

The Senate

Environment, Communications,
and the Arts
References Committee

Forestry and mining operations on the Tiwi Islands

October 2009

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Committee membership

Committee Members (to 14 May 2009)

Senator Anne McEwen (ALP, SA) (Chair)
Senator Simon Birmingham (LP, SA) (Deputy Chair)
Senator the Hon. Ron Boswell (NATS, QLD)
Senator Scott Ludlam (AG, WA)
Senator Kate Lundy (ALP, ACT)
Senator Louise Pratt (ALP, WA)
Senator the Hon. Judith Troeth (LP, VIC)
Senator Dana Wortley (ALP, SA)

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Senator Scott Ludlam (AG, WA)
Senator the Hon. Judith Troeth (LP, VIC)
Senator Dana Wortley (ALP, SA)

Substitute member for this inquiry

Senator Trish Crossin (ALP, NT) replaced Senator Kate Lundy (ALP, ACT) (from 19 March 2009 to 14 May 2009)
Senator Trish Crossin (ALP, NT) replaced Senator Dana Wortley (ALP, SA) (from 14 May 2009)

Participating members for this inquiry

Senator the Hon. Ian Macdonald (LP, QLD)
Senator Rachel Siewert (AG, WA)

Committee secretariat

Dr Ian Holland, Secretary
Ms Sophie Dunstone, Senior Research Officer
Mr Jack Corbett, Senior Research Officer (Graduate Program)
Mrs Dianne Warhurst, Executive Assistant

Committee address

PO Box 6100

Parliament House

Canberra ACT 2600

Tel: 02 6277 3526

Fax: 02 6277 5818

Email: eca.sen@aph.gov.au

Internet: http://www.aph.gov.au/senate/committee/eca_ctte/index.htm

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Chapter 1

1.1 On 4 December 2008, the Senate referred the following matter to the committee for inquiry and report by 25 June 2009:

Forestry and mining operations on the Tiwi Islands

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

1.2 On 16 June 2009 the Senate agreed to an extension of time to report on this inquiry to 17 September 2009, which was subsequently again extended to 26 October 2009 and then to 29 October 2009.

1.3 In accordance with its usual practice, the committee advertised details of the inquiry in *The Australian*. The committee also contacted a range of organisations and individuals, inviting submissions. The committee received submission from 42 individuals and organisations, listed at Appendix 1.

1.4 The committee held public hearings in Darwin, Pickertaramoor on Melville Island and Canberra. The committee also held an *in camera* hearing in Nguiu on Bathurst Island, with Tiwi Island women. Details of these hearings are at Appendix 2. A list of tabled documents and additional information is at Appendix 3.

The Tiwi Islands

1.5 The Tiwi Islands are located approximately 80 kilometres north of Darwin in the Arafura Sea. There are two islands, Bathurst Island to the west and Melville Island to the east, separated by the Apsley Strait. Melville Island is Australia's

largest (excluding Tasmania), and the two together have an area of around 7500 square kilometres.¹

1.6 The current population of the islands is approximately 2500. The largest settlements on the islands are Nguiu (Bathurst Island), Pirlangimpi and Milikapiti (both Melville Island). Two bodies are responsible for governance and service provision on the Islands: the Tiwi Islands Shire Council, and the Tiwi Land Council.

The inquiry process

1.7 During the course of the inquiry the committee visited the Tiwi Islands, on 19 May 2009. It was fortunate in being able to visit both islands, and to be shown the forestry camp, plantation forestry, and the native woodlands, prior to holding a hearing at Pickertaramoor in the afternoon. The committee would like to thank the Tiwi Islanders for welcoming the committee to their lands. It also thanks the many individuals and organisations who provided assistance before, during or after that visit, including the Tiwi Land Council, Tiwi Islands Shire Council, Great Southern Group, the Tiwi College at Pickertaramoor, Kilapayuwu (Teresita) Puruntatameri and Maren Rusia.

1.8 Great Southern Group is a managed investment scheme company responsible for the Islands' most significant industry: forestry plantations for woodchip production. During the course of the inquiry, Great Southern went into administration, an event which presents significant challenges for the future of forestry on the Islands, and which is discussed in chapter two of the report. The committee was disappointed that, despite several invitations to appear or to provide comment, the administrators of Great Southern did not release representatives to speak to the committee. The committee's inability to pursue up-to-date evidence from the company, or to ask questions about its operations, made it difficult to pursue some important questions.

1 Geoscience Australia, Geoscience basics: Islands, <http://www.ga.gov.au/education/geoscience-basics/landforms/islands.jsp> (accessed 26 October 2009).

Chapter 2

Forestry

Forestry on the Tiwi Islands

History of forestry on the Tiwi Islands

2.1 The Tiwi Islands have a lengthy history of forestry. Three sawmills were established on Melville Island in 1898 for the export sale of timber.¹ In 1927, the South Australian government identified Melville Island as an ideal location for plantation forestry.²

2.2 During the 1960s and 1970s, the Commonwealth government through the Commonwealth Scientific and Industrial Research Organisation (CSIRO) commenced 'silvicultural research relating to the establishment of a plantation forestry industry on the Tiwi Islands'.³ The Northern Territory government extended these plantations until 1986, at which time the territory government withdrew.⁴

2.3 Following the withdrawal of the Northern Territory government, the Tiwi landowners 'demanded the Tiwi Land Council maintain existing plantations and seek investment to develop the forestry industry further'.⁵

2.4 The Tiwi Land Council and others have actively sought to develop forest industries on the Islands, but with mixed success. In the 1980s the Land Council was involved in a joint venture with Minmel Pty Ltd, called Melville Forest Products, which established a native softwood business.⁶ Disagreements over the direction of the business led to it being wound up in the 1990s,⁷ though timber production did take place.

1 Tiwi Land Council, *Submission 34*, p. 12.

2 Tiwi Land Council, *Submission 34*, p. 12.

3 CSIRO, *Submission 17*, p. 6.

4 Tiwi Land Council, *Submission 34*, p. 12.

5 Tiwi Land Council, *Submission 34*, p. 13.

6 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 29.

7 *Pirntubula Pty Ltd v Melville Forest Products Pty Ltd*, Supreme Court of the Northern Territory, No. 90 of 1994, NTSC 68 (22 July 1994)
http://www.supremecourt.nt.gov.au/archive/doc/sentencing_remarks/0/94/0/NS001000.htm
(accessed 30 June 2009).

2.5 The 1996 Development Strategy indicated continuing interest amongst Tiwi Islanders in forest industries, and there was discussion of establishing a woodchip plant. The Strategy said that the interest was due to:

The reported employment and financial benefits. However, the physical and social impact on the Tiwi Islands would be enormous and quite rapid, and the Tiwi people would need to thoroughly weigh the costs and benefits of any formal proposal.⁸

2.6 Perhaps reflecting this ambivalence, the section of the Strategy on economic development prospects did not discuss forestry.⁹ Nevertheless, the search for opportunities continued.

Approval for plantation forestry

2.7 On 12 August 2001, Australian Plantation Group Pty Ltd (APG), later named Sylvatech, and the Tiwi Land Council received approval under the EPBC Act to establish and operate up to 26 000 hectares of forestry operations on Melville Island.¹⁰

2.8 In 2004, Sylvatech was acquired by Great Southern Limited.¹¹ Great Southern Limited commenced management of the Tiwi Islands Forestry Project (TIFP) in 2005.¹² Great Southern's operation was a forestry Managed Investment Scheme, an investment practice that has been widely canvassed by several other Senate inquiries. Great Southern Limited went into voluntary administration and later receivership during the course of this inquiry.

Current state of forestry

Plantation size and condition

2.9 Great Southern's forestry assets on the Tiwi Islands encompass 28 908 established hectares with an additional 1500 hectares approved for development.¹³ Great Southern anticipated that the Tiwi plantations would be ready to harvest in 2012-13, with a rotation period of 8-10 years, and a regular annual harvest of around 3500 hectares.¹⁴

8 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 30.

9 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, pp 41-51.

10 See http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=229

11 Tiwi Land Council, *Submission 34*, p. 12.

12 Great Southern Limited, *Submission 19*, p. 1.

13 Great Southern Limited, *Submission 19*, p. 1.

14 Great Southern Limited, *Submission 19*, p. 5.

2.10 Based on the findings of a report by independent forestry consultancy GHD Australia, dated October 2008, the average established *Acacia mangium* stems per hectare on the Tiwi Islands for the 2006 Project (2007 and 2008 planting) was 1187.9 with an average survival rate of 74.7%.¹⁵ In contrast, Great Southern's Green Triangle *Eucalyptus globulus* plantation in Victoria had an average of 1010.3 established stems per hectare at a survival rate of 97.5% while their Tasmanian *Eucalyptus nitens* plantation had an average of 1088.6 established stems per hectare with a 96.8% survival rate.¹⁶

2.11 Due to its proximity to the equator, tropical cyclones are a common occurrence along the Northern Territory coastline. In 2005, Tropical Cyclone Ingrid caused significant damage on the Tiwi Islands including to 4000 of the 5200 hectares planted to that date.¹⁷ Post Cyclone Ingrid, all of the affected area was replanted by Great Southern.¹⁸

2.12 CSIRO Honorary Research Fellow Dr Ken Eldridge gave evidence to the committee that Great Southern had achieved good survival and weed control at the Tiwi plantation. According to Dr Eldridge, the trees were generally healthy with little damage from insects or fungi. However, Dr Eldridge assessed that poor stem and branch form would probably increase harvesting costs and reduce overall yields.¹⁹ He considered *Acacia mangium* as 'a promising plantation species at an early stage of domestication and adaptation to the needs of industrial forestry production'²⁰ and that on the Islands:

stem and branch form was not good, many trees having forks, crooked stems or coarse branches. Such poor form is common when genetically unimproved 'wild' seed is used in *Acacia mangium* plantations elsewhere.' Such form deficiencies reduce the return at harvest due to reduced yield and the extra cost of delimiting and debarking, prior to chipping for export at age 8 to 10 years. Apart from the possible risk of lower returns due to tree form, there are obvious risks from cyclone and wild fire. Cyclone Ingrid in 2005 caused so much damage to plantations older than three years that they were replaced.²¹

2.13 Dr Eldridge's analysis was supported by GHD Australia's assessment that the 2006 Project was generally in good condition despite the occurrences of *Mastotermes*

15 GHD Australia, *Report for 2006 Project (2006 and 2007 Planting)*, prepared for Great Southern managers Australia Limited in October 2008, p. 30.

16 GHD Australia, *Report for 2006 Project (2006 and 2007 Planting)*, prepared for Great Southern managers Australia Limited in October 2008, pp 10 and 20.

17 The Institute of Foresters of Australia, *Submission 13*, p. 4.

18 Great Southern Limited, *Submission 19*, p. 1.

19 Dr Ken Eldridge, *Proof Committee Hansard*, Canberra, 14 August 2009, p 66.

20 Dr Ken Eldridge, *Supplementary submission 11*.

21 Dr Ken Eldridge, *Submission 11*, pp 1–2.

darwiniensis (Giant Northern Termite), with good growth and survival, and limited weed, insect and animal damage.²² A 2008 URS Forestry report on the 2004 plantation supports Dr Eldridge's assessment of poor tree form.²³ The URS report claimed that while this was unlikely to adversely affect wood production it may increase harvesting costs.²⁴

Governance and contractual arrangements for forestry

2.14 The Tiwi Islands Forestry Project (TIFP) is a partnership between the Tiwi Land Council and Great Southern Ltd. The project has been governed by a series of agreements between GSL and the traditional landowners. These are part of a complex set of contractual arrangements and company arrangements under which the forestry venture is arranged. This includes the establishment of several companies such as Pirntubula, owned by the Tiwi landowners and which invests in activities that benefit Tiwi Islanders; Tiwi Resources, set up to engage as a forestry contractor to Great Southern's project; Tiwi Enterprises, which manages the distribution of rents to landowners; and Port Melville Pty Ltd, a company established to facilitate wharf construction. These arrangements are discussed further in chapter four.

Contractual arrangements

2.15 The contractual, commercial and legal arrangements between the Tiwi traditional owners and Great Southern are documented in a series of eighteen commercial forestry leasing agreements between the Tiwi Aboriginal Land Trust and Sylvatech Ltd, plus numerous other ancillary agreements.²⁵

2.16 These leasing agreements are made between the *land trust* and the proponent, and *not* the land council and the proponent, as the land trust is:

...the formal legal vehicle for holding the inalienable freehold title conferred by the Act and nominally they take action in the name of traditional owners. But they have no autonomy under the tripartite structure of traditional owners, land trust and land councils. The ultimate decision-makers are the traditional owners. The land councils ascertain the wishes of the owners and instruct the land trust accordingly. The trustees must comply with the land council's instructions (s 5).²⁶

22 GHD Australia, *Report for 2006 Project (2006 and 2007 Planting)*, prepared for Great Southern Managers Australia Limited, p. 44.

23 URS Forestry, *Expert Forester's Report on Sylvatech Tropical Timbers 2004*, prepared for Great Southern Limited on 22 September 2008, p. 2.

24 URS Forestry, *Expert Forester's Report on Sylvatech Tropical Timbers 2004*, prepared for Great Southern Limited on 22 September 2008, p. 2.

25 Tiwi Land Council, *Submission 34*, p. 29.

26 Heather McRae, *Indigenous Legal Issues: Commentary and Materials / Heather McRae et al* (fourth edition), Thomson Reuters (Professional) Australia, Pyrmont, 2009, p.239-240.

2.17 In its submission to the inquiry, the TLC stated that 'Each Forestry Lease has been clearly drafted with the protection of Tiwi interests in mind' through the inclusion of 'provisions typically found in any commercial lease agreement for the protection of the lessor' and additional terms 'protecting the unique interests of Traditional Landowners', for example:

- Best forestry practice – the lessee must conduct its operations to the best forestry practice suitable in all circumstances;
- Culturally sensitive manner – the lessee and its employees and visitors must conduct its operations and themselves in a culturally sensitive manner at all times;
- Compliance with all laws and Aboriginal land permits;
- Abiding by alcohol restrictions;
- Compliance with the Plantation Management Deed and Community Services Deed;
- Environment – the lessee must maintain the environment of the land in accordance with any obligation imposed on it by legislation and the recommendations, requirements and conclusions of the EIA; and
- Reservations – certain rights are reserved to the traditional landowners, for example rights to use the land, prohibition on entry by the lessor on sites of significance to traditional owners.²⁷

2.18 The Plantation Management Deed was agreed between the Tiwi Aboriginal Land Trust and Australian Plantation Group Ltd. The deed contained provisions for the benefit of the Tiwi to 'ensure prudent forestry practices and the payment of royalties'.²⁸

2.19 The Community Services Deed was also entered into by the Tiwi Aboriginal Land Trust and Australian Plantation Group Ltd. The deed required the Australian Plantation Group to aid in providing education, training and employment for the Tiwi community.²⁹ The TLC was of the opinion that 'The Community Services Deed has been extremely successful as a matter of practice since its inception in 1999, as evidenced by various positive tangible outcomes'.³⁰

27 Tiwi Land Council, *Submission 34*, pp 30-31.

28 Tiwi Land Council, *Submission 34*, p. 31.

29 Tiwi Land Council, *Submission 34*, p. 33.

30 Tiwi Land Council, *Submission 34*, p. 33.

Employment

2.20 The forestry agreements between Great Southern and the Tiwi Land Council required Great Southern to source, where possible, employees from the local Tiwi population.³¹

2.21 Great Southern informed the committee that 35 to 55 per cent of its workforce on the Islands was Tiwi Islanders.³² In 2009, Great Southern employed 28 traditional landowners, comprising 18 fulltime employees and another ten who were either Tiwi Land Rangers or Tiwi Marine Rangers funded by Great Southern.³³

Land rental

2.22 The land on which forestry plantations are situated is subject to land rent payable by the lessee to the Tiwi traditional owners through Tiwi Resources Pty Ltd.³⁴ Many submissions to the inquiry queried these land rental arrangements, suggesting the Tiwi Islanders might have been underpaid for this land.³⁵ The concerns were driven in part by remarks made by Great Southern at the time it took on the Tiwi Islands project. In its annual report, the company noted:

The acquisition not only provides Great Southern access to extensive plantation land for future projects at a significant discount to current market prices for land in Great Southern's traditional plantation regions, it also involves us embarking on a relationship with the Tiwi Island people... This land represents a valuable resource for Great Southern, which is likely to represent a capital saving to the company of about \$40 million annually over the next 8 years.³⁶

2.23 The Australian Valuation Office (AVO) conducted a desk-top rental valuation for the proposed rental agreement between the Tiwi Land Council and Sylvatech in August 1998.³⁷ The valuation was requested by Mr John Hicks, on behalf of the Tiwi Land Council.³⁸ The area of land being valued was 30 000 hectares on Melville Island

31 Tiwi Land Council, *Submission 34*, p. 75.

32 Great Southern Limited, *Submission 19*, Executive Summary.

33 Tiwi Land Council, *Submission 34*, p. 75.

34 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 13.

35 For example The Wilderness Society Inc. and Environment Centre NT, *Submission 30*, p. 24.

36 Great Southern Limited, *Annual Report 2005*, p. 10.

37 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

38 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

with limited roads and no services, for a 30 year lease with an additional 30 year right of renewal.³⁹

2.24 Sylvatech submitted a proposal for the payment of rent at \$10.00 per hectare for the first two years of the agreement, \$12.50 for years three and four, and \$15.00 per hectare for the fifth year.⁴⁰ The amount proposed was to be adjusted for CPI from year two.⁴¹

2.25 In determining the rental valuation for Melville Island, the AVO considered rent paid for land subject to forestry plantations in Tasmania and Western Australia. The valuer noted that:

On instructions, I have not undertaken a full feasibility study on the likely success or otherwise of the silvicultural proposal and are unaware of the likely yield of chips per ha, establishment, maintenance, harvesting and shipping costs. In the NT, wood chipping is a sunrise industry with no historical information available.⁴²

2.26 In conclusion, the AVO stated that:

Southern lands, now being given over to forestry, have a variety of more intensive uses and have competing users. Much of this land is suitable for viticulture, agriculture or horticulture. This situation does not exist in the Tiwi Islands. Much of the Tiwi land is eucalypt forest.⁴³

2.27 The AVO calculated the market rental value to be \$3.00 per hectare per annum and on that basis recommended:

In view of the general market and unique soil / rainfall combination, it is strongly recommended that the proposal submitted by the developers be accepted.

