. Great Southern have their own full complement of environmental staff who exclusively manage forestry environmental impacts, including off-site impacts. From time to time individual rangers will work with Great Southern staff. This is for training purposes, and the long term aspiration is for Tiwi rangers to undertake monitoring and management under a commercial contract arrangement to Great Southern. To this end Tiwi Rangers have sought their own corporate status through Tiwi Enterprises Pty Ltd and are only partly funded through forestry contributions. All have secure and signed employment contracts. Their work is determined and managed by Tiwi traditional landowners themselves through committees of the Tiwi Land Council. Great Southern has no input to the Land and Marine Ranger work plans. The 2008 annual report for the Tiwi Rangers is included in the Tiwi Land Council submission. It details person days spent on a variety of work *explicitly not including work related to Great Southern responsibilities*.
43. The Milikapiti Nursery was not established to tender for seedlings contracts for the plantations, however if that were to arise then it would be a legitimate and beneficial outcome.
44. As previously mentioned, no Natural Heritage Trust money has been used to build purpose built forestry infrastructure.
45. The Tiwi Land Council submission discusses alternative economic opportunities, and the practicalities (or rather lack thereof) of sourcing carbon markets. The same argument applies for biodiversity markets.

46. As outlined in the Tiwi Land Council submission, government supported land and sea management is fragile, subject to political cycles and ultimately unsustainable. Interestingly, the EDO submission criticises land management support from forestry operations due to their reliance on continuing policy support to exist. The “plenty of funding available to employ Tiwi people” is even more susceptible to policy support and election cycles, as they are government initiatives. The Tiwi Land Council does not consider three or five year funding support with no ongoing certainty as sustainable employment for Tiwi people. While the Land Council does access, and appreciate, grant funding for environmental management wherever possible (which the EDO criticises elsewhere in its submission), it remains the long term aspiration to achieve self-funded land and sea management, which is the only truly sustainable pathway, and should be a right for all owners of land.

References:

Forsci Pty Ltd (1998) *Environmental Impact Assessment of Establishment of Fast Grown Plantations on the Tiwi Islands*.

Northern Territory Department of Lands Planning and Environment (July 1999) *Tiwi Islands Forestry Project – Environmental Assessment Report and Recommendations. Assessment Report 29*.

Northern Territory Department of Lands Planning and Environment (February 2000) *Proposal to Lease 2500ha for Plantation Forestry Melville Island – Environmental Assessment Report and Recommendations. Assessment Report 32*.

Woinarski, J., Brennan, K., Cowie, I., Kerrigan, R. And Hempel, C. (2003a) *Biodiversity on the Tiwi Islands, Northern Territory: Part 1. Environments and Plants*. Parks and Wildlife Commission of the Northern Territory, Darwin.

Woinarski, J., Brennan, K., Cowie, I., Kerrigan, R. And Hempel, C. (2003b) *Biodiversity on the Tiwi Islands, Northern Territory: Part 2. Fauna*. Parks and Wildlife Commission of the Northern Territory, Darwin.

47. Pages 7, 8 and 10 of adverse comments seeks “to expose, challenge and abolish all the multiple forms of power that structure the individual, social relations, and interrelations with the natural world.” Primitivist concepts and arguments of this kind are rejected by Tiwi landowners and the Tiwi Land Council as inherently paternalistic and plain wrong. They are also rejected and discarded propositions by most democratic societies. That public funding supports the promotion of anarcho-primitivist views of this kind directed at aboriginal traditional society is regrettable. Issues of patriarchy, gender distinctions and other anarcho-primitivism arguments do not agree with the facts provided to the Senate Committee, nor with the remarkable and growingly vibrant society being established by the landowners who actually live and seek to prosper as a people on their own land.

48. Page 16, reference is to a Port that was planned and largely constructed prior to any Matilda Mineral proposal “to mine the Tiwis”.

49. Pages 20 and 22 seeks a regulatory process “so that Tiwi people can decide how to use their land.” Our submission provides detailed evidence of how landowners themselves are both able and insist upon making these decisions for themselves. And seek the best independent advice to do so. Landowner detailed processes are transparent and supported by Government for obvious reasons that are also enshrined in United Nations

Declarations of Human Rights for indigenous peoples around the world:- the Right to plan and pursue their own economic development.

