

A National Campaign for the Kimberley

The Kimberley is an area almost twice the size of Victoria with a permanent population of 35,000. Although it supports a number of industries, including pastoralism, tourism, agriculture (mainly in the east), pearling and fishing, it is still one of the great undeveloped terrestrial and marine environments of the world. It is characterized by a wide variety of unique vegetation communities and is home to many rare and vulnerable animal species, such as the snubnose dolphin, which is found only in Kimberley waters, the bilby, golden bandicoot, masked owl, golden-backed tree rat, painted snipe and Gouldian finch. It is a centre of world significance for migratory birds. The Kimberley coastline is also a humpback whale migration route, and the largest humpback nursery on earth lies between Broome and Camden Sound. The pristine coral reefs that line the coast are as significant, environmentally and culturally speaking, as the Great Barrier Reef. The known biodiversity values of the Kimberley region are high but in fact the true extent of the Kimberley's biodiversity is still unknown, as this vast area has as yet been relatively little surveyed. This is particularly true for its faunal and marine biodiversity.

The Kimberley then constitutes one of the rarest environments on the earth today: a large-scale ecological reference site, in which ecological and evolutionary processes are still unfolding relatively free of human disturbance. As such it provides both a gene bank or "increase site" for future regeneration and a yardstick for the understanding of ecology and evolution, where such understanding, so rudimentary at present, is set to become increasingly urgently needed as climate change compromises the stability of the biosphere and triggers unpredictable and possibly as yet unimaginable changes in the conditions for life. That the need for ecological understanding is not merely an academic matter is becoming increasingly apparent as it is recognized that carbon is not the only, nor even perhaps the most important, driver of climate change. The hydrological cycle is, it is turning out, as key to climate stability as the carbon cycle. The hydrological cycle is largely regulated by transpiration and evaporation processes in vegetation; loss of vegetation through widespread de-forestation and land clearing have accordingly altered the balance of water vapour in the atmosphere. Stabilizing the hydrological cycle, and hence atmospheric conditions, will require revegetation (and preservation of existing vegetation) on a planetary scale, but the task of revegetation will require a much better understanding of ecology than is presently available. To succeed in regenerating ecosystems it is not enough to rely on an inventory of plant species for a given area. The complex of relationships amongst plants, vertebrates, invertebrates and microbial life must be restored if ecologically crucial processes such as pollination and the conditioning of soil through aeration, water retention and regulation of acidity are to be assured. For this reason large-scale undisturbed environments are necessary as ecological reference areas. It goes without saying that where such environments still exist we should preserve them rather than ineptly and probably unsuccessfully trying to restore them at a later date.

The Kimberley is also one of the last great Indigenous homelands, at least for Indigenous peoples located in developed societies: 47.7% of the population identified themselves as Indigenous in the 2006 Census. Indigenous cultures are land-and-sea-based cultures and their strength and integrity depend on maintenance of custodial ties with country. In the Kimberley there is a chance for Indigenous cultures to remain strong. In other parts of Australia, Indigenous communities, diminished by multiple impacts of colonization, have sometimes sacrificed custodial responsibilities in favour of large compensation payments for mining and other extractive uses of their land. Such compromises are invariably entered into with extreme reluctance, driven by the knowledge that, under Native Title legislation, Traditional Owners have no right of veto over mining projects in any case so they have little option but to negotiate compensation packages that deliver the greatest economic advantages to their communities. Such arrangements are presented to the world by corporations and governments as the "consent" of Traditional Owners to the rapacious exploitation of their country.