Rents are to be reviewed after 5 years and depending on the success of the project and may be adjusted.⁴⁴

39 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

40 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

41 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

42 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

43 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

44 Tiwi Land Council, *Additional Information*, AVO Rental Valuation 1998, received 27 May 2009.

2.28 The committee heard evidence that the land rent finally agreed between Sylvatech and the land council was \$12.00 per hectare.⁴⁵ It also understands that the rate was indexed to annual increases in the Consumer Price Index, while the agreement was subject to review every five years.⁴⁶

2.29 The land rent paid for Tiwi land subject to forestry was reviewed in January 2008.⁴⁷ The Tiwi Land Council engaged the AVO to conduct the rental review valuation for the Tiwi forestry lease.⁴⁸ The review included a site inspection, via helicopter, by the valuer as well as consideration of roads, access, and the terms of the lease.⁴⁹ The AVO also examined land sales in the Douglas-Daly and Marrakai areas of the Northern Territory.⁵⁰

2.30 In its January 2008 valuation, the AVO considered 'the market rental value for 29,982.6 hectares of forestry lands on Melville Island' to be \$22.00 per hectare excluding GST.⁵¹ Further, the AVO stated that 'For the purposes of negotiating it is not considered unreasonable to apply a range of values between \$20 and \$26 per hectare excluding GST'.⁵²

2.31 The committee heard evidence that the lease agreement between the TLC and Great Southern allowed Great Southern to conduct their own valuation of the forestry land. Following the 2008 AVO valuation, Great Southern sought their own valuation. It recommended a market land rental rate of \$10.00 per hectare;⁵³ however, this was unacceptable to the TLC:

Great Southern under our agreements have the opportunity to also get a value and they did. That came in at \$10 a hectare. The argument was that the Australian Valuer-General was valuing it on the basis of infrastructure

45 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 3.

46 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 8.

47 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

48 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

49 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

50 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

51 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

52 Tiwi Land Council, *Additional Information*, AVO Rental Valuation Report 2008, received 27 May 2009.

53 Tiwi Land Council, *Additional Information*, Integrated Valuation Services (NT), received 27 May 2009.

that did not exist here on the Tiwi Islands—you have driven across some of it today—and was referring to land in the Douglas Daly, which is significantly different. The value from the Great Southern valuers was clearly not acceptable. As you say they were already paying \$17.35 a hectare and our agreement said they could not pay less. We then agreed—when I say ‘we’, the leaders of the land council—at \$20 a hectare.⁵⁴

2.32 As of May 2009, the land rental rate paid by Great Southern to the Tiwi traditional owners was \$20.00 per hectare.⁵⁵ In 2007–08 these lease arrangements resulted in the distribution of \$467 000 in payments to Tiwi Island families.⁵⁶ Oakton consulting, in its report on Tiwi Land Council timber industry arrangements, commissioned by the Department of Families, Housing, Community Services and Indigenous Affairs in response to community concerns, reviewed the lease arrangements and found that:

The agreement on the new rental rate appears to be fair and reasonable, and the TLC provided clear evidence that this was discussed and agreed at an Executive Management Meeting in October 2008, with 15 TLC members present plus visitors. What is not yet decided, is what 'educational and forestry training programs' will be delivered with the money.⁵⁷

2.33 In addition to the land rental payments, the arrangement between Great Southern and the Tiwi Land Council ensured other income streams would accrue to the Tiwi Islanders once harvesting commenced in 2012–13, including two per cent of net harvest proceeds, and a third of Great Southern's Management Entitlement from those same proceeds.⁵⁸ The committee received no evidence to suggest that the rental rates were not 'fair and reasonable'. Decisions about how money is to be distributed and applied to programs are important decisions, and this is discussed in chapter four.

Impacts of forestry

Environmental impact assessments of the forestry project

2.34 An environmental impact statement (EIS) for the forestry projects on the Tiwi Islands was prepared by ForSci Pty Ltd for the TLC in 1999.⁵⁹ The committee heard

54 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 3.

55 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 3.

56 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 8.

57 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 9.

58 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 7.

59 The Wilderness Society and the Environment Centre NT, *Submission 30*, p. 13.

that the EIS was for 'a conceptual start-up project of 3,000 hectares and then that was followed by another 2,000 hectares' and that this was submitted to the Northern Territory government.⁶⁰

2.35 However, the committee also heard evidence that under Northern Territory legislation, the forestry project on the Tiwi Islands did not require approval:

Mr Cowan—There was never any approval that was required by the Northern Territory government—

Senator TROETH—I see. Because it was a private project?

Mr Cowan—No, because they did not have the laws in place. Many other states have clearing approvals, so that a person needs the approval before they can clear it. They need to provide a good assessment and the government can say, 'We are not giving you approval until you do that.' Unfortunately, in the Northern Territory it is completely advisory and they only assess a very small part of it. They were never really in a position to demand anything. It was a kind of catch up—'We need to try to impact this as much as possible on a voluntary basis.' That was really the fundamental problem.⁶¹

2.36 The current forestry project was approved under the Environment Protection and Biodiversity Conservation (EPBC) Act in 2001. Approval was granted to Australian Plantation Group Pty Ltd and the Tiwi Land Council 'to establish and operate up to 26,000 hectares of hardwood plantations on western Melville Island in the Tiwi Island group of the Northern Territory'.⁶² In total, 11 conditions were imposed on the forestry project including:

- Prohibition of clearing the treeless plains or riparian areas near springs or watercourses or rainforest.
- The establishment of buffers zones which must not be cleared of vegetation around rivers, creeks, wetlands and rainforest patches.
- Implementation of strategies to deal with the spread and control of weeds; fertiliser application; water quality and groundwater levels; spread of *Acacia mangium* beyond plantations; erosion control; sediment deposition; fire management; outbreaks of pests and disease; and quarantine procedures.⁶³

60 Mr Mark Cowan, Principal Solicitor, Environmental Defenders Office (NT), *Proof Committee Hansard*, 18 May 2009, pp 22-23.

61 Mr Mark Cowan, Principal Solicitor, Environmental Defenders Office (Northern Territory), *Proof Committee Hansard*, 18 May 2009, p. 23.

62 Commonwealth of Australia, *Decision to approve the taking of an action (EPBC 2001/229)*, 12 August 2001, available: http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=229 (accessed 3 July 2009).

63 Commonwealth of Australia, *Decision to approve the taking of an action (EPBC 2001/229)*, 12 August 2001, available: http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=229 (accessed 3 July 2009).

Export of cleared timber

2.37 In 2003, 15 000 tonnes of logs harvested from native eucalypt forest cleared from land, in preparation for planting *Acacia mangium* plantations, were exported to Asia from the Tiwi Islands.⁶⁴ This timber is often referred to as "red Tiwi". It was hoped that the export of this native timber would be profitable for both the forestry proponent and the Tiwi people:

Sylvatech and its contractors have commenced the harvest, extraction and haulage of native eucalypts. The timber being harvested is from areas designated for the establishment of future *Acacia mangium* plantation. People may remember that previously the Project Managers have only burnt the native timber, as infrastructure was not available to allow its export and similarly, markets within Asia were not profitable. With changes to the Australian dollar, increased demand and now the upgrade of Tiwi infrastructure such as the road, Sylvatech can now sell this timber into Asian markets – providing a profitable return for the owners of the native timber – the Tiwi people.⁶⁵

2.38 The export deal had a reported value of \$1.5 million per year.⁶⁶ However, it was revealed during Senate Estimates in 2006 that the export of the red Tiwi had in fact resulted in a loss of approximately \$600 000.⁶⁷ This \$600 000 loss has been the source of both confusion and controversy, highlighted by its citation in numerous submissions and also in evidence to the committee.

2.39 The committee understands that Sylvatech and Pirntubula Pty Ltd negotiated a deal for the export of cleared timber – both red Tiwi and some of the plantation cypress – in which both parties were expected to make a profit and Sylvatech would carry the risk.⁶⁸ It was estimated that the export of the timber over a number of years would generate 'a few million dollars'.⁶⁹

64 Mr John Hicks, Secretary, Tiwi Land Council, *Estimates Hansard*, 2 November 2006, p. 62.

65 Tiwi Land Council, *Annual Report 2002/2003*, p. 21, available: <http://www.tiwilandcouncil.net.au/Publications/Tiwi%20Annual%20Report%202003.pdf> (accessed 26 August 2009).

66 ABC Radio National, *Background Briefing*, 16 September 2007, available: <http://www.abc.net.au/rn/backgroundbriefing/stories/2007/2031767.htm> (accessed 26 August 2009).

67 Mr John Hicks, Secretary, Tiwi Land Council, *Estimates Hansard*, 2 November 2006, p. 62. At the time of the Estimates hearing, Mr Hicks foreshadowed a \$75 000 payment was supposed to be received for the seventh shipment of logs, however figures given to the committee during the course of its current inquiry suggested such a payment was not made.

68 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, p. 73.

69 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, p. 72.

2.40 The committee heard evidence that ultimately, due in large part to increased shipping costs and fluctuations in the value of the Australian dollar, Sylvatech bore a loss of \$610 000 on the timber export deal:

Mr Hicks—...The asset was to be sold in order that Pirntubula would make some money. Pirntubula presented these trees for harvest by Sylvatech with the expectation of making a profit—and they would not have entered into the arrangement unless they anticipated making a profit. They made a loss.

Senator SIEWERT—Sylvatech made a loss.

Mr Hicks—Sylvatech made a \$610,000 loss on this particular transaction.

2.41 The committee clarified that neither the Tiwi Land Council, nor any of the Islanders' commercial entities such as Pirntubula, incurred that loss. It was a loss borne by the forestry company:

CHAIR—The expectation was, as with all good commercial deals, that it would be profitable and Pirntubula would have received a share of the profits?

Mr Hicks—Absolutely. It was a fifty-fifty arrangement that Sylvatech would harvest and we would enjoy 50 per cent of the profits from that particular milling transaction. In the event, the fluctuations in the Australian dollar and in the shipping rates were the two cataclysmic events that Sylvatech anticipated would get better; in fact they got worse. Finally, in the hands of Great Southern, they terminated the export as being an absolutely non-profitable proposition. But Pirntubula made a loss in expectation. We did not carry a loss of \$610,000.

...

Mr Hicks—...The \$610,000 was to do with the people who harvested it, the people who transported it, the people who shipped it and the money that was paid by the people in southern China. That was a cumulative loss of \$610,000 across a number of shipments. When you talk about a loss, it was certainly a loss of expectation that having harvested 40,000 tonnes, or whatever it was, we would get a few million dollars for that. At the end of the day we got nothing but we did not make a loss.⁷⁰

2.42 The committee believes that this evidence is unambiguous that the Tiwi Islanders themselves did not lose money on this part of the operation, though the results were obviously disappointing. The results of these log sales highlighted the volatility of international commodity markets and the potentially significant effects, on both this and future projects, of market factors outside the Tiwi Islanders' control.

70 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, pp 71-72.

Breach of EPBC Act conditions

2.43 The Commonwealth approval for the Tiwi Islands forestry project set out eleven conditions, including:

3. APG and TLC must not clear the treeless plains or riparian areas near springs or watercourse (including intermittent watercourses) or rainforest. APG and TLC also must not clear vegetation within the following buffer zones:
 - Rivers – 150m from each high bank;
 - Creeks – 100m from each bank;
 - Other drainage lines – 50m both sides;
 - Wetlands – 150m around wetland perimeter;
 - Wet rainforest patches – 400m; and
 - Other rainforest patches – 200m.
 - 300m radius around nest sites of the Red Goshawk. If nests are located outside the buffers for rivers, wetlands and creeks, they must be linked by a corridor of 300m width to the nearest riparian buffer.
 - 500m radius around known occurrences of Carpentarian Dunnart.
4. Before clearing any native forest, except as provided for in paragraph 1 above, the APG and TLC must prepare and submit for the Minister's approval, a plan outlining strategies to deal with the following matters:
 - Spread and control of weeds;
 - Fertiliser application;
 - Water quality and groundwater levels;
 - Spread of *Acacia mangium* beyond the plantations;
 - Erosion control;
 - Sediment deposition;
 - Fire management;
 - Outbreaks of pests and disease; and
 - Quarantine procedures.
 - The action must be taken in accordance with the plan approved by the Minister.
5. Before clearing each area of native forest, except as provided for in paragraph 1, the APG and TLC must prepare and submit for the Minister's approval, a plan for managing the impacts of forestry in that area on the Red Goshawk, Masked Owl, Partridge Pigeon and Carpentarian Dunnart. Each plan may cover no more than 5,000 hectares, and must contain provisions to conserve

adequate habitat for those species, including but not necessarily limited to the buffer areas required by paragraph 3.⁷¹

2.44 In the period from 2004 to 2006, breaches of the conditions for the forestry project established under the EPBC Act occurred. These breaches were incursions by *Acacia mangium* plantations into buffer zones required for the protection of rainforest and wetland areas.⁷² The breaches of the TIFP EPBC conditions were notified to the Department of the Environment, Water, Heritage and the Arts by environmental groups in the Northern Territory.⁷³

2.45 Negotiations between Great Southern and the Department discussing the reasons for and implications of the incursions took place during 2006 and 2007.⁷⁴ As a result of these negotiations, an agreed settlement was reached between Great Southern and DEWHA 'in which Great Southern accepted that incursions had occurred, and agreed to rehabilitate areas as required by the Minister following further study and the preparation of comprehensive rehabilitation management plans'.⁷⁵

2.46 Additional conditions were applied to the forestry project by the Federal Minister for the Environment. These conditions required:

...ground-truthing to accurately identify all incursions, and rehabilitation of these areas through the establishment of sustainable vegetation communities using local species. A bond of \$1 million must be posted by Sylvatech to ensure that the necessary works are completed.

The conditions also require Sylvatech to pay an annual financial contribution of \$450,000 over three calendar years to contribute to environmental works and projects, including protection of habitats for listed species under the EPBC Act.⁷⁶

2.47 The \$450 000 paid by Great Southern to contribute to environmental works and projects is provided to the Tiwi Land Council, who as a joint proponent of the forestry project is responsible for the environmental offsets programs:

The environmental offset programs are not something that Great Southern is required to do; they are something that the Tiwi Land Council is required to do under EPBC as a joint proponent of the forestry project. The revised

71 Commonwealth of Australia, *EPBC Act 1999 Decision to approve the taking of an action 2001 / 229*, 12 August 2001, available http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?name=current_referral_detail&proposal_id=229 (accessed 18 August 2009).

72 Great Southern Ltd, *Submission 19*, p. 14.

73 Dr Stuart Blanch, Co-ordinator, Environment Centre NT, *Proof Committee Hansard*, 18 May 2009, p. 6.

74 Great Southern Ltd, *Submission 19*, p. 14.

75 Great Southern Ltd, *Submission 19*, p. 14.

76 DEWHA, *Agreed statement on Tiwi Islands Forestry Project*, 2008, p. 2.

conditions say the Tiwi Land Council must do these offset projects because it is a joint proponent of the forestry. Great Southern must provide \$450,000 a year to the Tiwi Land Council to assist them to do the offset projects under the EPBC compliance, changing the conditions.⁷⁷

2.48 In January 2009, Great Southern made the first payment of \$450 000 to the TLC.⁷⁸ The TLC sub-contracted rangers employed by Tiwi Enterprises to conduct the environmental offset work required under additional EPBC conditions.⁷⁹ The committee understands that there are eight land rangers employed by Tiwi Enterprises whose duties include the environmental offset work.⁸⁰

2.49 The committee believes that the collapse of the Great Southern Group in May 2009 may lead to some of the payments not being made. The \$1 million bond has been paid to the Department of Environment, Water, Heritage and the Arts, but that other undertakings by Great Southern to spend \$450 000 per year may now lapse:

[The Department is] not a creditor in the mainstream sense and, because the company is currently in compliance with the conditions, there is nothing else we can do at this stage other than to have made the administrators aware of our interest and involvement.⁸¹

2.50 At the time the committee last took evidence from the Department, the first payment had been made (prior to Great Southern's collapse), but the second payment had not yet fallen due.⁸²

Future of forestry

2.51 When the committee commenced the present inquiry, some stakeholders, both on and off the Tiwi Islands, had concerns about the desirability of forestry activities on the islands, and about its future. These included islanders Ms Marjorie Liddy, Mr Adam Kerinauia and Mr Manyi Rioli.⁸³ It also included some non-government

77 Ms Kate Hadden, Environment Manager, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 24.

78 Ms Kate Hadden, Environment Manager, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 4.

79 Ms Kate Hadden, Environment Manager, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 4.

80 Ms Kate Hadden, Environment Manager, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 23.

81 Mr Peter Burnett, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment, Water, Heritage and the Arts, *Committee Hansard*, 14 August 2009, p. 25. See also Tom Arup, 'Company collapse leaves huge clean-up headaches', *The Age*, 12 June 2009, p. 5.

82 Mr Peter Burnett, First Assistant Secretary, Approvals and Wildlife Division, Department of the Environment, Water, Heritage and the Arts, *Committee Hansard*, 14 August 2009, p. 28.

83 *Committee Hansard*, 20 May 2009.

organisations such as the Environment Centre of the Northern Territory⁸⁴ and the Environmental Defenders Office (Northern Territory).⁸⁵

Great Southern Ltd

2.52 Many managed investment scheme (MIS) businesses have their forestry schemes evaluated by an agribusiness research house.⁸⁶ These evaluations are intended to provide investors and financial advisers with additional information on, and confidence in, the MIS.⁸⁷

2.53 Assessments of forestry schemes by independent research houses generally focus on two key questions:

- Whether the forestry project will result in a commercially successful plantation; and
- Whether investors are likely to get a suitable financial return given the likely risk-return relationship.⁸⁸

2.54 In March 2009, agribusiness research house Lonsec published such an evaluation of Great Southern Ltd.⁸⁹ With respect to the performance of Great Southern Ltd's forestry projects, Lonsec stated:

Lonsec has reviewed the company's 2006 - 2008 Independent Expert Reports distributed to Investors, which indicate that plantations from 1996 - 2006 demonstrate variable growth. In particular Great Southern's pre 2001 Pulpwood projects is performing below original PDS expectations, with the 2008 report identifying that all regions have produced "limited to good growth over the past year".