50. Page 24 and 25 refers to “flawed applications.” Those described are themselves flawed and inaccurate and are rejected by the Tiwi Land Council in all significant detail.
51. Pages 31,32 and 33 provides false and misleading “answers” that the Land Council could/would pay for infrastructure as some lure for forestry investment. Evidence of funds and expenditure of both the Land Council and the Investor have been provided to the Committee. They provide “the answer” to these untruthful allegations.
52. Page 33 alleges a Barge monopoly that is untrue; Forestry uses three separate Barge Companies currently operating to the Tiwi Islands. Tiwi Barge operates a regular community service and is frequently and often unable to provide freight services for forestry heavy machinery and other “industry” freight.
53. Page 34 provides a discussion of roads and use by landowners and industry, and the concept of community benefit as opposed to landowner benefit. It is a curious and patronising argument to suggest roads that provide access for landowners to their lands are in some way of less value than roads that connect “service provider” communities. It is not an argument supported by the landowners themselves or the Land Council that represents them.
54. Port Melville remains a valuable asset with an insured value in excess of \$20m with rents that support Tiwi education and the Tiwi College.
55. Page 36 asserts that “All the staff employed by the Land Council are basically the daily operators of the Forestry Operations.” That is untrue. Evidence of staff employed are provided in our submission to the Committee and also contained in the Tiwi Land Council Annual Report. In fact NO staff employed by the Land Council operate either daily or weekly or monthly or yearly or any other Forestry operations.
56. Page 37, The Tiwi Education Board manages the Tiwi College, not the Tiwi Land Council. The entire focus of education at the college is to teach reading and writing and arithmetic. There is also a skills workshop teaching building and welding and some carpentry. Also a Hospitality complex for training into the tourism industry. There is an involvement of students with carbon sequestration studies, environmental studies of endangered species and other land management work. We are not aware of forestry training at the Tiwi College.
57. Pages 38 to 49 provide confusing detail of the role and activities of the Land Council and of the commercial interests of landowners. Various flawed definitions and assumptions underlie these adverse comments that are rejected.
  - The Land Council holds a title to land on behalf of 2000 landowners.
  - The Land Council holds no assets other than office equipment, some vehicles and two boats.
  - The Land Council cannot engage in commercial activity.
  - The Land Council has no control over expenditure of landowner funds.
  - Landowners do direct the Land Council in providing leases for landowner benefit.
  - The Land Council exerts no influence on Local Government plans or outcomes.
  - The Land Council budget is spent according to the provisions of the Commonwealth Authorities and Companies Act, and receives funding only for purposes approved by the Minister.
  - These purposes are to operate a Land Council. None is used “to operate or support a Forestry Plantation.”
  - Evidence of various funding accruing for forestry flows to Landowner Land Use Accounts for use by landowners and their families. These processes have been advised to the Committee and have been recently audited by Oakton as “fair and transparent processes.”
  - The Tiwi Land Council has a budget that has grown from \$15,000 to \$1.2M over 30 years of annual unqualified audits. It pays for some vehicle and vessel running costs, wages, legal and environmental advice, and consultative processes



including travel, and little else. Landowner commercial entities like Pirntubula have, and continue to provide the resources and participation of landowners in development of their own strategies to secure their own Tiwi economy. Government and the Tiwi Land Council do not provide funding for these purposes.

- Land Council representation has also been advised to the Committee and includes 1 representative for every 22 adult landowners. .
- Politically motivated petitions and assumed informed consent processes have earlier been advised to the Committee as a matter to be inquired into. Informed consent processes undertaken by landowners and the Tiwi Land Council have been subject to intense independent and Supreme Court scrutiny and found transparent, well documented, fair and reasonable.
- Sustainable industry and multiplier industry associated with core and sustainable industry was sought and has been developed by landowners from the 1950's; and remains a landowner strategy.

#### References:

John Moore (2006) *What is Green Anarchy?*

Noam Chomsky, (2004) *Chomsky on Anarchism.*

#### **Responses to “adverse comments” Collins submission:**

1. The Tiwi Land Council submission refers to “Essential Oil” as one of over 50 alternate industries assessed and found to be not a viable opportunity.
2. The adverse comments provided continue to assert a contrary opinion.
3. The adverse comments about Mr John Hicks and the Tiwi Land Council have been the subject of investigation over 13 years by four Australian Governments, three separate Ministers, ATSIC, Office of Indigenous Policy Coordination and FaHCSIA as well as the Federal and Northern Territory Police. All have concluded that adverse comments and allegations made in this submission are not correct or sustainable.
4. The matter referred to as Federal Court Case DG8 of 1996, was abandoned by the parties following an hour of preliminary discussion, after which the parties agreed their own settlement of issues between them.

We have reviewed above various adverse comments directed at the Tiwi Land Council, its Executive and Staff made in submissions to the Senate Inquiry into Forestry and Mining Operations on the Tiwi Islands, and request the opportunity to directly discuss these matters with the Senators upon your visit to the Tiwi Islands.

Yours sincerely,

Robert Tipungwuti  
Chairman  
Shire Councillor

Cyril Kalippa OAM.  
Manager  
Shire Councillor

Andrew Tipungwuti.  
Manager.  
Shire Councillor.

Matthew Wonaeamirri  
Manager

Maralampuwi Kurrupuwu  
Deputy Chairman

Marius Puuruntatameri  
Chairman, Education Board  
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Walter Kerinauia  
Manager

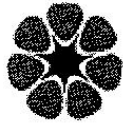
Gibson Farmer  
TLC Member  
Manager Forestry Liaison.

Brian Clancy  
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And Environment

John.S.Hicks  
Secretary

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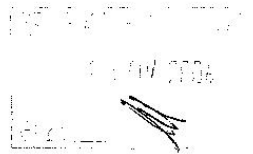


# Northern Territory Government

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Our Ref: NRM2004/0108-02-0020

Mr Mungatopi  
Chairman  
Tiwi Land Council  
PO Box 38545  
WINNELLIE NT 0821

Dear Mr Mungatopi

I refer to your letter of 9 September 2004 regarding the proposed Northern Territory Planning Scheme - Clearing of Native Vegetation controls which have recently been on public exhibition.

I can confirm that the proposed planning scheme amendment - Clearing of Native Vegetation development provisions do not impact on the existing 30,000 hectares of forestry on the Tiwi Islands forestry project approvals. As is the case with the current Interim Development Control Order No. 12, the proposed new controls would apply to any additional land clearing approvals beyond the area approved by the Commonwealth or for other uses. However, should the Commonwealth Government require a formal assessment of any newly proposed forestry development against the provisions of the *Environmental Protection and Biodiversity Conservation Act* you would be exempt from the Northern Territory Planning Scheme requirements.

If you require any further information, Mr Brett Easton of my Department who can be contacted on telephone 8999 3467 will be pleased to assist.

Yours sincerely

**ROD APPLGATE**  
Senior Director  
Natural Resource Management Division

2 / 11/2004



Northern Territory Government