Such (effectively coerced) "consent" is threefold in its insidious effect. Firstly and obviously, it legitimizes the degradation of country. Secondly, it stymies left-wing opposition to environmental destruction, since such destruction can now be represented as the will of Traditional Owners, where respect for the sovereignty of Indigenous constituencies is one of the most definitive values of the left in Australia. Thirdly, and most insidiously, it diminishes in the long run the moral claim of Indigenous communities to the very status of indigeneity. Indigeneity, as a moral status, implies a custodial relationship with land, so to abrogate that custodial relationship by consenting to ecological degradation and destruction effectively undermines the claim to special - indigenous - standing in

relation to land. Native Title deals that elicit consent are therefore profoundly assimilatory in their effects, undercutting Aboriginal claims to a special moral status under the law. In the Kimberley – particularly its western reaches - as yet unscathed by extensive resource extraction, this tragic undermining of culture by a manipulated consent has not yet taken full effect. Aboriginal culture still has a chance to remain strong.

Or it has had a chance to remain strong until the present moment. At James Price Point (Walmadany) on the coast 60 km north of Broome, the first big extractive venture in the western Kimberley is about to begin. Australian energy company, Woodside Petroleum, is seeking approval for an industrial port and plant to process the gas from the vast Browse Basin gas field 350 km offshore to the west of the Dampier Peninsula. Woodside specializes in gas rather than coal or oil, and for this reason has enjoyed socially responsible investment status and has been favoured by Australian superannuation funds. But this status would change if the development at James Price Point goes ahead, since such a development would destroy both the marine and the terrestrial ecology of a pristine stretch of Kimberley coastline.

The establishment of the plant would require dredging a channel, laying ocean pipes, and constructing a six kilometre long breakwater as well as clearing 2400 hectares (24 sq km) of Pindan Woodlands. This would involve extensive blasting of coral reefs, seismic pollution dangerous to whales and other cetaceans, sediment and sea pollution from drilling and dredging and ongoing heavy shipping traffic (2700 tanker movements per year). Huge amounts of water would also be required, which would be obtained either by depleting groundwater reserves or by desalination, which would further contaminate the marine environment with saline and other chemical effluents. Greenhouse gas emissions from the Woodside development alone would increase WA's emissions by 15 million tonnes per year – 20% of current totals. Full-scale resource development of the Kimberley as a whole would presumably negate any possibility of Australia reaching its Kyoto target. Construction of the Woodside plant would require on-site accommodation for 8000 workers and the operation of the plant would require 1000 permanent personnel.

If the Woodside development were a one-off affair its effects would be bad enough but not catastrophic. But this development is not intended to be a one-off affair. By bringing an immense source of energy onshore and constructing an industrial port, handy to the town of Broome, the James Price Point venture would effectively establish an industrial gateway to the western Kimberley. BHP Billiton, BP, Shell and Chevron are all poised for further developments and proposals for future resource extraction include strip mining for bauxite, alumina refineries, coal and uranium mining, copper mining, fertilizer and ammonia plants.

Make no mistake! If James Price Point goes ahead there will be no stopping large-scale industrialization from following, as it has in the Pilbara. And to enable this industrialization was clearly the West Australian government's intent in insisting on James Price Point as the site of the gas processing plant. For in reality it is not at all necessary to construct a plant at James Price Point to process the gas from the Browse Basin. It is perfectly feasible to pipe the gas to processing plants that have already been established in the Pilbara. Shell, BP et al have not as a matter of fact been pushing for the James Price Point site. It has been the West Australian premier, Colin Barnett, who has been doing the pushing, with Woodside as a willing vehicle. Barnett is on record as wanting to turn the Kimberley into the "Saudi Arabia of gas". And no doubt a mecca for mineral extraction generally. (Barnett's son, Russell Barnett, is on the board of companies such as Perth-based oil and gas explorer, GB Energy.) James Price Point is Barnett's key to that dream. He is manifestly using the time-honoured "incremental strategy" – proposing first a single development, localized in its impact, that will form the cornerstone for future development, each subsequent project being easier to defend as the environmental values of the region are progressively compromised. Such a strategy is legally hard to fight: how is one to oppose developments which are at the present stage merely prospective but which will nevertheless prove inevitable if the cornerstone development goes ahead.

Despite this difficulty, it is the cornerstone development – in this case the Woodside gas plant at James Price Point – that must be prevented if the Kimberley is to be protected from industrialization.