While [Great Southern Ltd] has demonstrated its financial commitment to its earlier projects though providing additional timber and waiving

84 *Submission 30.*

85 *Submission 33.*

86 Roger Underwood, 'Assessing 'management investment scheme' forestry projects: a best-practice template for commercial plantation development', *Australian Forestry*, vol. 70, no. 4, pp 269-274.

87 Roger Underwood, 'Assessing 'management investment scheme' forestry projects: a best-practice template for commercial plantation development', *Australian Forestry*, vol. 70, no. 4, pp 269-274.

88 Roger Underwood, 'Assessing 'management investment scheme' forestry projects: a best-practice template for commercial plantation development', *Australian Forestry*, vol. 70, no. 4, pp 269-274.

89 Lonsec Agribusiness Research, *Manager Profile Great Southern Limited*, March 2009, available: http://www.great-southern.com.au/Company_research.aspx (accessed 28 August 2009).

management fees (1994-1996 Projects), Lonsec believes such a practice is unsustainable over the medium and longer term.⁹⁰

2.55 Overall, Lonsec expressed 'some concerns about the company's ability to meet its short term debt maturity obligations' and advised that some caution be exercised 'given the uncertainty in respect to the group's long term sustainability'.⁹¹ On its rating scale of 'Excellent', 'Very good', 'Good', 'Approved' and 'Not approved', Lonsec only awarded Great Southern Ltd an 'Approved' rating.⁹²

2.56 There are a number of other company research reports on Great Southern Ltd. In their October 2008 report, Austock Securities examined 'whether the [Great Southern Ltd] business model has worked to date', concluding that shareholders had experienced mixed returns whilst:

...project returns are expected to be well below initially expected. Initial yield expectations of 250/gmt (green metric tonne per hectare) were too ambitious and are tracking at around 160/gmt. The other contributing factor was little real increase in pulpwood prices.⁹³

2.57 With respect to the management of Great Southern Ltd, Austock Securities felt that 'The depth of management was a positive...Should the scheme progress, more Forestry experience would be preferable'.⁹⁴ The committee notes that these analyses were, once again, for Great Southern's operations in general, and only provided limited insight into the situation facing individual projects, such as the Tiwi Islands plantations.

2.58 On 1 April 2009, ABC News reported that Great Southern Plantations was winding back its planting operations on the Tiwi Islands. The article stated that the

90 Lonsec Agribusiness Research, *Manager Profile Great Southern Limited*, March 2009, available: http://www.great-southern.com.au/Company_research.aspx (accessed 28 August 2009), p. 14.

91 Lonsec Agribusiness Research, *Manager Profile Great Southern Limited*, March 2009, available: http://www.great-southern.com.au/Company_research.aspx (accessed 28 August 2009), p. 2.

92 Lonsec Agribusiness Research, *Manager Profile Great Southern Limited*, March 2009, available: http://www.great-southern.com.au/Company_research.aspx (accessed 28 August 2009), p. 2.

93 Austock Securities, *Great Southern (GTP)...to a significant land and forestry play*, 31 October 2008, available: http://www.great-southern.com.au/Company_research.aspx (accessed 31 August 2009), p. 4.

94 Austock Securities, *Great Southern (GTP)...to a significant land and forestry play*, 31 October 2008, available: http://www.great-southern.com.au/Company_research.aspx (accessed 31 August 2009), p. 18.

company had reached the development limit imposed by the EPBC Act and that no further plantation development would be undertaken in the foreseeable future.⁹⁵

2.59 On 7 May 2009, Great Southern went into a trading halt pending an announcement on its managed investment scheme sales program and working capital requirements.⁹⁶ The company was subsequently granted an extension to Monday 18 May 2009 to make an announcement about its finances.

2.60 On 16 May 2009, Great Southern went into voluntary receivership and two days later McGrathNicol was appointed receivers and managers of Great Southern Ltd and its eleven subsidiary companies.⁹⁷

2.61 In July 2009, investors were advised by the receivers that there was 'no money with which to meet the day to day operating expenses of the Schemes'⁹⁸ or to make lease payments to landowners.⁹⁹ During July, McGrathNicol also commenced a review of Great Southern Ltd's horticulture and forestry schemes with a view to investors deciding 'whether to keep funding the schemes until harvest, or whether they should be wound up'.¹⁰⁰

Current ownership status

2.62 An investor circular issued by McGrathNicol on 2 October 2009 stated:

Tiwi Island operations are commercially unviable. The operating costs and capital expenditure requirements are extremely high. As we have been without funding for the Tiwi Island operations from 30 September 2009, we have commenced cessation of these operations. We also wrote to the Tiwi Land Council, on 30 September 2009, advising that we will not be accepting any liability for the lease costs from 30 September 2009.¹⁰¹

2.63 A separate circular of 2 October 2009 released by McGrathNicol advised that:

95 ABC News, *Plantation company winds back operations in the Tiwi Islands*, 1 April 2009, available: <http://www.abc.net.au/news/stories/2009/04/01/2532067.htm> (accessed 1 April 2009).

96 The Age, *Great Southern in a trading halt*, 7 May 2009, available: <http://business.smh.com.au/action/printArticle?id=508093> (accessed 14 May 2009).

97 ASIC, *Information for Great Southern growers*, available <http://www.asic.gov.au/asic/asic.nsf/byheadline/Information+for+Great+Southern+Growers> (accessed 6 October 2009).

98 McGrathNicol, 'Circular to investors', 2 July 2009.

99 ABC News, *Great Southern declared insolvent*, available: <http://www.abc.net.au/news/stories/2009/07/08/2620404.htm> (accessed 6 October 2009).

100 ABC News, *Great Southern declared insolvent*, available: <http://www.abc.net.au/news/stories/2009/07/08/2620404.htm> (accessed 6 October 2009).

101 McGrathNicol, Receiver and Manager, 'Receiver - Circular to Plantations project investors', <http://www.great-southern.com.au> (accessed 6 October 2009)

Where the landlords are able to take possession of the leased properties, the ownership of the trees may revert to the landlords and the future harvest proceeds are unlikely to be available to investors.¹⁰²

2.64 The circular also stated that on 1 October 2009 the TLC exercised their right, consistent with the terms of their contract, to terminate the lease with the tenant company.¹⁰³

2.65 Based on these statements, it is the committee's understanding that, subject to any investor legal challenges, the TLC took ownership of the forestry plantation on 1 October 2009 at no upfront cost. However, ownership in the absence of any other partners exposes the TLC to responsibility for the plantation's running costs, which TLC chairman Robert Tipungwuti has publicly claimed to be \$700 000 a month.¹⁰⁴

Forecast returns

2.66 Great Southern spent \$150 million to establish the plantation estate on the Tiwi Islands.¹⁰⁵ Harvesting of the *Acacia mangium* plantation estate on Melville Island is scheduled to commence in 2012-13.¹⁰⁶ The committee was advised that from that time, the harvest is anticipated to generate '[o]ver \$40 million in revenue per annum from the export of woodchips'.¹⁰⁷ Great Southern's proposal was for the trees to be processed into woodchips locally and exported to the Asia-Pacific region for use in the pulp and paper industry.¹⁰⁸ The committee has received evidence that the *Acacia mangium* species – the current plantation crop – is a high-quality pulp wood well regarded internationally.¹⁰⁹

2.67 The Australian Bureau of Agricultural and Resource Economics (ABARE) record the December 2008 price of broadleaved woodchip as \$193 per bone dry tonne¹¹⁰ (bdt), up from \$161 per bdt in 2005/06.¹¹¹ On 27 March 2009, three of

102 McGrathNicol, Receiver and Manager, 'Receiver - Circular to 04 and 05 Plantations project investors', <http://www.great-southern.com.au> (accessed 6 October 2009)

103 McGrathNicol, Receiver and Manager, 'Receiver - Circular to 04 and 05 Plantations project investors', <http://www.great-southern.com.au> (accessed 6 October 2009)

104 Stewart, P. *Tiwi plantations could be left to rot*, ABC News, <http://www.abc.net.au/news/stories/2009/09/10/2682195.htm>, (accessed 10 September 2009).

105 Great Southern Limited, *Submission 19*, Executive Summary.

106 Great Southern Ltd, *Submission 19*, p. 5.

107 Great Southern Ltd, *Submission 19*, p. 6.

108 Great Southern Limited, *Submission 19*, Executive Summary.

109 Dr Robert John Thistlethwaite, Chair, Tropical Forestry Special Interest Group, Institute of Foresters of Australia Inc., *Proof Committee Hansard*, 14 August 2009, p. 94.

110 Bone dry tonne is a common industry price volume standard generally used in reference to shipping. In this context, the term 'bone dry' specifically refers to wood density and moisture content.

Australia's leading forestry companies, including GSL, announced that the 2009 benchmark price for Australian plantation grown Tasmanian blue gum woodchip for export to Japan would be A\$207.40 per bdt, a nil increase on 2008 pricing.¹¹²

2.68 The Tiwi Land Council indicated that the price of woodchip had remained stable through the global financial crisis at \$180 per tonne.¹¹³

2.69 The committee has not received any other species-specific evidence concerning the export price of *Acacia mangium* woodchip. However, it is aware that in its 2007-08 product disclosure statement, Great Southern stated:

As a result of generally lower pulp yields and higher chemical use in the bleaching process, *Acacia mangium* does not currently attract the same price premium as the Eucalypt species used in the Projects.¹¹⁴

2.70 In her submission to the committee, forest economist Dr Judith Ajani applied a discount factor resulting in an estimate of approximately \$162 per bdt.

2.71 There exists a range of views concerning the current and future export market for Australian woodchips. Bureau of Rural Science projections outline an increase in the supply of Australian hardwood pulp by around 14 million cubic metres per year by 2010, about four times the volume harvested in 2005–06.¹¹⁵ The Bureau expects this average supply volume to continue beyond 2010.¹¹⁶

2.72 Dr Judith Ajani from the ANU Fenner School of Environment and Society argues that the increasing supply of woodchip, produced by Australian managed investment schemes, will begin to flood the market by early 2010, driving prices down.¹¹⁷ Dr Ajani supports this analysis by highlighting the minimal growth in hardwood chip exports to Japan – the primary purchaser of Australian hardwood chips

111 Australian Bureau of Agricultural and Resource Economics, http://www.abareconomics.com/publications_html/afwps/afwps_09/afwps_may09.pdf, p. 35. (accessed 17 September 2009)

112 Timbercorp, <http://www.timbercorp.com.au/default.asp?cid=15286&rid=15286>, (accessed 17 September 2009)

113 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, p. 79.

114 Great Southern Group of Companies, *Great Southern Plantations 2007 Project and Great Southern Plantations 2008 Project: Product Disclosure Statement*, p. 20.

115 Parsons, M., Frakes, I. and Gavran, M. 2007, 'Australia's Plantation Log Supply 2005-2049, Bureau of Rural Sciences. http://adl.brs.gov.au/brsShop/data/log_supply_final.pdf (accessed 18 September 2009), p 5.

116 Parsons, M., Frakes, I. and Gavran, M. 2007, 'Australia's Plantation Log Supply 2005-2049, Bureau of Rural Sciences. http://adl.brs.gov.au/brsShop/data/log_supply_final.pdf (accessed 18 September 2009), p 5.

117 Ajani, J. 2008, 'Australia's Transition from Native Forests to plantations: The Implications for Woodchips, Pulpmills, Tax Breaks and Climate Change', *Agenda*, Vol 15, No. 3, p 29.

– since 1997,¹¹⁸ and China's strategies 'to reduce the demand for wood but to still produce large volumes of paper':

...China in my view will not come to the rescue in clearing this market and certainly not at prices that growers might expect. My point again here is that this is the market which the Tiwi Islanders will be faced with.¹¹⁹

2.73 Dr Ajani also observed that a resource such as that on the Tiwi Islands may face particular difficulties in the current market:

The issue here is that with a glut we have a problem that happens in any commodity industry. Lower quality resources are the ones that always struggle to get market share and, in particular, to get market share at the price they expect. In other words, they are the parts of the industry or the resource that are discounted in these sorts of market situations.¹²⁰

2.74 Andy Fyfe of Pöyry Forest Industry conversely argued that regional demand for pulpwood is projected to grow as a result of increasing Chinese demand.¹²¹ Fyfe's paper did not specifically address the impact of Australian woodchip supply on the South East Asian market. However, the National Association of Forest Industries was optimistic about the long-term outlook:

the long term global demand for renewable and sustainable forest products remains unchanged, reflecting underlying population growth and consumption of printing and writing papers in the Asia-Pacific region...

with a maturing and high quality resource, the Australian hardwood plantation industry is well positioned to take advantage of the upswing in demand as the world economy recovers.¹²²

2.75 In a media release of 9 October 2009, Wood Resources International stated:

Global trade of wood chips has increased on average four percent per year from 2004 to 2008 reaching a record 32 million tons last year. This upward trend was broken in 2009 with trade being down 26% during the first half of the year as compared to 2008. The drop in shipments was the direct result of the global financial crisis and the reduced demand for paper products worldwide.

...

118 Dr Judith Ajani, *Submission 9*, to the Parliamentary Joint Committee on Corporations and Financial Services' Inquiry into Agribusiness Managed Investment Schemes.

119 Dr Judith Ajani, Economist, Fenner School of Environment and Society, Australian National University, *Proof Committee Hansard*, 2 October 2009, pp 3 & 6.

120 Dr Ajani, *Committee Hansard*, 2 October 2009, p. 6.

121 Andy Fyfe, Pöyry Forest Industry, *South East Asia Resource Availability and Woodfibre Suppliers*, conference presentation, Singapore, 21 October 2008. Provided to the committee by Mr John Hicks, Secretary, Tiwi Land Council on 11 September 2009.

122 NAFI, *Submission 43*, p. 2.

The countries that have reduced exports the most in 2009 are Australia...Australia, the world's largest exporter, has reduced shipments from 3.1 million tons [during part of] last year to 2.3 million tons during the same period this year.¹²³

Expenditure and revenue

2.76 Great Southern presented a cost summary in their submission:

- Over \$40 million per annum in revenue from the export of woodchips (over \$320 million over the harvest cycle);
- Expenditure of \$20 million per annum on harvesting and processing (\$160 million over the harvest cycle);
- Expenditure of \$10 million per annum on re-establishment and maintenance (\$80 million over the harvest cycle).¹²⁴

However, these figures were developed before Great Southern went into receivership. Despite repeated invitations to appear or comment, Great Southern's administrators have not released Great Southern representatives to give evidence to the committee. On the basis of the very broad figures offered by Great Southern early in 2009, there is a potential total profit of \$80 million over the eight year harvest cycle or \$10 million annually from the harvest of *Acacia mangium* on the Tiwi Islands. Of this, the Tiwi Islanders were to receive two per cent of net harvest proceeds, and a third of Great Southern's Management Entitlement from those same proceeds. This was estimated to total about \$693 000 per annum for the Tiwi Islanders.¹²⁵

2.77 In evidence presented to the committee, Mr Hicks summarised the revenue potential of the plantation as:

Mr Hicks—...At harvest time, in 2013 we will be exporting 500,000 tonne of chip, cutting down 3,500 hectares and planting back. The resource is then sustainable based upon the 31,000 hectares. The price of chip has held right through the recession or the crisis and is \$180 a tonne. For 500,000 tonnes that means \$90 million and the costs of making that, including wages, harvesting and shipping, are calculated to be around \$75 million.¹²⁶

123 Wood Resources International, 'Global trade of wood chips down 26% in 2009 as pulpmills reduce production worldwide, reports Wood Resources International', Press release, 9 October 2009.

124 Great Southern Limited, *Submission 19*, p. 6.

125 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 8.

126 Mr John Hicks, Secretary, Tiwi land Council, *Proof Committee Hansard*, 14 August 2009, pp 79-80.

2.78 Great Southern contended that an increased plantation size would economise the fixed costs of infrastructure upgrades and ensure the long-term viability of the Tiwi forestry project.¹²⁷ Great Southern explained that:

The current size of the plantation estate (29,000ha) on the Tiwis is less than optimal. Scale is particularly important because the cost of constructing and operating the port loading and stockpiling facilities requires a minimum level of annual throughput volume to be commercially viable. At current growth levels an estate of 30,000ha could be expected to deliver annual throughput of approximately 450,000 tonnes whereas an internationally competitive facility would require 700,000 to 800,000 tonnes in annual throughput.¹²⁸

2.79 Further, Great Southern indicated that 'establishment of a larger estate (whether by increments on both islands, or entirely on Bathurst) would shift the TIFP down the cost curve compared with other forestry operations'.¹²⁹

Port Melville wharf

2.80 Both forestry and mining operations on Melville Island require port facilities in order to export products to markets. The wharf at Port Melville was originally constructed in 2004 and was upgraded with a face expansion the following year to allow ships up to 20 000 tonnes to berth.¹³⁰

2.81 A combination of Aboriginal Benefit Account (ABA) grants (\$4 million) and money provided by Great Southern Ltd (\$1 million) funded the construction of the wharf.¹³¹

2.82 The wharf was pivotal to exporting timber from the Tiwi Islands:

The upgraded Port Melville has been vital to the harvesting and mining operations on the Tiwi Islands. Without the wharf and berthing facilities provided at Port Melville, loading costs would have been prohibitive and exports would not have occurred.¹³²

2.83 In addition to Great Southern Ltd's use of the wharf, Matilda Minerals was a third party user of the port facility.¹³³ Matilda Minerals had established a port access agreement with the forestry proponent and paid wharf usage fees to enable it to ship

127 Great Southern Limited, *Submission 19*, p. 19

128 Great Southern Limited, *Submission 19*, p. 19.

129 Great Southern Ltd, *Submission 19*, p. 22.

130 Tiwi Land Council, *Submission 34*, p. 35.

131 Tiwi Land Council, *Submission 34*, p. 35.

132 Tiwi Land Council, *Submission 34*, p. 35.

133 Tiwi Land Council, *Submission 34*, p. 38.

mineral concentrate from Melville Island.¹³⁴ Three shipments of mineral concentrate were successfully exported from the port during 2006 and 2007.¹³⁵

2.84 In two separate incidents in September and October 2007, the face of the wharf collapsed thus 'preventing any direct loading of ocean going vessels from the wharf'.¹³⁶ Whilst Great Southern Ltd maintained an industrial special risks insurance policy covering loss or damage to the wharf, and lodged a claim for the wharf collapse, it was determined by engineers representing both the insurer and Great Southern Ltd that the wharf damage was the result of 'faulty design, which made insufficient allowance for the pressures exerted by the landfill wharf on the sheet piling on the face and sides of the wharf'.¹³⁷ As a result, the insurer declined the claim made by Great Southern Ltd.¹³⁸

2.85 At present, the wharf at Port Melville remains in disrepair and cannot be used for the export of either timber products or mineral concentrate. As a result, Matilda Zircon has put in place export procedures, once it re-commences mining operations, which will circumvent use of the wharf:

Mr Maluish—...we got approval to ship directly from the beach. So, rather than truck it all the way to the port, we have cut that part of it out. We are still using barges to transship it, but we are not having to truck it 140 kilometres.¹³⁹

And:

Mr Maluish—...The ship would stand about a mile offshore, the barges would go from the shore out to the ship and we would use cranes to lift skips on and off.¹⁴⁰

2.86 The Tiwi Land Council informed the committee that returning the wharf to its state prior to the collapse would cost \$3 million.¹⁴¹ However, both the land council¹⁴² and Great Southern Ltd advised the committee that the wharf would need to be

134 Mr Bruce Maluish, Business Development Manager, Stirling Resources, *Proof Committee Hansard*, 14 August 2009, p. 50.

135 Matilda Minerals, *Submission 16*, p. 3.

136 Tiwi Land Council, *Submission 34*, p. 38.

137 Tiwi Land Council, *Submission 34*, p. 38.

138 Tiwi Land Council, *Submission 34*, p. 38.

139 Mr Bruce Maluish, Business Development Manager, Stirling Resources, *Proof Committee Hansard*, 14 August 2009, p. 51.

140 Mr Bruce Maluish, Business Development Manager, Stirling Resources, *Proof Committee Hansard*, 14 August 2009, p. 55.

141 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, p. 78.

142 Mr John Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 14 August 2009, p. 78.

returned to operation with additional infrastructure prior to harvesting of the *Acacia mangium* so that the woodchip can be exported:

As a result of damage sustained to the port in September 2007, the facility is not currently available for use by large vessels. However, it will be returned to full operational condition in advance of the commencement of harvesting of the plantations. By 2012/2013, the construction of a new loading facility will also be required. This facility will be built on the same site as the current landfill general cargo wharf.¹⁴³

2.87 Prior to the company going into administration, Great Southern Ltd had intended to have a central role in the re-construction of the port facility:

Over the next three years, Great Southern will be planning, designing and constructing a new shiploading facility on the site of the existing general cargo wharf at Port Melville. This is likely to require expenditure of \$40 to \$50 million.¹⁴⁴

2.88 There will thus need to be very substantial capital investment before harvesting can proceed. In the absence of Great Southern, a new source of investment will need to be found.

The prospects for Tiwi Islands forestry

2.89 In light of the collapse of Great Southern Ltd and the apparent impact of the economic downturn on the woodchip market, the forestry operations on the Tiwi Islands face a large number of potentially significant hurdles. These include:

- The apparent need for major infrastructure to be constructed before harvesting can commence;
- The possibility that the plantation estate is only about half the optimal size needed for an internationally competitive facility;
- The lower price likely to be secured for *Acacia mangium* compared to other available Australian hardwood woodchip sources;
- Reports of growth form problems that may raise the cost of harvesting;
- Their ability to attract and retain appropriate technical and management skills in the absence of an experienced business partner.
- The very negative assessment by the Administrators, noted above, that for the Tiwi Island operations '[t]he operating costs and capital expenditure requirements are extremely high'; and
- The high demands for cash flow required to sustain the plantation until harvesting begins.

143 Great Southern Ltd, *Submission 19*, p. 7.

144 Great Southern Ltd, *Submission 19*, p. 24.

2.90 One of the factors that may work in the Islanders' favour is, unfortunately for investors, the collapse of Great Southern. It appears to the committee that Great Southern's insolvency and inability to maintain lease payments has resulted in the Land Council effectively acquiring the plantation estate at no direct capital cost. The absence of this normal commercial requirement to make a return on the capital investment appears to provide an enhanced opportunity for the Land Council to generate income for Tiwi Islanders. In normal circumstances, the business would need to recoup the costs of clearing, planting and maintaining the trees, as well as leasing costs, before it could make a profit. However, the Land Council does not face these historical costs.

2.91 The Land Council does face substantial maintenance costs that have been estimated at over half a million dollars each month. It must also find a market for its product. In addition to these pressures is the need for a port facility to be built, at significant capital expense. In the absence of government assistance the Land Council may need to seek another industry partner to help continue the project, and to assist in securing markets for its product. In the current market environment and, mindful of the opinions expressed by receivers McGrathNicol, this may not be an easy task.

2.92 While the committee accepts that there is a range of views about plantation forestry on the Islands, it believes that successful management of the existing plantation estate is vital to both the economic and environmental future of the Islands.

2.93 The decisions to clear the land and plant the forests have been executed. While rehabilitation of the forestry land may be possible in the long term, the committee believes that, having come this far, the Tiwi Islanders should be given all reasonable assistance to make these plantations a positive for their ongoing economic self sufficiency.

2.94 It is possible that both Federal and Northern Territory agencies with responsibility for industry assistance, infrastructure and Indigenous economic development will be able to provide assistance. The committee believes the Northern Territory government has taken some steps in this regard.¹⁴⁵

Recommendation 1

2.95 The committee recommends that, as a matter of urgency, relevant Federal and Northern Territory agencies work with the Tiwi Land Council and Tiwi Islanders to:

- **undertake an urgent assessment of the ongoing economic viability of the plantations and, if a model or models of management are found to be economically viable, assist in the preparation of business plans necessary to support their successful execution; and**

145 Mr John Hicks, Tiwi Land Council, Correspondence to committee, 19 October 2009.

- **consider the provision of infrastructure support, especially for the port facilities, if it will assist in the economic viability of the plantations.**

2.96 The committee believes that, regardless of the current difficult market situation facing plantation operators (not just those on the Tiwi Islands), it is imperative that more than one major economic activity operate on the Islands. It is to those other activities that the committee now turns.

Chapter 3

Other economic activity

3.1 Economic development opportunities are vital to the people of the Tiwi Islands. As member of the Tiwi Land Council, Mr Marius Puruntatameri, put it:

the fundamental thing of having developments on our land is to do away with handouts from the government, to create employment for our people. That is the key issue of creating business on our land, which is important to us because we cannot rely on the government to give us handout money all the time.¹

3.2 Forestry has been a very significant – if controversial – economic development activity on the Tiwi Islands. It is not, however, the only business in which Tiwi Islanders have been involved. Three other areas of existing activity are mining, art, sport, aquaculture and tourism. There is also some discussion of the potential for carbon storage as an economic activity.

Mining

3.3 In 2003, Matilda Minerals approached the Tiwi Land Council to obtain permission to gain access to the Tiwi Islands to conduct mineral exploration with a view to develop a mineral sands orebody.² This initial approach was rejected, however, following further discussions, the first tenement was granted in April 2004.³

3.4 To compensate landowners for any disturbance and nuisance arising from mining exploration activities, Matilda Minerals was required to negotiate an exploration access agreement with the affected landowners. This included an area-based rent of approximately \$100 000 per annum which was paid to the local landowners.⁴

3.5 Prior to the commencement of mining, a mining agreement was executed with the TLC, the Tiwi Trustees, and the affected landowners, for mining to commence at Andranangoo West. The agreement included a landowner royalty equivalent to 5% of the gross sales of product from this area. This was estimated to be up to \$750,000 per year. As with the land rent, the royalty was to be paid to the TLC which would forward the funds to the landowners following a submission, including a business plan, as to how the funds were to be spent. The first royalty payment was used to buy

1 *Committee Hansard*, 19 May 2009, p. 10.

2 Matilda Minerals, *Submission 16*, p. 1.

3 Matilda Minerals, *Submission 16*, p. 1.

4 Matilda Minerals, *Submission 16*, p. 1.

a truck-mounted concrete agitator to be operated by a Tiwi team in the construction of houses on the Tiwi Islands.⁵

3.6 The deep water port at Port Melville was used to ship ore out of the Tiwi Islands. Ore was successfully shipped from the port in July 2006 and July 2007, however, the wharf collapsed in August 2007, essentially putting a stop to mining operations:

...the wharf collapse stymied MAL's operations, as alternative methods of shipping and movement of ore had to be evaluated, eventually leading to the use of additional costly barges to tranship concentrate to vessels moored offshore from the wharf, which then carried it to China.⁶

3.7 In October 2008, Matilda Minerals went into administration citing the failed sale of ore to China.⁷

3.8 On 8 May 2009, Stirling Resources Limited announced that it had finalised payment for the acquisition of the assets of Matilda Minerals.⁸ The mining assets on the Tiwi Islands form part of Stirling Resources' Matilda Zircon project.⁹

3.9 The committee heard evidence that Stirling Resources wished to 'recommence mining as soon as possible' as:

World demand for high-grade zircon, which is produced from the Tiwis, remains strong. It is one of the few commodities that held its head up. The Aussie dollar is off a little bit from where it was and shipping costs have reduced substantially since it closed down. It now looks to be economic again. The project has the strategic advantage of being in the Tiwis, due to its relative close proximity to China. In fact, in Australia it was the closest operating mine to China. China is now becoming the largest source of demand for these minerals.¹⁰

5 Matilda Minerals, *Submission 16*, p. 2.

6 Matilda Minerals, *Submission 16*, p. 3.

7 ABC News, *Matilda Minerals in administration*, 24 October 2008, available: <http://www.abc.net.au/rural/news/content/200810/s2400291.htm> (accessed 15 May 2009); The Australian, *Matilda Minerals in administration as China sale fails*, 22 October 2008, available: <http://www.theaustralian.news.com.au/business/story/0,28124,24530966-36418,00.html> (accessed 15 May 2009).

8 ABN Newswire, *Stirling Resources Limited announced it has finalised payment for the acquisition of Matilda Minerals' assets*, 8 May 2009, available: [http://www.abnnewswire.net/press/en/60616/Stirling_Resources_Limited_\(ASX:SRE\)_Announced_It_Has_Finalized_Payment_For_The_Acquisition_Of_Matilda_Minerals%27_Assets_\(ASX:MAL\).html](http://www.abnnewswire.net/press/en/60616/Stirling_Resources_Limited_(ASX:SRE)_Announced_It_Has_Finalized_Payment_For_The_Acquisition_Of_Matilda_Minerals%27_Assets_(ASX:MAL).html) (accessed 15 May 2009).

9 Stirling Resources, *Projects – Matilda Zircon*, available: <http://www.stirlingresources.com.au/stirling-zircon-project.html> (accessed 18 August 2009).

10 Mr Bruce Maluish, Business Development Manager, Stirling Resources, *Committee Hansard*, 14 August 2009, p. 50.

3.10 In its market update of September 2009, Stirling Resources indicated it hoped to recommence operations in the third quarter of 2009.¹¹

Art centres

3.11 There are three art centres on the Tiwi Islands: Munupi, Jilamara and Tiwi Design.¹² Local Tiwi artists sell their work through the art centres with the bulk of profits returned to the artists and the remainder returned to the art centres to cover operational costs.¹³

3.12 Tiwi Design is the oldest of the three art centres and was established in 1968.¹⁴ It is also one of the most successful commercial indigenous art centres in Australia.¹⁵

3.13 Cumulatively, the three Tiwi art centres support approximately 100 artists and generate over \$2 million in income per annum, excluding government funding.¹⁶ The committee heard that the revenue generated by the art centres has been growing and that, whilst some shrinkage is expected due to the current economic situation, the indigenous arts activities on the Tiwi Islands are sustainable 'with projections of some growth' in the medium-term.¹⁷

3.14 In addition to the art centres, Bima Wear is a fabric printmaking and clothing business based at Nguiu and established in 1969.¹⁸ Bima Wear currently employs twelve Tiwi women full time producing unique fabric prints and sewn garments.¹⁹ The fabrics feature traditional symbols, structures and family and environmental representations that are central to Tiwi culture.²⁰

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- 11 Stirling Resources, 'Corporate Update', 23 September 2009, http://www.stirlingresources.com.au/images/ks/corp_update_23sept09.pdf (accessed 19 October 2009).
- 12 Tiwi Art Network, available: <http://www.tiwiart.com/about.asp> (accessed 15 May 2009).
- 13 Tiwi Art Network, available: <http://www.tiwiart.com/about.asp> (accessed 15 May 2009).
- 14 Tiwi Design, available: <http://www.tiwidesign.com/about.asp> (accessed 15 May 2009).
- 15 Ms Lynn Bean, First Assistant Secretary, Arts Division, Department of the Environment, Water, Heritage and the Arts, *Proof Committee Hansard*, 14 August 2009, p. 30.
- 16 Ms Lynn Bean, First Assistant Secretary, Arts Division, Department of the Environment, Water, Heritage and the Arts, *Proof Committee Hansard*, 14 August 2009, p. 30.
- 17 Ms Lynn Bean, First Assistant Secretary, Arts Division, Department of the Environment, Water, Heritage and the Arts, *Proof Committee Hansard*, 14 August 2009, p. 31.
- 18 Bima Wear, *About Us*, available: <http://bimawear.com/about-us/> (accessed 18 August 2009).
- 19 Bima Wear, *About Us*, available: <http://bimawear.com/about-us/> (accessed 18 August 2009).
- 20 Bima Wear, *About Us*, available: <http://bimawear.com/about-us/> (accessed 18 August 2009).

Tourism

3.15 Tourism on the Tiwi Islands began more than twenty years ago and was initially run by 'external management companies and joint venture'.²¹ The TLC's 1996 economic development strategy outlined the intention for tourism on the islands to 'move away from the joint ventures with non-Tiwi interests'.²²

3.16 Tiwi Tours was first established in 1988 with Pirntubula Pty Ltd and Australian Kakadu Holidays as equal shareholders.²³ Seven years later, Tiwi Tours became wholly-owned by the Tiwi people.²⁴

3.17 Tourists visiting the Tiwi Islands require a permit, which can be obtained through Tiwi Tours or the Tiwi Art Network.²⁵ The 2007/08 Tiwi Land Council Annual Report stated that:

Tourist visitors under the control of licensed and approved operators recorded over a doubling of numbers from 2438 to 5402. This includes Fishing and Day Tourists and also 648 person cabin nights accommodating visitors at Nguiu, many on Government business.²⁶

3.18 Permits issued to visitors through licensed fishing operators, licensed day tour operators and amateur fishing camps generated \$184 899 in income in 2007/08.²⁷

3.19 Recreational fishing has attracted tourists to the Tiwi Islands for many years.²⁸ There is at present one recreational fishing lodge operating on the Islands: Melville Island Lodge is located at Milikapiti and offers 'professionally operated, high quality and personalised "catch & release" fishing adventure situated in a spectacular

21 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 36.

22 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 36.

23 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 38.

24 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 38.

25 Tiwi Land Council, *Visiting the Islands*, available: <http://www.tiwilandcouncil.net.au/Visiting/TIWI-Visiting.htm> (accessed 15 May 2009).

26 Tiwi Land Council, *Annual Report 2007/2008*, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 15 May 2009), p. 25.

27 Tiwi Land Council, *Annual Report 2007/2008*, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 15 May 2009), p. 27.

28 Tiwi Land Council, *Tiwi Islands Region Economic Development Strategy*, November 1996, p. 36.

and pristine wilderness environment'.²⁹ The Lodge employs 10 people and generates revenues of approximately \$2 million per year.³⁰

Carbon sequestration and storage

3.20 With regard to natural forests, carbon sequestration and storage is the process by which plants absorb atmospheric carbon through photosynthesis and store it in their leaves, woody tissue and roots.³¹ Carbon is also stored in the decaying plant matter, such as deadwood and leaf litter, found in forests.³²

3.21 Forests and the 'green carbon' stored within them 'play a critical role in regulating greenhouse gas concentrations in the atmosphere'.³³ As a result, there has been in recent years increasing focus on reducing emissions from deforestation and degradation (REDD) 'as a vital component of a comprehensive solution to the climate change problem'.³⁴

3.22 Several submitters suggested carbon sequestration and storage should be pursued as an economic opportunity with low environmental impacts.

3.23 Mr Peter Robertson stated:

A new model is needed which puts at the front and centre the Tiwi Islands' twin globally recognised assets, namely, its Indigenous culture, knowledge and skills and secondly, the rich biodiversity and carbon sequestration values of the islands' forests, coasts and marine environment.

The successful adoption and rollout of this high-value, low-risk, low-impact approach, which unites the arts, tourism, Indigenous rangers and land management, the carbon economy and low impact production of fruit and other crops, will need to be supported by a whole-of-government approach...³⁵

29 Melville Island Lodge, available: <http://www.melvillelodge.com.au/index.html> (accessed 15 May 2009).

30 Mr Mike Baxter, *Submission 2*, p. 1.

31 Brendan G. Mackey et al, *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, 2008, pp 11 & 22.

32 Brendan G. Mackey et al, *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, 2008, p. 22.

33 Brendan G. Mackey et al, *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, 2008, pp 11-13.

34 Brendan G. Mackey et al, *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, 2008, p. 9.

35 Mr Peter Robertson, *Committee Hansard*, 18 May 2009, p. 30.

3.24 Dr Stuart Blanch agreed that there were 'carbon management' opportunities for the Tiwi people to explore.³⁶

3.25 Professor Stephen Garnett explained to the committee the operation of a REDD scheme and its potential benefits to the Tiwi people:

...people get paid not to cut down forests which they have a permit to clear. That would depend on the amount of carbon in the forest, both in the standing trees and in the soil...There is potential for the Tiwi Islanders to be part of that market.³⁷

And:

Senator IAN MACDONALD—...In simple terms, are you saying that the Tiwi Islanders can say to the carbon market: 'Look, we have some native forests here. We're going to let them continue to grow and you pay us to offset some of your emissions elsewhere in the world.' Is that right?

Prof. Garnett—More or less right, yes. They have to have the permits to clear. You cannot do that for land that was never going to be cleared.

3.26 In his submission to the inquiry, Professor Garnett suggested that 4200 hectares of native forests approved for clearing on the Tiwi Islands may 'have been worth up to \$110 million under a REDD scheme under the [Climate, Community and Biodiversity] Standard of the voluntary carbon market' had they *not* been cleared.³⁸

3.27 Professor Garnett indicated that, potentially, the Tiwi could earn more money through the carbon market than from the continuation or expansion of plantation forestry on the islands.³⁹ However, he also acknowledged that the possibility of any future earnings for the Tiwi people through the carbon market were uncertain:

Prof. Garnett—...The situation has changed and it is still uncertain. It depends on the system that is eventually brought in under the CPRS.