But how is the Woodside gas hub to be prevented? The West Australian government has of course long since approved the development. It was even willing to compulsorily acquire the site if Traditional Owners, represented by the Kimberley Land Council, did not "consent" to the development. The Kimberley Land Council, habituated to compromise by the inbuilt bias in Native Title legislation that accords Traditional Owners no real power of self-determination on their lands, has indeed "consented", in exchange for a massive compensation package. The views

of principal and indisputable Traditional Owners who opposed the development, such as Joseph Roe, grandson of Paddy Roe, legendary Lawman of Coconut Wells, near Walmadany (James Price Point), were dismissed by the KLC.¹ There is thus major division within the Aboriginal community over the issue, as there is bound to be in a legal system which systematically and inescapably prioritizes cash for Aboriginal communities over culture. Many thoughtful and responsible Traditional Owners no doubt do consider cash a key to the survival of their communities, caught as those communities are in spirals of poverty, but it is hard to see how communities can thrive if their cultures are gutted by the trashing of country. (In any case, as far as the Browse Basin is concerned, the gas can be processed in the Pilbara and Indigenous communities can receive the promised economic package without sacrificing the ecological integrity of the Kimberley.) If the Kimberley is to be protected from inappropriate development then, and the moral ground of Aboriginal culture safeguarded, the impetus for that protection will have to come, initially, from outside the divided Aboriginal constituency – from an environmental quarter.

The only point of leverage available at the present moment to those who wish to protect the Kimberley is at the federal level. The federal Environment Minister, Tony Burke, has yet to approve the development.

In the meantime however an application has been lodged for the entire western Kimberley to be listed as National Heritage. National Heritage listing is generally a prelude to application for World Heritage listing. The area nominated for National Heritage listing does not include James Price Point, but approval of the western Kimberley for National Heritage would demonstrably change the entire context of the James Price Point case. National Heritage listing would not preclude development in the Kimberley but it would provide powerful protection from development that was patently environmentally destructive. The western Kimberley satisfies at least six of the nine listed criteria for National Heritage.²

The Minister will decide whether or not to award National Heritage status to the western Kimberley by the end of June 2011. Public submissions regarding the application for National Heritage have now closed. The only avenue for influencing the Minister's decision at the present stage of the process is a public campaign. A vigorous campaign against the Woodside development has of course been ongoing in Broome ever since the project was first bruited. But Broome is a very small place, very far from major population centres. There are pockets of opposition in Perth, but Perth is basically a resources town, and – like everywhere else – far from the Kimberley, so opposition has not gained significant traction there. Dedicated websites and internet petitions have been very active too. But internet activism can be politically easy to ignore if it does not show up on the streets or in the media. What is surely needed at the present moment is a highly visible national campaign mounted in the east of the continent, demonstrating to Tony Burke and the federal government that the Australian community as a whole appreciates the immense and extraordinary value of the Kimberley and is deeply committed to preserving it. In scale the Kimberley is far greater than the Franklin River and merits a campaign at least equal in scope and intensity to the campaign that was waged to save the Franklin.

The basis of such a campaign would be twofold:

Firstly it should support the nomination of the western Kimberley for National Heritage listing, affirming the many ways in which the western Kimberley satisfies the criteria for such listing. This would provide the prelude to World Heritage listing for the area.

Secondly it should oppose the Woodside development and support instead piping the Browse Basin gas to a processing plant in the Pilbara. Opposition should highlight that federal approval of the Woodside development would be of doubtful legality on the following grounds:

¹ Walmadany is right in the middle of a major Song Cycle or Dreaming track sacred to the Jabirrabirr and Gularabulu peoples. (It is the Gularabulu clan to which Joseph Roe belongs.) This Song Cycle is memorialized in the Lurujarri Trail, and has now also been walked by non-Indigenous people, under the guidance of Indigenous elders, for many years. There is moreover an eerie significance in the name, Walmadany. As Stuart Cooke explains, Walmadany was an actual historical figure, a *Maban* (cleverman) and leader of the Jabirrabirr people in the early twentieth century, a "fierce protector of his people, of his country's *jila* (water holes), and of his country against strangers – be they invading tribes, or Europeans." (Cooke 2010)