Senator IAN MACDONALD—If anything is brought in.

Prof. Garnett—If anything is brought in. But until that is settled one way or another you could not attract investment of any sort.⁴⁰

3.28 The committee understands that there is some uncertainty about future opportunities for carbon capture or storage to benefit the Tiwi Islands. This is in part because past benefits were dependent on choosing to retain forest cover for which

36 Dr Stuart Blanch, Coordinator, Environment Centre NT, *Committee Hansard*, 18 May 2009, p. 3.

37 Professor Stephen Garnett, *Proof Committee Hansard*, 2 October 2009, p. 19.

38 Professor Stephen Garnett, *Submission 24*, p. 1.

39 Professor Stephen Garnett, *Proof Committee Hansard*, 2 October 2009, p. 18.

40 Professor Stephen Garnett, *Proof Committee Hansard*, 2 October 2009, pp 17-18.

there were pre-existing permits to clear. This type of opportunity no longer exists, owing to these areas having now been cleared and put under plantation.

3.29 Forests for carbon capture require the management of risks to the forests such as fire and cyclone damage. Professor Garnett indicated that experience in western Arnhem Land showed that fire management could be successful, with the additional benefits of providing land ranger employment, which had strong support amongst Indigenous land managers.⁴¹

Conclusion

3.30 The committee believes that the success of economic development on the Tiwi Islands will be dependent upon a variety of activities contributing to that development. Economic activities detailed in this chapter plus other opportunities that may be identified in the future are likely to have an important role in this regard. However, the committee is of the view that all stakeholders must be allowed to adequately participate in decisions regarding how economic diversity is achieved on the Tiwi Islands.

3.31 The committee notes that Indigenous Business Australia (IBA) is an authority that works to:

identify and pursue opportunities that enable Indigenous Australians to create wealth, accumulate assets and achieve their financial aspirations. We do this by building mutually respectful and responsible partnerships with Indigenous Australians, government agencies, private sector business and industry...⁴²

3.32 The committee notes that this includes partnership arrangements of the sort that are being explored by the Tiwi Land Council. The committee believes it is important that the Land Council work with IBA and the Northern Territory government in the assessment of any future major economic development initiatives, to ensure the most extensive possible rigorous economic assessment is undertaken.

41 Professor Stephen Garnett, *Proof Committee Hansard*, 2 October 2009, p. 21.

42 Indigenous Business Australia, About Us, <http://www.iba.gov.au/about-us/> (accessed 28 October 2009).

Chapter 4

Governance

Tiwi Land Council

4.1 Aboriginal land councils in the Northern Territory are established under part III of the *Aboriginal Land Rights (Northern Territory) Act 1976*. The legislative functions of a land council are numerous and include:

- To ascertain and express the wishes and opinion of Aboriginals living in the area of the land council;
- To protect the interest of traditional Aboriginal owners of, and other Aboriginals interested in, land in the area of the land council;
- To consult with traditional Aboriginal owners of, and other Aboriginals interested in, Aboriginal land in the area of the land council with respect to any proposal relating to use of that land;
- To negotiate with persons desiring to obtain an estate or interest in land in the area of the land council, and
- To assist Aboriginals in the area of the land council to carry out commercial activities.¹

4.2 Each land council is a body corporate and the Chair, Deputy Chair and members of each land council are deemed to be directors of the council for the purposes of certain provisions under the *Commonwealth Authorities and Companies Act 1997*.²

4.3 There are currently four Aboriginal land councils in the Northern Territory: the Central Land Council, the Northern Land Council, the Anindilyakwa Land Council and the Tiwi Land Council.³

Membership and structure

4.4 The Tiwi Land Council was established in 1978 under Part III of the *Aboriginal Land Rights (Northern Territory) Act 1976*. The composition of the Tiwi

1 *Aboriginal Land Rights (Northern Territory) Act 1976*, s. 23.

2 *Aboriginal Land Rights (Northern Territory) Act 1976*, ss 22 & 22A.

3 Australian Government Online Directory, available: <http://www.directory.gov.au/osearch.php?ou%3DNorthern%20Territory%20Land%20Councils%20Cou%3DOther%20Portfolio%20Bodies%5C%2C%20Committees%5C%2C%20Boards%20and%20Councils%20Co%3DFamilies%5C%2C%20Housing%5C%2C%20Community%20Services%20and%20Indigenous%20Affairs%20Co%3DPortfolios%20Co%3DCommonwealth%20of%20Australia%2C%3DAU&changebase> (accessed 30 June 2009).

Land Trust and Land Council were finalised in 1979, with membership initially based on twelve clan groups comprising traditional owners.⁴

4.5 In 1981, the traditional landowners agreed to collective representation. In 1987, the Minister for Aboriginal Affairs approved the TLC's membership structure with each clan group represented by a total of six representatives, including the land trustee. This was subsequently reduced to five people in 1999.⁵

4.6 Currently, the TLC comprises eight clan groups.⁶ The land council has 40 members, five representatives from each of the eight clan groups.⁷ This membership structure seeks to ensure that 'the interests of all Traditional Landowners are equitably represented'.⁸ Each clan group nominates a trustee, who is regarded as the senior landowner of the group, to represent them on the land council.⁹ In turn, each trustee nominates another four representatives from their clan group, resulting in the five representatives of each clan group who are members of the land council.¹⁰

4.7 The TLC advised the committee that the process of choosing members of the land council is a traditional process approved by the Minister for Indigenous Affairs:

...a nomination process of each land owning group nominating their "leader" or leading family representative. That leader or "Trustee" nominates four others from group families to serve with him on the Land Council. It is a process that has been clarified and maintained by successive Ministers.¹¹

4.8 The Tiwi Management Committee is the executive of the land council and comprises the Chairman, Deputy Chairman and four managers¹², elected from and by the membership of the land council. The current Chairman is Mr Robert Tipungwuti and Mr Maralampuwi Kurrupuwu is the Deputy Chairman. Mr Cyril Kalippa, Mr Andrew Tipungwuti, Mr Matthew Wonaeamirri and Mr Walter Kerinaiaua are the

4 Tiwi Land Council, *Submission 34*, p. 7.

5 Tiwi Land Council, *Submission 34*, p. 8.

6 Tiwi Land Council, *Submission 34*, p. 8.

7 Tiwi Land Council, *Submission 34*, p. 8.

8 Tiwi Land Council, *Submission 34*, p. 8.

9 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 2.

10 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 2.

11 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 2.

12 Tiwi Land Council, *Annual Report 2007-2008*, pp 8-9, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 16 June 2009).

other members of the management committee.¹³ The management committee is supported by a secretary, Mr John S Hicks.¹⁴

4.9 The Aboriginal Land Rights Act requires the Chair of a land council to hold that office for a term of three years. The Act also provides for a Chair of a land council to be eligible for re-election at the expiration of their term.¹⁵ Election of the Chair is conducted by the Australian Electoral Commission.¹⁶

Administration and employees

4.10 The Tiwi Land Council employs 24 staff, 20 of whom are located on the Tiwi Islands and four of whom are located at the land council's office in Darwin.¹⁷

4.11 The committee was advised that the Chairman was located on Bathurst Island and the four managers of the TLC are located 'at each of the four communities on Melville and Bathurst'.¹⁸

Funding

4.12 The TLC receives federal government funding under part VI 'Aboriginals Benefit Account' of the Aboriginal Land Rights Act.¹⁹ In 2007-08, the TLC had an ABA approved budget of \$2.10 million and received \$1.93 million in ABA funding.²⁰ The Tiwi Land Council was able to generate, through cost recovery and private resource funding, the difference of \$170 000 between the approved budget and the ABA funding.²¹

13 *Proof Committee Hansard*, 19 May 2009, p. 1 and Tiwi Land Council, *Annual Report 2007-2008*, pp 8-9, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 16 June 2009).

14 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 1.

15 *Aboriginal Land Rights (Northern Territory) 1976*, s. 30.

16 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 2.

17 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 9 September 2009).

18 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 9 September 2009).

19 *Aboriginal Land Rights (Northern Territory) Act 1976*, part VI.

20 Tiwi Land Council, *Annual Report 2007-2008*, p. 19, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 16 June 2009) & FaHCSIA, *Annual Report 2007-2008*, available: http://www.fahcsia.gov.au/about/publicationsarticles/corp/Documents/2008%20Annual%20Report/13_10.htm (accessed 30 June 2009).

21 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 9 September 2009).

4.13 In 2007-08, the self-generated income of the TLC was largely derived from 'private investment in development of land'.²²

Decision-making, consultation and communication

4.14 Section 67B of the Aboriginal Land Rights Act allows land councils to lease or enter into agreements for the use of Aboriginal land. The Act requires land councils to only enter into such agreements if they are satisfied that traditional Aboriginal owners understand and consent to the land use; there has been public consultation; and the terms and conditions of the agreement are fair.²³

4.15 The structure and decision-making processes of the Tiwi Land Council are intended to enable traditional owners to 'make their own decisions'.²⁴ The TLC stated that the:

...decision-making process empowers the Traditional Landowners by allowing them to decide, collectively as a group, how their land is utilised. These processes are recorded at 854 meetings from 1977 to 2009, and include 353 meetings with an average of 33 landowners in attendance at every meeting directly discussing forestry, mining and land use. In addition to these records are records of meetings and discussions between each land owning group (8) discussing their own land use and funds management. These meetings total on average 20 per annum.

The Tiwi Land Council has been very active in its role and facilitates advocacy and representation of the Traditional Landowners through various strategic committees and workshops that it has initiated.

...

The decision-making process is thoroughly consultative not only of the Traditional Landowners but also of other residents and technical specialists such as environmental engineers, various government bodies and other advisers to ensure decisions are well-informed.

The process is transparent and the Tiwi Land Council is highly accountable to the public, the Federal Parliament and importantly to the Tiwi Islanders.²⁵

4.16 With specific regard to decisions made about forestry on the Tiwi Islands, the committee heard that the TLC seeks approval from traditional owners following 'comprehensive formal approval protocols and processes'.²⁶

22 Tiwi Land Council, *Annual Report 2007-2008*, p. 19, available: http://www.tiwilandcouncil.net.au/Publications/Publications_all.htm (accessed 16 June 2009).

23 *Aboriginal Land Rights (Northern Territory) Act 1976*, s. 67B.

24 Tiwi Land Council, *Submission 34*, p. 10.

25 Tiwi Land Council, *Submission 34*, p. 10.

26 Tiwi Land Council, *Submission 34*, p. 16.

4.17 In its submission to the inquiry, the TLC discussed the importance of consultation with and seeking the approval of traditional owners in 'the grant of an estate or interest in land to forestry business operators'.²⁷ The council outlined a checklist that it follows 'to ensure that all members of the Tiwi Land Council involved in the process are fully aware of the approval process requirements':

- (i) Background information sufficient to explain the context of the transaction, i.e. who are the parties, what is being sought and the expected benefit for Aboriginal people.
- (ii) A description of the transaction including a short summary of the key elements of any agreement, term, payments, and special conditions.
- (iii) Details of the manner in which the Tiwi Land Council conducted consultation with, and obtained the consent of the traditional Aboriginal owners as a group, including the manner in which notice of the meeting were given, dates of meetings, attendance at the meetings and resolutions coming out of the meetings. Details will also need to be included that, where consent was provided, this decision was made by the group in accordance with the traditional decision-making process or, where no such process existed, that the traditional Aboriginal owners agreed to a process and that process was followed in the group coming to a decision.
- (iv) Details of the manner in which the Tiwi Land Council conducted consultation with other Aboriginal people, the manner in which notice of the meetings were given, dates of the meetings, attendance at the meetings and resolutions coming out of the meetings.
- (v) A statement that the Tiwi Land Council is satisfied that the terms and conditions of the proposed licence/lease are reasonable, and that it has agreed to those terms and conditions with the proposed licensee/lessee.
- (vi) Any other information that the Minister should have regard to in considering whether or not to give consent or approval.²⁸

4.18 The TLC also follows a formal protocol titled the 'Plantation Land Use Request and Consultation Process' which is implemented when approval is sought from traditional owners.²⁹

4.19 The request and consultation protocol involves:

- Assessment and recommendation through the Tiwi Islands Natural Resource Management Committee (a committee of 12 Tiwi Land/Marine Rangers, Tiwi Land Council leaders and land trustees).

27 Tiwi Land Council, *Submission 34*, p. 16.

28 Tiwi Land Council, *Submission 34*, pp 16-17.

29 Tiwi Land Council, *Submission 34*, p. 17.

- Analysis by the land owners themselves through consideration and analysis of LURFs (Land Use Request Forms) that are assessed in conjunction with the advice of skilled environmental scientists, officers and landowners identified by the Tiwi Land Owners Register.
- Public open days for discussion with "other Aboriginal people who may be affected" by the proposed forestry developments.³⁰

4.20 The approval and consultation processes outlined by the Tiwi Land Council appear to fulfil the legislative requirements of the Aboriginal Land Rights Act.

4.21 However, despite these approval and consultation processes, the committee heard evidence from some Tiwi traditional owners that consultation about forestry decisions had been lacking:

I am really disappointed with how the land council and the Great Southern went about doing their own business, which is clearing the trees. They only consulted with certain people, not the whole landowning groups. It was just the people behind the land council. They are the ones speaking for the people; they are the ones doing the deals. But the local people do not see the paperwork.

...

I am really disappointed because the Great Southern and the land council should have been consulting the whole lot of the land use people, the people who own the land. You have to consult them before you go ahead and do things.³¹

And:

...when the forestry originally came over to the islands and they first put their proposals forward to us, people up at Garden Point put in a bid to get forestry happening up there. Do you understand that there was not enough shown in their proposal? We were just told an x amount of hectares. We are not farmers—we are footballers and we are hunters and gatherers. We do not know anything about a hectare. So they came and just told us that x amount of hectares were going to be cleared—there was not much actually shown in their proposal of what they wanted to do. There were concerns among the people as the land was cleared and they realised that more land was going to be cleared than they first thought.

There were no minutes to show how the meetings were conducted and what was said at the meetings. There was no process in regard to that. Then the forestry mob that came in then directly told us that it was going to happen whether we liked it or not.³²

30 Tiwi Land Council, *Submission 34*, p. 17.

31 Mr Adam Kerinaiaua, *Proof Committee Hansard*, 20 May 2009, pp 13-14.

32 Mr Manyi Rioli, *Proof Committee Hansard*, 20 May 2009, p. 14.

4.22 Other witnesses including Peter Robertson, formerly of the Environment Centre of the Northern Territory, also indicated that they had been approached by Tiwi Islanders with concerns about the adequacy of consultation processes:

There was a strong message that most Tiwi were not adequately informed about, or could not understand, the deals that underpinned the project, or who the various companies involved were, or what the real benefits, if any, would be to Tiwi.³³

4.23 The TLC was adamant that the Tiwi people had been properly informed:

The majority of people, as you have already heard this morning, had an earlier meeting at Maxwell Creek. There has been a process of consultation with the people. People know. And it is not a majority of people; it is only a minority of our people who sometimes do not, perhaps, attend meetings and the information does not really go out to those minority people. There are not a great deal of people who do not know about the information.

...

No, I am sure that if you go through the submission and the land council records, you will see there have been a number of consultations that have occurred between Great Southern and the Tiwi people. There is no way that you can say there is no record of people knowing what has been happening on the islands. People are quite aware.³⁴

4.24 Ms Liddy, who was opposed to some of the forestry plantation establishment, did indicate that there was significant participation in some of the meetings that made decisions to go ahead with the plantations:

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

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

Senator CROSSIN—Can you remember what they told you?

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

Senator CROSSIN—For the rent of the land?

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

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

33 Mr Peter Robertson, *Submission 26*, p. 1.

34 Mr Marius Puruntatameri, Member, Tiwi Land Council, *Committee Hansard*, 19 May 2009, pp 11 & 12.

Ms Liddy—... I did not take much notice, but there would have been a lot.

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

Ms Liddy—There were plenty of them.

4.25 The TLC also indicated that the minutes of council meetings were readily accessible by members of the community:

Senator CROSSIN—And the minutes of the meetings are made public?

Mr Hicks—The minutes of the meeting are held in the managers' offices of the land council. The minutes are kept and bound and recorded each year.

Senator CROSSIN—Are they public documents for anyone on the island to look at?

Mr Hicks—No. There is a confidentiality clause in the land rights act that allows the landowners to decide. Generally, minutes that are printed out get around the community.

Senator CROSSIN—So if you wanted to know what was happening at a land council meeting or see the minutes you would need to ask one of the trustees.

Mr Hicks—No. You could walk down to Cyril Kalippa's office, Walter's office or the office at Milikapiti—

Senator CROSSIN—And look at them there but not copy them?

Mr Hicks—I do not know that we have had a request to copy them.

Senator CROSSIN—But you could actually ask to see them if you wanted to? If you were a member of the community you could ask to see the minutes?

Mr Hicks—Absolutely, and people do, don't they?

Mr Puruntatameri—That is right.³⁵

4.26 The committee notes that subsection 31(11) of the Aboriginal Land Rights Act requires a land council to make the minutes of its meetings available to the local community:

A Land Council must allow the following persons to inspect, at any reasonable time without charge, the minutes of its meetings (other than any part of the minutes that relates to an excludable matter):

(a) the traditional Aboriginal owners of Aboriginal land in the area of the Council;

(b) any Aboriginal living in the area of the Council.³⁶

35 Mr John S Hicks, Secretary, Tiwi Land Council and Mr Marius Puruntatameri, Member, Tiwi Land Council, *Committee Hansard*, 19 May 2009, p. 6.

36 *Aboriginal Land Rights (Northern Territory) Act 1976*, s. 31(11).

4.27 It is unclear to the committee whether the approval and consultation processes outlined by the TLC have been communicated to and are understood by Tiwi people who are not members of the land council. The committee notes that, in preparing its report on timber industry arrangements, Oakton found that

the origin of the decision for land use rental money to be paid to family owners is unclear. TLC could not provide evidence showing when this was agreed upon.³⁷

This suggests that the transparency of decision making and minute-taking processes may not be entirely adequate.

4.28 The committee does not believe that the availability of minutes being limited to Land Council offices is conducive of transparency. Minutes must be more easily available. It is also unclear to the committee whether the information required as part of the land council's approval process for forestry projects, such as descriptions of transactions and details of consultation, is easily accessible by interested parties outside the land council or has been widely, easily and appropriately explained, in particular to the Tiwi people.

Relationship with other entities

4.29 Paragraph 23(1)(ea) of the *Aboriginal Land Rights (Northern Territory) Act 1976* states that a function of a land council is:

(ea) to assist Aboriginals in the area of the Land Council to carry out commercial activities (including resource development, the provision of tourist facilities and agricultural activities), in any manner that will not cause the Land Council to incur financial liability or enable it to receive financial benefit³⁸

4.30 The Aboriginal Land Rights Act thereby prevents land councils from being commercial entities. This has meant that at least one commercial entity has been established in the area of each Aboriginal land council, to engage or invest in commercial activities for the benefit of traditional landowners. Pirntubula Pty Ltd is such a commercial enterprise.

Pirntubula Pty Ltd

4.31 The Tiwi Land Council described the establishment of Pirntubula Pty Ltd:

Pirntubula was established at the behest of the Northern Territory government in 1986 when they realised that the land council could not engage in commerce and they needed a vehicle to transfer the assets of pine

37 Oakton, *Tiwi Land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 7.

38 *Aboriginal Land Rights (Northern Territory) Act 1976*, paragraph 23(1)(ea).

trees to a Tiwi entity. The distinction between the land council, which is a statutory authority established for the benefit of the land owners, and Pirntubula, which is a trustee company established for the benefit of the landowner's commercial interests, goes back to 1986. It is not a creature of the land council. The land council has no shares in it. It is wholly owned and structured by the landowners. Yes, the land council does provide suggestions of things to invest in, like the health board, the training board, the marine ranger program, ceremony, culture and some books that the leaders would like to give you before you leave. But all those things are part of their initiative, and the land council has neither the resources nor the legal capacity to be involved in those.³⁹

4.32 The TLC advised the committee that the directors of Pirntubula Pty Ltd were Mr Matthew Wonaeamirri, Mr Cyril Kalippa, Mr Andrew John Tipungwuti, Mr Ian Silvester (formerly Chief Executive Officer of Perkins Shipping) and Mr Craig Phillips (Great Southern Pty Ltd).⁴⁰ The Australian Securities and Investments Commission (ASIC) also list Mr Walter Kerinauia in addition to the directors identified by the TLC.⁴¹ Mr John S Hicks is the company secretary of Pirntubula Pty Ltd.⁴²

4.33 Mr Matthew Wonaeamirri, Mr Cyril Kalippa, Mr Andrew Tipungwuti and Mr Walter Kerinauia are also members of the TLC Management Committee.

4.34 The Tiwi directors of Pirntubula Pty Ltd are entitled to a payment of \$10 000 each per annum, however, the committee heard evidence that 'Looking back through the last audit I do not think each has had \$10,000 for a number of years'.⁴³

4.35 ASIC records show that Pirntubula Pty Ltd has eight shareholders.⁴⁴ Each of the shares is non-beneficially held; that is, the shareholder is not the owner or beneficiary of the share but rather holds it in trust on behalf of another party.

4.36 The committee understands that Pirntubula is 'wholly owned...by the landowners'.⁴⁵ Of the eight shareholders of Pirntubula Pty Ltd, some are land trustees whilst others are not but 'All are representatives of the eight Tiwi landowning

39 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 7.

40 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 8.

41 ASIC, *ASIC Historical Company Extract ABN: 93009633934*, 16 June 2009, p. 2.

42 ASIC, *ASIC Historical Company Extract ABN: 93009633934*, 16 June 2009, p. 4.

43 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 8.

44 ASIC, *ASIC Historical Company Extract ABN: 93009633934*, 16 June 2009, pp 4-5.

45 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 7.

families'.⁴⁶ The shares 'are held non-beneficially for the benefit of those listed as adults on the Tiwi landowners register'.⁴⁷

4.37 The committee heard evidence that in the past Pirntubula Pty Ltd had provided funding for the Tiwi Health Board, the Tiwi Training and Employment Board, the Tiwi Education Board, the marine ranger program and Tiwi Resources.⁴⁸ The funding of these had subsequently been taken over by government.⁴⁹

4.38 Currently, Pirntubula Pty Ltd contributes to an education trust fund and funding for the Tiwi College.⁵⁰ The TLC informed the committee that Pirntubula Pty Ltd had recently sold assets, such as Tiwi Tours, in order to raise income to meet its funding commitments:

Senator CROSSIN—How does Pirntubula get its money to exist, essentially?

Mr Hicks—Now it gets it from having to sell assets. The demands on Pirntubula through the years have been significant. It currently has an income of around \$360,000 a year. \$300,000 of that is rent from the port and the Tiwi commitment to the Tiwi College is \$300,000 a year for the support of the Tiwi education board. The other \$60,000 comes from a number of bits and pieces.

...

Mr Hicks—We have had to sell Tiwi Tours to raise \$200,000 for a contribution to the college. The Mantiyupwi landowners, who now own Nguiu or Wurrimiyanga, purchased it.⁵¹

Tiwi Resources Pty Ltd

4.39 Tiwi Resources Pty Ltd was established in 1991⁵² and was described to the committee as a private company whose main business 'is to receive funds from

46 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 7.

47 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 8.

48 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, pp 1 & 3.

49 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, pp 1–3.

50 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 3.

51 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, pp 8–9.

52 ASIC, *ASIC Historical Company Extract ABN: 87054667051*, 16 June 2009, p. 1.

activity on Tiwi land and distribute those funds in a transparent and accountable way to the landowners, whose land those funds are related to'.⁵³

4.40 There are two directors and eight shareholders of Tiwi Resources Pty Ltd.⁵⁴ Seven of the eight shares are non-beneficially held. The sole beneficially held share belongs to Mr Bernard Tipiloura.⁵⁵

4.41 Three of the non-beneficial shareholders of Tiwi Resources Pty Ltd, Mr Walter Kerinauia, Mr Cyril Kalippa (aka Rioli)⁵⁶ and Mr Matthew Wonaeamirri, are also directors of Pirntubula Pty Ltd as well as members of the TLC executive.

Tiwi Enterprises Pty Ltd

4.42 Tiwi Enterprises Pty Ltd 'is owned by Traditional Owners of the Tiwi Islands with a charter of developing business and jobs for Tiwi People' and 'was created by the Tiwi Traditional Land Owners in late 2007 with a specific brief to engage as a contractor to the Forest Industry on Melville Island'.⁵⁷ Tiwi Enterprises Pty Ltd is now engaged in a range of activities in addition to forestry, including:

a Motel and Housing Office for the Mantiyupwi Clan in Nguiu; A 'Business Incubator' support in Nguiu for small business, A Marine Barramundi Farm at Snake Bay; A bus service to support both the Forestry workers & the Tiwi College and to re-establish Remote Indigenous Broadcasting Service (RIBS) with local participation⁵⁸

4.43 There are eight directors and eight shareholders of Tiwi Enterprises Pty Ltd.⁵⁹ All of the shares are beneficially held.⁶⁰

4.44 Two of the directors and shareholders, Mr Cyril Kalippa and Mr Wally Kerinauia, are directors of Pirntubula Pty Ltd and members of the executive of the TLC.

53 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 13.

54 ASIC, *ASIC Historical Company Extract ABN: 87054667051*, 16 June 2009, p. 2.

55 ASIC, *ASIC Historical Company Extract ABN: 87054667051*, 16 June 2009, p. 3.

56 Mr Cyril Kalippa has also been known as Mr Cyril Rioli; see Mr John Hicks, Executive Secretary, Tiwi Land Council, *Estimates Hansard*, 2 November 2006, p. 58.

57 Tiwi Enterprises Pty Ltd, *Submission 3*, p. 2.

58 Tiwi Enterprises Pty Ltd, *Submission 3*, p. 2.

59 ASIC, *ASIC Historical Company Extract ABN: 97128240184*, 16 June 2009, pp 2-3.

60 ASIC, *ASIC Historical Company Extract ABN: 97128240184*, 16 June 2009, p. 3.

Mantiyupwi Pty Ltd

4.45 Mantiyupwi Pty Ltd was established in 2008⁶¹ and is 'the commercial arm representing the Mantiyupwi Land Owning Group of Traditional Owners for southern Bathurst and Melville Islands'.⁶²

4.46 Mantiyupwi Pty Ltd has five directors.⁶³ Pirntubula Pty Ltd is the ultimate holding company of Mantiyupwi Pty Ltd, beneficially holding the sole share in the company.⁶⁴ Mantiyupwi Pty Ltd currently owns Tiwi Tours, the sole tour operator on the Tiwi Islands.

Port Melville Pty Ltd

4.47 Port Melville Pty Ltd was registered in 2003.⁶⁵ The three company directors, Mr Cyril Kalippa, Mr Andrew Tipungwuti and Mr Matthew Wonaeamirri are all members of the TLC executive.⁶⁶ Mr John S Hicks is the company secretary.⁶⁷

4.48 There is a single share in the company which is held by Pirntubula Pty Ltd.⁶⁸ The committee has heard evidence that this is purely 'for convenience only' and that 'The share is only held by Pirntubula on a temporary basis whilst trust arrangements are established'.⁶⁹

4.49 Port Melville Pty Ltd was established to facilitate construction of the deep sea wharf at Port Melville. Funding for construction of the port came from Pirntubula (ABA funding) and from Great Southern Ltd.⁷⁰

Tiwi Islands Training and Employment Board

4.50 The Tiwi Islands Training and Employment Board (TITEB) was established by the TLC in 1999 'after recognising that enterprise development on the Islands could supply real jobs for the Tiwi but only if they were trained'.⁷¹ The committee

61 ASIC, *ASIC Historical Company Extract ABN: 41129310710*, 16 June 2009, p. 1.

62 Mantiyupwi Pty Ltd, *Submission 6*, p. 1.

63 ASIC, *ASIC Historical Company Extract ABN: 41129310710*, 16 June 2009, pp 1-2.

64 ASIC, *ASIC Historical Company Extract ABN: 41129310710*, 16 June 2009, pp 2-3.

65 ASIC, *ASIC Historical Company Extract ABN: 80106954134*, 16 June 2009, p. 1.

66 ASIC, *ASIC Historical Company Extract ABN: 80106954134*, 16 June 2009, p. 2.

67 ASIC, *ASIC Historical Company Extract ABN: 80106954134*, 16 June 2009, p. 2.

68 ASIC, *ASIC Historical Company Extract ABN: 80106954134*, 16 June 2009, p. 2.

69 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 7.

70 Mr John S Hicks, Secretary, Tiwi Land Council, *Proof Committee Hansard*, 19 May 2009, p. 8.

71 TITEB, *Submission 10*, p. 2.

understands that, whilst established by the TLC, TITEB is 'self-governing and separately incorporated'.⁷²

4.51 TITEB is a registered training organisation (RTO) and group training organisation (GTO).⁷³ It has been managed by the chief executive Mr Norm Buchan since its inception.⁷⁴

4.52 The committee was informed that approximately '350 Tiwi participate in some form of structured, accredited training each year through the RTO' and that there are currently 81 apprentices in training through the GTO.⁷⁵

4.53 Funding for TITEB comes from a variety of federal and territory sources. At present, funding is provided through the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA), the Department of Education, Employment and Workplace Relations (DEEWR), the Northern Territory Department of Education and Training (DET), Job Network agencies and TITEB's charitable trust.⁷⁶

Payments of royalties from forestry

4.54 Under the agreement with Great Southern it was intended that, when harvesting of the plantations commenced, there would be an income stream of royalties that would need to be distributed to Tiwi Islanders. These would comprise a two per cent cut of the Net Harvest Proceeds, and a third of Great Southern's Management Entitlement. For a 3000 hectare annual harvest, the value of these royalties was estimated by consultants to be around \$693 000 per annum.⁷⁷

4.55 The *Aboriginal Land Rights (Northern Territory) Act 1976* states that the Land Trust holds lands 'for the benefit of Aboriginals entitled by Aboriginal tradition to the use or occupation of the area of land comprising all the lands so granted whether or not the traditional entitlement is qualified as to place, time, circumstance, purpose or permission'.⁷⁸ Oakton consultants indicated that the 'benefit' of Tiwi could

72 Tiwi Land Council, *Submission 34*, p. 9.

73 TITEB, *Submission 10*, p. 2.

74 TITEB, *Submission 10*, p. 2.

75 TITEB, *Submission 10*, p. 2.

76 Mr Norm Buchan, Chief Executive Officer, TITEB, *Proof Committee Hansard*, 19 May 2009, p. 28.

77 Oakton, *Tiwi Land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 12.

78 S. 12AAA(3)

have several meanings, including 'distribution to all Tiwi people evenly' or 'distribution [only] to Tiwi forest area traditional land owners'.⁷⁹

4.56 Oakton reported that the Tiwi Land Council was concerned 'that possible community conflict could stem from how the money is allocated', and has asked the Minister for Families, Housing, Community Services and Indigenous Affairs to clarify how the benefit provision in the Act should be applied. Oakton shared the Land Council's concerns and recommended that the Minister's Department work with the land council to develop guidelines for the distribution of royalties.

Recommendation 2

4.57 The committee recommends that, consistent with the view of Oakton and the Land Council, that the Department of Families, Housing, Community Services and Indigenous Affairs should work with the Tiwi Land Council and other major stakeholders to develop guidelines for the distribution of money to traditional owners.

4.58 It is reasonable to assume that the collapse of Great Southern and, for now at least, the apparent ownership by the Tiwi Islanders of the plantations may result in a fundamentally different income stream to the original royalty payment system. The committee believes that, regardless of this, the mechanism by which the financial benefits from forestry are distributed will be critical to the integrity of the project and its acceptance amongst Tiwi Islanders.

Concerns raised about the Tiwi Land Council

Female representation on the land council

4.59 Historically, female representation on the Tiwi Land Council has been limited. Since the inception of the Tiwi Land Council, two women have been selected and only one of these served on the land council.⁸⁰

4.60 In 1988, Ms Marjorie Liddy (nee Dunn) was invited to succeed Mr Holder Adams on the land council following his accidental death.⁸¹ Ms Liddy declined this invitation to serve on the land council:

Ms Liddy—I must admit that they asked me if I wanted to be on the council. I said no because I was trying to get my little outstation started at

79 Oakton, *Tiwi land Council Timber Industry Arrangements: Review 2008/2009: Final Report*, Report to Department of Families, Housing, Community Services and Indigenous Affairs, Canberra, February 2009, p. 13.

80 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 6.

81 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 6.

that time. They have asked me a couple of times but some things I did not like that they were doing. For instance, I did not like that pine tree.

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

Ms Liddy—Yes, I was doing other things.

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

Ms Liddy—I think I might not have agreed with some of their decisions.⁸²

4.61 Some time after Ms Liddy was invited to serve on the land council, Ms Michaela Tipungwuti was elected to the Tiwi Islands Local Government.⁸³ The Tiwi Land Council subsequently agreed that 'Michaela could also sit as a member of the Land Council then seeking nominations to fill a vacancy for the Maluwu land owning group'.⁸⁴ Ms Tipungwuti resigned her position on the land council after one council meeting.⁸⁵

4.62 Some witnesses expressed concern about the apparent lack of female representation on the Tiwi Land Council. The committee heard evidence that female representation on the Tiwi Land Council was not precluded by the ALRA and was a matter for the land council to determine:

Mr Roche—It is certainly open for the land council, as a number of the other land councils already do, to provide in their rules for the election of women members to the council. It is certainly not precluded by the land rights act.

Senator CROSSIN—It is not precluded by the land rights act?

Mr Roche—No. It is a matter for each land council, of course. The minister, as you know, has to approve the rules, but in the normal course of events it is the land council which suggests the rules.⁸⁶

4.63 Ms Marion Scrymgour MLA, the Northern Territory Assembly Member for Arafura, within which lie the Tiwi Islands, described the governance arrangements on the Islands as 'grossly discriminatory towards women'.⁸⁷

82 Ms Marjorie Liddy, *Proof Committee Hansard*, 20 May 2009, p. 10.

83 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 7.

84 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 7.

85 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 7.

86 Mr Greg Roche, Branch Manager, Indigenous Programs, Department of Families, Housing, Community Services and Indigenous Affairs, *Proof Committee Hansard*, 14 August 2009, p. 8.

87 Ms Marion Scrymgour, *Submission 41*, p. 2.

4.64 The committee met with a significant number of Tiwi women at Nguiu. These discussions were confidential at the women's request. However the range of concerns raised by these women suggested to the committee that there continue to be some problems as a result of governance practices on the Islands.

4.65 When asked about the capacity for women to be members of the land council, the TLC stated that:

Discussions with the Land Council through the past decade record an acceptance and willingness for women to join their numbers. "Of course women will be members; when we work out how best to do it." (C. Kalippa 2009).

...

Perhaps Land Council discussions with the "strong women" themselves best describes the historical and current difficulties. In answer to the request; "Can you help with your strength to get the kids into school?" the answer was and is, "You know we cannot do anything like talking direct. You know we can't talk with parents about their kids. That not Tiwi woman way. We got that avoidance tradition, you must know that."⁸⁸

4.66 The TLC acknowledged what it perceived to be 'the remarkable foresight of the legislature in drafting the Aboriginal Land Rights (Northern Territory) Act 1976 – for traditional recognition and purpose', thus enabling the Tiwi people – through the TLC – to maintain traditional gender distinctions in decision-making.⁸⁹ Further, the TLC claimed that 'Not permitting the legitimate decision making forums decide matters as fundamental as roles and participation of women can have some very twisted and unfortunate outcomes' and that manipulation of these legitimate decision making forums by 'external non-Tiwi "participants"' resulted in unintended consequences.⁹⁰

Petitions against the TLC

4.67 Through the course of the inquiry, the committee was made aware of two petitions criticising the TLC.

4.68 On 11 September 2006, a petition was presented by the Hon Warren Snowdon to the House of Representatives on behalf of Tiwi residents. The petition expressed concern about Mr John Hicks' influence over the Tiwi Land Council and called for his immediate resignation:

88 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 5.

89 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 6.