² For the criteria, see www.environment.gov.au/heritage/about/national/criteria.html

(1) It would contravene the spirit of the United Nations Convention on Biological Diversity, to which Australia is signatory and to which it is legally bound. The CBD declares in its Preamble that

“...the fundamental requirement for the conservation of biological diversity is the in-situ conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings”

However, the CBD conjoins the requirement of biodiversity conservation with the requirement of economic development and is heavily weighted towards the latter, so is not a particularly powerful instrument for the preservation of “wilderness” areas (Guruswamy 1998) (or, since “wilderness” is a highly contested and largely inappropriate term for lands that have historically been managed as indigenous estates, such areas might be designated large-scale ecological reference areas). Australia’s particular obligations under the Marine And Coastal Biodiversity Program, subsidiary to the Convention on Biological Diversity, also need to be closely scrutinized in this connection.

(2) Approval of the Woodside development would clearly contravene the Environmental Protection and Biodiversity Conservation Act, the federal Act that legislates Australia’s responsibilities under the Convention for Biological Diversity. This Act nominates under several categories “matters of national environmental significance” which must be protected by law. They include endangered species, threatened ecosystems and migratory species. The Dampier Peninsula, and the James Price Point area in particular, includes in its ecology many migratory species (humpback whales, ten known species of birds, with 28 further species of birds considered likely to occur there). A large number of rare and vulnerable species, such as the earlier mentioned bilby and golden bandicoot, are known to occur at James Price Point, and environmentally significant ecosystems, such as monsoon vine thickets, coastal heath and drainage basin paperbark communities also occur.

3) Most importantly, approval of the James Price Point development would render the wholesale industrialization of the Kimberley inevitable, both by providing a legal precedent for this kind of development in the region and by providing the industrial infrastructure (power and port facilities) that would enable such development physically to proceed. Since industrialization of the Kimberley as a whole would contravene both the CBD and the EPBC Act to the gravest degree, and since approval of the Woodside development would entrain such contravention, approval of the Woodside development should in itself be considered contraventional.

A strong and highly visible national campaign to pre-empt the inappropriate industrialization of the Kimberley would signal to Indigenous organizations such as the Kimberley Land Council that rapacious exploitation of Aboriginal country is not a foregone conclusion and hence that cash over culture is not the only option for Indigenous communities. There is a chance, with the backing of environmental forces, to retain the integrity of country in the Kimberley, and hence to build Aboriginal economies on a sound and sustainable basis of culture rather than trading away their cultural identity and future as a distinctive cultural formation for the sake of resource jackpots of questionable long-term value to communities. The economic welfare of Indigenous communities should in no way be contingent on resource jackpots, as the West Australian government seems to imply in its pious assertions that resource development in the Kimberley is the only way in which Indigenous communities there will be lifted out of poverty. Indigenous communities will lift themselves out of poverty when they have the chance to adapt their cultures to modern conditions. For this to happen, these communities need, first and foremost, education. First-rate education is the priority need of these communities, and to this they are, like all other Australians communities, already entitled, out of the existing public purse. As a matter of social justice and reparation, they are in fact entitled to the very best education the Australian system can offer. So let’s hear no more about Indigenous communities needing resource jackpots to be “lifted out” of poverty. Provision of quality education, the Indigenous ticket to cultural adaptation, should no more require the compromise of environmental and legal values than delivery of social rights to other communities does.

At a time when Indigenous majorities are finally resisting corporate co-optation and destruction of nature in other parts of the world, such as South America, where Ecuador and Bolivia have recently taken the breakthrough legal step of enshrining rights of nature in their constitutions, there is a chance for the Kimberley, with a near majority of Indigenous citizens, to lead the way towards a new form of development imbued with deep respect for the living fabric of land and sea, consonant with biosphere integrity.

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