90 Tiwi Land Council, *Answer to question on notice*, 14 August 2009 (received 11 September 2009), p. 6.

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.⁹¹

4.69 The chief petitioner was Gawin Tipiloura. The petition was signed by 493 Tiwi residents.⁹² Gawin Tipiloura was subsequently sacked from the Council in controversial circumstances, reportedly following a letter from one of the trustees, withdrawing Gawin's nomination. The trustee later claimed he could not read the letter he was told to sign.⁹³

4.70 During February 2007, a petition signed by approximately 90 Tiwi women (the 'Strong Women's Group')⁹⁴ was presented to the Federal Department of Environment whilst Departmental representatives were on the Tiwi Islands investigating alleged breaches of EPBC conditions by the forestry proponent.⁹⁵ The petition called for the cessation of clearing on Tiwi land and claimed that the Tiwi women:

...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.⁹⁶

91 *House of Representatives Petitions*, 11 September 2006, p. 1.

92 *House of Representatives Petitions*, 11 September 2006, p. 1.

93 ABC News, *Trustee did not understand sacking letter*, 3 April 2007, available: <http://www.abc.net.au/news/stories/2007/04/031888490.htm> (accessed 2 September 2009)

94 TEACA, *Submission 29*, p. 2.

95 ABC News, *Tiwi women petition against forest clearing*, 16 February 2007, available: <http://www.abc.net.au/news/stories/2007/02/16/1849212.htm> (accessed 19 August 2009).

96 Petition signed by Tiwi women.

Conclusion

4.71 The committee clearly noted some dissent and concern about the forestry project, the processes surrounding its approval, the extent of benefits flowing to the communities and the distribution of those benefits. How many of these concerns are due to the substantive matters surrounding the terms of the project and how many are a result of misunderstandings or miscommunications is difficult to determine. Nevertheless, it seems likely that both are factors.

4.72 While some level of opposition is always likely stem from major land use changes, such as the introduction of plantation forestry, the Tiwi Land Council must accept some responsibility for the ability of misunderstandings or misinformation to spread throughout the Tiwi communities, leading to disenchantment with the project.

4.73 With the demise of Great Southern Ltd it is important for the Tiwi Land Council to ensure that all interested members of its community are kept informed of developments and future plans. It is particularly important that they have future employment and income opportunities explained in a realistic way to minimise future disappointments and disharmony.

4.74 The committee also believes the Tiwi Land Council needs to be mindful that the structure of related businesses and entities through which business dealings are undertaken can appear confusing and, once again, lend itself to impressions of secrecy or the spreading of misinformation.

Recommendation 3

4.75 The committee recommends that the Tiwi Land Council and the business entities of the Tiwi people work to ensure that those business entities operate in the most efficient and transparent manner possible.

Recommendation 4

4.76 The committee recommends that the Tiwi Land Council and the business entities of the Tiwi people initiate new communication strategies to ensure that their structures, roles and activities are more widely understood by the Tiwi people.

4.77 With regard to issues surrounding the representation of women and other matters pertaining to the way in which the Council is constituted, the committee is mindful that it has not had an opportunity to address all of the cultural matters this relates, nor seek wider input on these matters, evidence from anthropological experts

or others. The committee notes that it is incumbent upon the Council, relevant authorities, and the relevant Minister to be mindful of some existing community disquiet and of any changes to community sentiment surrounding such matters now and into the future.

Senator Simon Birmingham
Chair

Appendix 1

Submissions

- 1** Ms Fiona Press
- 2** Mr Mike Baxter
- 3** Tiwi Enterprises Pty Ltd
- 4** Tiwi Bombers
- 5** Mr Vince Collins
- 6** Mantiyupwi Pty Ltd
- 7** Ms Emma Paulding
- 8** Tiwi College
- 9** Ms Carla Hicks
- 10** Tiwi Islands Training and Employment Board
- 11** Dr Ken Eldridge
- 12** Professor Ines Geipel
- 13** Institute of Foresters of Australia
- 14** Tiwi Resources Pty Ltd
- 15** RWM Consultancy
- 16** Matilda Minerals
- 17** CSIRO
- 18** Mr Bob Smith
- 19** Great Southern Limited
- 20** Tiwi Islands Shire Council
- 21** Free@Last
- 22** Mr Rob Horner
- 23** Ms Linda Fienberg
- 24** Professor Stephen Garnett
- 25** Mr Terry Mills MLA
- 26** Peter Robertson
- 27** Australian Conservation Foundation
- 28** Northern Territory Government
- 29** Top End Aboriginal Conservation Alliance

- 30** The Wilderness Society Inc. and Environment Centre NT
- 31** Mr John Cleary
- 32** Mr Hugh Kneebone
- 33** Environmental Defenders Office (NT)
- 34** Tiwi Land Council
- 35** Confidential
- 36** Confidential
- 37** Confidential
- 38** Confidential
- 39** Confidential
- 40** Name Withheld
- 41** Ms Marion Scrymgour MLA
- 42** Dr Judith Ajani

Appendix 2

Public hearings

Monday, 18 May 2009 – Darwin

Environment Centre Northern Territory and The Wilderness Society

Dr Stuart Blanch, Coordinator, Environment Centre Northern Territory

Environmental Defenders Office (Northern Territory) Inc

Mr Mark Cowan, Principal Solicitor

Mr Peter Robertson (Private capacity)

Tuesday, 19 May 2009 – Nguiu, Bathurst Island (in camera)

Tuesday, 19 May 2009 – Pickertaramoor, Melville Island

Tiwi Land Council

Mr Cyril Kalippa, Manager

Mr Andrew Tipungwuti, Manager

Mr Marius Puruntatameri, Member

Mr Bernard Tipiloura, Member

Mr John Hicks, Staff Member

Ms Kate Hadden, Environment Manager

Mantiyupwi Pty Ltd

Mr Gibson Farmer, Director

Mr Walter Kerinaiua, Senior Elder

Mr Walter Kerinaiua Jr, Member

Mr Brian Ullungura, Member

Tiwi Enterprises

Mr Andrew Bush

Mr Jim Smith

Mr Eric Tipiloura

Tiwi Islands Training and Employment Board

Mr Norm Buchan, Chief Executive Officer

Wednesday, 20 May 2009 - Darwin

Mr Adam Kerinaiaua (Private capacity)

Ms Marjorie Liddy (Private capacity)

Mr Manyi Rioli (Private capacity)

Mr Vince Collins (Private capacity)

Friday, 14 August 2009 – Canberra

Oakton Ltd

Mr Paul Allen, Partner

Mr John Lewis, General Manager

Mr Gregory Healy, Principal Consultant

Department of Families, Housing Community Services and Indigenous Affairs

Mr Bernie Yates, Deputy Secretary

Mr Greg Roche, Branch Manager, Indigenous Programs

Department of the Environment, Water, Heritage and the Arts

Mr Peter Burnett, First Assistant Secretary, Approvals and Wildlife Division

Ms Lynn Bean, First Assistant Secretary, Arts Division

Ms Rose Webb, Assistant Secretary, Compliance and Enforcement Branch,
Approvals and Wildlife Division

Department of Agriculture, Fisheries and Forestry

Mr Daryl Quinlivan, Deputy Secretary

Mr John Talbot, General Manager, Forestry

Australian Valuation Office

Mr Brett Martin, General Manager

Mr Graeme Addicott, Principal Valuer

Stirling Resources

Mr Bruce Maluish, Business Development Manager

Dr Ken Eldridge (Private capacity)**Tiwi Land Council**

Mr John Hicks, Secretary

Institute of Foresters of Australia, Inc

Dr Robert Thistlethwaite, Chair, Tropical Forestry Special Interest Group

Friday, 2 October 2009 – Canberra

Dr Judith Ajani (Private capacity)**Professor Stephen Garnett (Private capacity)****Ms Marion Scrymgour (Private capacity)**

Appendix 3

Tabled documents, additional information and answers to questions taken on notice

Tabled documents

Copy of correspondence, dated 10 April 2009 from Professor Glover, Vice-Chancellor, Charles Darwin University, to Mr Tipungwuti, Chairman, Tiwi Land Council, tabled by Tiwi Land Council, 19 May 2009, Melville Island

Letter from Australian Cyprus Oil Company to the Deputy Chief Minister of the Northern Territory, 30 December 1996, tabled by Mr Vince Collins, 20 May 2009, Darwin

Documentation associated with the Supreme Court of the Northern Territory case 203 of 1997, tabled by Mr Vince Collins, 20 May 2009, Darwin

Australian Cyprus Oil Company Request for Tender documentation, 11 July 1997, tabled by Mr Vince Collins, 20 May 2009, Darwin

'Storing the essence of the Territory' (article from *Territory Business*, 1999), tabled by Mr Vince Collins, 20 May 2009, Darwin

Advertorial from *Sunday Territorian*, 8 August 1999, tabled by Mr Vince Collins, 20 May 2009, Darwin

Ciba Speciality Chemicals Trip Report, 26 October to 6 November 1999, tabled by Mr Vince Collins, 20 May 2009, Darwin

Commissioner of Patents Section 27 notice, 22 July 1999, tabled by Mr Vince Collins, 20 May 2009, Darwin

Ceduna Capital Corp. *Annual General Meeting of Shareholders: Notice and Information Circular*, 25 April 2000, tabled by Mr Vince Collins, 20 May 2009, Darwin

IP Australia Section 28 documents, 31 July 2001, tabled by Mr Vince Collins, 20 May 2009, Darwin

Solicitor for the Northern Territory litigation division minute and attached legal advice, September 2001, tabled by Mr Vince Collins, 20 May 2009, Darwin

Developing mineral sands projects on the Tiwi Islands, tabled by Stirling Resources, 14 August 2009, Canberra

Industry recognition of tree seed hunter: Dr Kenneth Eldridge, tabled by Dr Kenneth Eldridge, 14 August 2009, Canberra

Additional information

Forestry on the Tiwi Islands: Dr Ken Eldridge, Tree Breeding Consultant

Total Landowner population numbers across all eight land owning groups as described in updated registers tabled and authorised by the Land Council at Meeting number 257 of 27 February 2009: Tiwi Land Council

Integrated Valuation Services (NT) Valuation of 1 January 2008: Tiwi Land Council

Australian Valuation Office Rental Valuation of 19 August 1998: Tiwi Land Council

Australian Valuation Office Rental Valuation of 1 January 2008: Tiwi Land Council

Tiwi Land Council Timber Industry Arrangements - Review 2008/2009, Final Report: Department of Families, Housing, Community Services and Indigenous Affairs

Tiwi Islands Forestry Project: Tiwi Land Council

Answers to questions taken on notice

Department of the Environment, Water, Heritage and the Arts (from public hearing, 14 August 2009, Canberra)

Tiwi Land Council, dated 8 September 2009

Department of Natural Resources, Environment, the Arts and Sport, dated 1 October 2009

Minority Report submitted by Senator Rachel Siewert for the Australian Greens

Introduction

The Australian Greens support the development of a sustainable economy on the Tiwi Islands – one that supports and enhances the Tiwi way of life, respects their living culture, and sustainably manages their land and water resources for the future.

We are not convinced from what we have learnt through this inquiry that logging and plantation operations on the Tiwi Islands have been sustainable, have made best use of Tiwi natural resources, or have delivered an appropriate level of community benefit. The evidence presented to the inquiry also leads us to believe that the harvesting and exporting of woodchips from Melville Island may not be as profitable as predicted in the foreseeable future, and in the meantime additional capital is required to undertake plantation management.

The evidence presented to the committee strongly suggests that the environmental management of the logging and plantation operations has been flawed from the outset, and that avoidable and inexcusable damage has been caused to Melville Island's natural environment. Given the current state of play of these operations and the absence of a solvent project manager, we urge the Environment Minister to take all steps necessary to ensure that all the existing environmental management requirements are fully met.

We are led by the weight of evidence to conclude that the logging and plantation operation on Melville Island was designed and operated from the outset with the financial objectives of the operators (initially Australian Plantation Group, later Great Southern Limited) as the priority. We remain concerned that the best interests of the Tiwi Islanders came a poor second to this narrow commercial imperative, and the venture has not delivered to them the strong and sustainable cornerstone industry it promised.

There remain other serious questions concerning the management of the logging and plantation operations on the Tiwi Islanders that were raised but could not be answered by this inquiry. The Australian Greens believe that these issues warrant further examination and exhort the Australian government to pursue these outstanding issues.

The evidence presented to the committee on the establishment and management of the plantation – including the choice of species, the rate of planting and the ongoing management regime – suggests that the Melville Island venture did not reflect best practice in ensuring the development of a commercial product at a competitive rate. There are indications that as a result of poor planning and management the harvest

in 2013 may not be as profitable as was hoped and, given the state of the market for this kind of product, may not deliver as substantial a return to the Tiwi as hoped.

The committee inquiry failed to resolve the circumstances by which the sale of native timber hardwood logs (referred to as "red Tiwi") arising from the clearing undertaken to establish the plantations has failed to deliver a return of any note to the traditional owners.

We believe that a forensic financial inquiry is urgently needed to uncover the details of operations and expose relevant facts, including: the extent of taxpayer money spent on infrastructure and support; the circumstances in which native hardwood logs were exported, where they were sent to and what profit (if any) was received by Pirntubula on behalf of Tiwi traditional owners; the likely market value of 40,000 tonnes of red Tiwi logs; and what other companies or interests profited from the venture.

A sustainable future for the Tiwi Islands requires a comprehensive and inclusive process to facilitate appropriate planning for future development. Such an approach should be based on a careful examination of what kind of development is suitable for the environment and the community of the Tiwi Islands. It should not result simply from an ad hoc response to one-off proposals from particular interest that may in future prove to be unprofitable and unsustainable.

Environmental performance and management

The Australian Greens believe the environmental management of the forestry project was flawed from the outset, and that avoidable and inexcusable damage has been caused to Melville Island's natural environment as a result. The Greens strongly urge the Federal Environment Minister to ensure that all existing environmental requirements are met in light of the current absence of a solvent project manager.

We believe that there should be no further clearing of native vegetation for additional plantations on the Tiwi Islands, and the remediation plan (that was written following the breaches of the EPBC conditions) should be made available for public comment before it is implemented.

The committee received evidence that:

- Approval for logging and plantation was granted in 2001 subject to conditions requiring buffer zones to protect threatened species.
- The buffer zones required by the original approval were smaller than those recommended to the Tiwi Land Council by NT government scientists in a report from 2000. This report outlined two options for conservation on Melville Island in the event of a logging and plantation project. One of these included a substantial tract of national park on the east of the island in conjunction with buffers around significant habitat. The other was larger buffers to be implemented in the absence of any national park. The eventual buffer zones approved by Minister Hill were in fact the size of the **smaller** exclusion zones, but **without** the supplementary national park area.¹
- GSL/Sylvatech contacted DEWHA in April 2006 and reported that they may not be in compliance with their conditions and that they were doing or had done a voluntary audit.²
- DEWHA took over a year to establish the extent of the breaches of conditions³. It was eventually found that while clearing for the plantations, Great Southern employees cleared areas within the buffer zones that had been established to protect identified threatened species and habitats.
- A variation of the conditions was agreed to by the minister in October 2008.
- The variation comprises two streams: remediation and offset activities. It requires a payment of \$450,000 per year for three years from Sylvatech to Tiwi

¹ 2000, Woinarski, J., Brennan, K., Hempel, C., Firth, R., Watt, F., Biodiversity Conservation on the Tiwi Islands. p107-13

² Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p22

³ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p22

Land Council. This money is to be used by the Tiwi Ranger Program to undertake the offset projects including feral animal and weed control, burning regimes and monitoring listed flora species.

- There is a bond of \$1 million which has been secured to ensure the implementation of the remediation plan.
- As of August 2009 the implementation plans for both remediation and offset had been written with the Department for approval⁴ but were not yet public.
- Since the hearing at which much of this information was presented, the receivers of GSL, McGrath Nicol, have terminated all leases on the Tiwi Islands, citing the operations as 'commercially unviable'⁵. It is now unclear:
 - Who will pay the annual \$450,000 for the ranger program, and
 - Who will be responsible for ensuring the remediation and offset programs are carried out.
- It was noted in hearings that in the event of a change of ownership of the project, the Minister would have to approve the transfer – however, as far as we are aware, this approval has not yet been sought.
- Prior to the breaches, GSL was funding the Tiwi Ranger Program⁶. However, since the new conditions were imposed, including funding for Tiwi Rangers to undertake offset activities, GSL has ceased its previous financial support for the Tiwi Ranger Program – meaning that the \$450,000 for the ranger program is not all additional funding, with a proportion of it replacing existing funding for the rangers.
- There has been no assessment of the potential or actual hydrological impacts of the logging and plantation operations despite the fact that a dramatic erosion event has occurred at Tarracumbi Falls since commencement of the clearing for plantation⁷.

Logging and plantation operations

The Australian Greens are concerned that the weight of evidence presented to the committee suggests that the logging and plantation operation on Melville Island were designed and operated from the outset with the financial objectives of the

⁴ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p22

⁵ 2009, McGrath Nicol, 'Circular to Investors – Tiwi Leases', <http://www.great-southern.com.au/default.aspx?MenuID=343> accessed October 15, 2009

⁶ Great Southern Limited, Submission 19

⁷ The Wilderness Society and The Environment Centre NT, Submission 30, p12

operators (initially Australian Plantation Group, later Great Southern Limited) as the priority.

The evidence presented to the committee on the establishment and management of the plantation – including the choice of species, the rate of planting and the ongoing management regime – suggests that the Melville Island venture did not reflect best practice in ensuring the development of a commercial product at a competitive rate. There are indications that as a result of poor planning and management the harvest in 2013 may not be as profitable as was hoped and, given the state of the market for this kind of product, may not deliver as substantial a return to the Tiwi as hoped.

The Australian Greens remain concerned that the best interests of the Tiwi Islanders came second to the commercial interests of the proponents. In our view the logging and plantation operations undertaken at great financial and environmental cost of Melville Island have not delivered benefits to the traditional owners and their communities that are commensurate with the cost to them and their land. It has not delivered to them the strong and sustainable cornerstone industry that they were promised and had every reason to expect they would receive. The Tiwi now find themselves having to take over managing the plantation and must take on the financial risk and seek additional funding support this venture.

The committee received evidence that:

- The establishment of 5,000 hectares of plantation in the space of three years was unusually rapid. Best practice in establishing a comparable commercial plantation under similar circumstances (with little relevant experience of particular species in a particular landscape) would involve initially planting small areas to allow foresters to gain an understanding of the response of the species to the local conditions. This would allow them to test their management parameters and confirm commercial viability, as well as undertaking further breeding and selection to improve local yields⁸.
- The stem and branch form of the Melville Island *Acacia mangium* is not immediately good for commercial production, with many trees having forks, crooked stems or coarse branches. Such poor form is common when genetically unimproved 'wild' seed is used in *Acacia mangium* plantations elsewhere. These form deficiencies reduce the return at harvest due to reduced yield and the extra cost of delimiting and debarking prior to chipping for export at age 8 to 10 years⁹.

⁸ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p62

⁹ Dr Ken Eldridge, Submission 11, p1-2

- The seed used to establish the Melville Island plantations was taken from native or 'wild' stocks rather than the 'domesticated' varieties that have recently been developed¹⁰.
- Great Southern Limited was motivated to buy Sylvatech, and hence the plantations, by cheap land rental¹¹.
- There have been comments made about the fact that 'only' 5% of Melville Island has been cleared for plantation, however, what is not notable about these comments is the fact that the most productive parts of the island have been cleared for these plantations¹².
- The receivers of GSL, McGrathNicol have stated in a circular to investors: "*The Tiwi Islands operations are commercially unviable*" and have arranged for the leases with the Tiwi Land Council to be terminated¹³.
- MIS schemes, of which this is one, are not market-regulated and create excess product. *'The grower-investor demand is driven by demand for tax minimisation not wood market realities, so overplanting and collapse are inevitable'*¹⁴
- The woodchips from Melville Island are of a lower quality than those from mainland eucalypt plantations, requiring more wood for the same amount of pulp and additional bleaching for paper production¹⁵
- The global market for woodchips is being flooded with product and many producers are scrambling for markets, there is no guarantee of a market for this product¹⁶

Funding and Finances

Significant concerns were raised during the inquiry as to whether the plantation and logging operations on Melville Island were or could ever be commercially viable. Conflicting information and evidence was presented to the committee such that on the basis of the evidence provided it was not possible to establish with any certainty what financial returns had been achieved to date and what the prospects were for the future profitability of this venture.

¹⁰ Institute of Foresters, Submission 13, p7

¹¹ Mr Peter Robertson, Submission 26, p5

¹² Mr Hugh Kneebone, Submission 32

¹³ 2009, McGrath Nicol, 'Circular to Investors – Tiwi Leases', <http://www.great-southern.com.au/default.aspx?MenuID=343> accessed October 15, 2009

¹⁴ Committee Hansard, Environment, Communications and the Arts references committee, Friday 2nd October 2009, p2

¹⁵ Committee Hansard, Environment, Communications and the Arts references committee, Friday 2nd October 2009, p6

¹⁶ Committee Hansard, Environment, Communications and the Arts references committee, Friday 2nd October 2009, p6

The Australian Greens remain concerned by the relatively low number and scope of employment opportunities delivered to date by this venture. The level and kind of employment opportunities it has delivered do not appear to be commensurate with the large costs, the high level of financial risk, and the impacts of the logging and plantation operations on the land and natural resources of the Tiwi.

The Australian Greens believe that a full forensic financial inquiry must be established to uncover the details of:

- The extent of taxpayer money that has been spent on infrastructure and support for this project,
- The reasonable market value for the 40,000 tonnes¹⁷ of Red Tiwi logs,
- What profit (if any) was received by Pirntubula on behalf of the Tiwi Traditional Owners from the export of native hardwood logs, and
- Which other companies or interests received profits from these exports.

¹⁷ Committee Hansard, Environment, Communications and the Arts references committee, Friday 15th August 2009, p72

The committee received evidence that:

- Tiwi Land Council is currently seeking \$80 million to cover the costs of managing the plantations up to harvest in 2013¹⁸. It is not clear if an application has been or will be made to the Aboriginals Benefit Account for some or all of this money.
- \$4,295,000 from the Aboriginals Benefit Account was spent on the construction of Port Melville¹⁹.
- In addition to this, \$66,000 was given to the Tiwi Land Council for a scoping study to assess the Tiwi people's involvement in expansion of logging and plantation operations, and \$2,000,000 was allocated to the Tiwi Islands Shore Council for the purchase of earthmoving and road building equipment²⁰
- There are still 40,000 tonnes of Red Tiwi logs on the wharf at Port Melville²¹
- 'Great Southern has chosen a relatively high wood yield assumption in preparing its overall prospectus document to present to grower investors and get the project over the line in terms of financial viability. However, it appears that when it prepared its estimates of likely income to the Tiwi Islanders from gross harvest proceeds it used a significantly lower wood yield estimate—in other words, this has the effect of dampening the expectations of Tiwi Islanders as to the actual amount of money they will receive.'²²

Native Logs

The Australian Greens believe this inquiry has failed to uncover the circumstances that have led to traditional owners receiving little if any income from the sale of the native timber hardwood ('Red Tiwi') logs cleared to establish the plantations.

The committee inquiry failed to resolve the circumstances by which the sale of native timber hardwood logs took place. We believe that a forensic financial inquiry is needed to uncover the details of operations and expose relevant facts.

The circumstances in which native hardwood logs were exported remain unclear. The inquiry was unable to establish where these logs were sent to and what profit (if any) was received by Pirntubula on behalf of Tiwi traditional owners. There remain

¹⁸ Proof Committee Hansard, Environment, Communications and the Arts references committee, Friday 15th August 2009, p80

¹⁹ FaCSHIA, answers to questions on notice, Environment, Communications and the Arts references committee

²⁰ FaCSHIA, answers to questions on notice, Environment, Communications and the Arts references committee

²¹ Proof Committee Hansard, Environment, Communications and the Arts references committee, Tuesday 19 May, 2009, p5

²² Proof Committee Hansard, Environment, Communications and the Arts references committee, Friday 2nd October 2009, p4

significant gaps in the account that can only be resolved by a forensic financial examination of the circumstances surrounding these timber exports.

The committee received evidence that:

- In 2005, Pentarch proposed establishing a permanent saw mill at Port Melville to process the 25,000 tonnes of stockpiled D grade sawlogs. The logs were assessed by CSIRO wood scientists as a *'viable resource ... with strong market potential'*. The proposal involved training 6-9 Tiwi Islanders to operate the mill and exporting the wood ready for use as floorboards or decking. The plan was shelved when Great Southern took over interest in the Melville Island operations²³.
- This sawmilling operation would have provided traditional owners with an *'opportunity to establish their own sustainable small business'* and that *'there are existing examples of this business model working using the same resource as on Melville Island'*²⁴.
- It is highly likely that these valuable logs were exported to Asia and entered the commercial market in China and elsewhere²⁵.
- The committee was told that *'timber harvested...from the clearing or from the plantations is shared on a fifty-fifty basis'* between the Tiwi Land Council and Great Southern²⁶.
- There is apparent confusion as to whether actual losses or merely loss of projected income has been incurred by traditional owners through the process of the export of native logs²⁷.
- At previous Senate Estimates hearings John Hicks, representing the Tiwi Land Council, responded to a question from Senator Crossin about income derived from the sale of the native timber logs, saying: *'If you had asked me the question on Monday, the answer would have been nil. We had a loss of \$600,000. If you ask me today, before we left Darwin we ascertained that \$75,000 would be received for this shipment and that is the first money that has been made by the Tiwi for sale of timber.'*²⁸
- At hearings in May when this loss was mentioned, Mr Hicks did not dispute the suggestion that there was a loss to the Tiwi Land Council of \$600,000, his

²³ Mr Rob Horner, Submission 22, p1

²⁴ Mr Rob Horner, Submission 22, p2

²⁵ Mr Peter Robertson, Submission 26, p9

²⁶ Committee Hansard, Senate Standing Committee on Community Affairs, Thursday 2nd November 2006, p63

²⁷ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p71

²⁸ Official Committee Hansard, Senate Standing Committee on Community Affairs, Thursday 2nd November 2006, p62

words were: *'the evidence was given to us by Great Southern about the losses...the question is: how did the other landowners learn about the loss we made with timber?'*²⁹

- The exchange regarding the \$600,000 loss at the August inquiry contributes to the lack of clarity around these arrangements:

Senator SIEWERT—We might as well start with the \$600,000 loss that TLC sustained from the various attempts to export so-called red Tiwi. Can you clarify: there was a \$600,000 loss to TLC, wasn't there?

Mr Hicks—No. This is all part of the dilemma. The Tiwi Land Council is a statutory authority quite unable to enter into commercial arrangements of any description. There was a \$600,000 loss incurred by the commercial identity of the Tiwi landowners, Pirntubula Pty Ltd. It was in fact \$610,000, I think.

Senator SIEWERT—That was to Pirntubula.

Mr Hicks—Yes. The timber that made the loss was the timber that was transferred from the Northern Territory government to this identity called Pirntubula Pty Ltd. The arrangements that the landowners, in their commercial identity, made were to sell this timber and ship it out. You heard earlier from Mr Maluish about the huge increases in shipping costs. That was a significant reason for the loss. The statements that we received from Sylvatech were around \$610,000, a loss made on three barge shipments.³⁰

...

Senator SIEWERT—How did it come to be that Pirntubula bore the cost of the \$610,000 loss and not Sylvatech or the forestry company, whichever name it was under at the time? Why was it that Pirntubula made the loss?

Mr Hicks—Sylvatech made a loss, too. The loss was made on Sylvatech having to pay contractors to harvest it, having to pay people to ship it and having to set up markets in southern China to sell it. At each point of those negotiations they made a loss. That was their real loss, as conveyed to us in financial statements, of \$610,000. Pirntubula did not wear a loss, in the sense that we were gifted the trees by the Northern Territory government. So there was no loss other than a loss of expectation that we would make a lot of money, which Pirntubula did not.

Senator SIEWERT—Who made the loss of \$610,000? Was it Pirntubula or Sylvatech?

Mr Hicks—The \$610,000 loss was made by Sylvatech.

Senator SIEWERT—But you told me earlier that Pirntubula made the loss.

Mr Hicks—Yes. The asset was to be sold in order that Pirntubula would make some money. Pirntubula presented these trees for harvest by Sylvatech with the expectation of making a profit—and they would not have entered into the arrangement unless they anticipated making a profit. They made a loss.

Senator SIEWERT—Sylvatech made a loss.

Mr Hicks—Sylvatech made a \$610,000 loss on this particular transaction.

²⁹ Committee Hansard, Environment, Communications and the Arts references committee, Tuesday 19 May, 2009, p5

³⁰ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p70

CHAIR—The expectation was, as with all good commercial deals, that it would be profitable and Pirntubula would have received a share of the profits?

Mr Hicks—Absolutely. It was a fifty-fifty arrangement that Sylvatech would harvest and we would enjoy 50 per cent of the profits from that particular milling transaction. In the event, the fluctuations in the Australian dollar and in the shipping rates were the two cataclysmic events that Sylvatech anticipated would get better; in fact they got worse. Finally, in the hands of Great Southern, they terminated the export as being an absolutely non-profitable proposition. But Pirntubula made a loss in expectation. We did not carry a loss of \$610,000.³¹

- The Tiwi Land Council did not address this issue in its submission, with no more than a single reference to it: *'Regrettably, attempts to sell hardwood logs have also resulted in losses'*³²
- It is unclear whether this is due to information not being provided by Sylvatech or other companies involved in the export of the logs.
- This statement also appears to contradict the statement quoted above from Senate Estimates, where Mr Hicks notes the first money that has been made by the Tiwi for the sale of timber (\$75,000).

³¹ Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009, p.71

³² Tiwi Land Council, Submission 34, p15

Governance

The Australian Greens are concerned by some of the issues raised in evidence about governance and decision-making processes on the Tiwi Islands and the ongoing exclusion of women. We have some concerns about the manner in which decisions about financial investments have been made and the future of their investments in forestry.

The committee received evidence that:

- In 2006 a petition of over 500 Tiwi Islands Traditional Owners signatures was submitted to Mal Brough, (then Indigenous Affairs Minister). The petition called for the resignation of John Hicks and an inquiry into the Tiwi Land Council and Pirntubula. Minister Brough immediately ruled out an inquiry.³³
- The member of the Land Council who organised the petition was controversially sacked from the Council seven months after it was tabled in Federal Parliament, reportedly because he had spoken in opposition to the Great Southern operation on Melville Island³⁴
- In 2007 a petition was signed by 100 Tiwi women stating: ‘Our call is to stop clearing Tiwi land’³⁵
- Concern was expressed to the committee about the exclusion of women from decision making processes and structures, with one witness stating that *“The Tiwi Land Council governance structures and practices currently in place are (and have for the last 30 years always been) grossly discriminatory towards women”*³⁶
- The committee also heard that *“at least some of the senior Land Council men express the view that decision making about Tiwi land is “men’s business” and therefore women should not serve on the Tiwi Land Council”*³⁷
- There is not an agreed process for determining the meaning of ‘benefit to the Tiwi people’ with relation to the distribution of harvest royalties.
- There has been a commitment from the Department for Families, Housing, Community Services and Indigenous Affairs to assist the Tiwi Land Council with discussing this and with developing a distribution process, however, there is no established timeframe for this at this stage.³⁸

³³ Proof Committee Hansard, Environment, Communications and the Arts references committee, Friday 14th August 2009

³⁴ ABC news online, April 2, 2007, ‘Tiwi Land Council Member sacked for forestry criticism’, <http://www.abc.net.au/news/stories/2007/04/02/1887816.htm> accessed October 15th, 2009

³⁵ Proof Committee Hansard, Environment, Communications and the Arts references committee, Wednesday 20th May 2009, p9

³⁶ Ms Marion Scrymgour, Submission 41, p2

³⁷ Ms Marion Scrymgour, Submission 41, p4

³⁸ Proof Committee Hansard, Environment, Communications and the Arts references committee, Friday 14 August 2009, p3

- The process for distribution of royalties has not been made clear to traditional owners. There is dissatisfaction with the inequity of distribution of money via the Tiwi Land Council:

Mr Kerinaiaua— *The thing with Great Southern is that we are not getting much money that we would love to get; we are only getting a little peanut money. It is not feeding all the Tiwi people, it is only certain people. With the money the land council is getting, only certain people get lump sum money from the royalty money. Other families get less. That is why I asked the land council many, many times if they could tell me who distributes the money and where the money is going to. I have asked that many times.*³⁹

Alternative options

The Australian Greens believe a sustainable future for the Tiwi Islands requires a comprehensive process to facilitate planning for future development. This must be based on what is suitable for the area rather than merely responding to proposals that may in future prove to be destructive and unprofitable.

The committee received evidence that:

- *'Until recently, there were opportunities to pursue reduced emissions from deforestation and degradation (REDD) on 4200 hectares of Tiwi Islands forest. The paper estimated that the Tiwi Islands forests that were logged by Great Southern Plantations in 2008 could have been worth up to \$110 million under a REDD scheme under the Gold Standard of the voluntary carbon market.'*⁴⁰
- As noted previously, a small-scale saw milling operation to process the 40,000 tonnes of hardwood currently stockpiled on the wharf at Port Melville was assessed by CSIRO as commercially viable⁴¹
- Community based forestry with Forest Stewardship Council certification could be established to supply local demand for timber and may be extended to external markets⁴²
- *'The Tiwi Island arts related businesses are some of the most significant and successful in Australia, with a truly extraordinary output per capita. A population of just 2,500 has produced 5 successful businesses/art centres on the islands providing training, workshop, equipment and gallery space, selling to visiting tourists as well as to outlets around Australia and internationally.'*⁴³
- Football is a highly popular and successful activity on the Tiwi Islands and many Tiwi Islanders leave the islands to play football elsewhere in Australia.

³⁹ Proof Committee Hansard, Environment, Communications and the Arts references committee, Wednesday 20th May 2009, p15

⁴⁰ Professor Stephen Garnett, Submission 24, p1

⁴¹ Mr Rob Horner, Submission 22, p1

⁴² Ms Linda Fienberg, Submission 23, p6

⁴³ Ms Linda Fienberg, Submission 23, p5

The Tiwi Bombers football team had a sponsorship arrangement with Great Southern and was the primary recipient of the only acknowledged profit from the sale of native timber logs.⁴⁴

- Ngarukuruwala, a musical project involving women from Bathurst Island has great potential for the women and girls of the islands: *'As the football has created an important and successful source of role models and ambition for young Tiwi boys, the renewed interest in song through the female elders' involvement in Ngarukuruwala has the potential to do the same for young Tiwi girls.'*⁴⁵

Recommendations:

- 1. That, as a matter of priority, relevant Federal and Northern Territory agencies work with the Tiwi Land Council and Tiwi Islanders to:**
 - a. Undertake an adequately resourced research project to determine the most appropriate process for rehabilitating the plantation area; and**
 - b. Consider the provision of financial and technical support to ensure the full range of employment and rehabilitation opportunities is explored and that ongoing management of the area is undertaken.**
- 2. That the Federal Environment Minister ensures that all existing environmental requirements are met.**
- 3. That there should be no further clearing of native vegetation for additional plantations on the Tiwi Islands.**
- 4. That the remediation plan to address environmental damage in breach of the EPBC conditions for the project should be made available for public comment before its implementation.**
- 5. That the actual and potential hydrological impacts of the plantation operations be assessed, with specific attention to the management of erosion and other associated land management issues.**
- 6. That the Commonwealth establish a full forensic financial inquiry into logging and plantation operations on the Tiwi Islands to uncover the details of:**
 - a. The extent of taxpayer money that has been spent on infrastructure and support for this project,**
 - b. The reasonable market value for the 40,000 tonnes of Red Tiwi logs,**
 - c. The circumstances surrounding the export of native hardwood logs, where they were exported, to whom, at what rate of return,**

⁴⁴ Official Committee Hansard, Senate Standing Committee on Community Affairs, Thursday 2nd November 2006, p63

⁴⁵ Ms Fiona Press, Submission 1, p1

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- d. What profit (if any) was received by Pirntubula on behalf of the Tiwi Traditional Owners from the export of native hardwood logs, and
 - e. Which other companies or interests received profits from these exports.
7. That the Commonwealth provide training and support in governance to develop capacity and decision-making processes on the Tiwi Islands, with particular attention to the inclusion of women and fiduciary issues.
 8. That the Commonwealth facilitate a comprehensive planning process to direct future economic and community development on the Tiwi Islands.

Senator Rachel Siewert
Senator for Western Australia

