

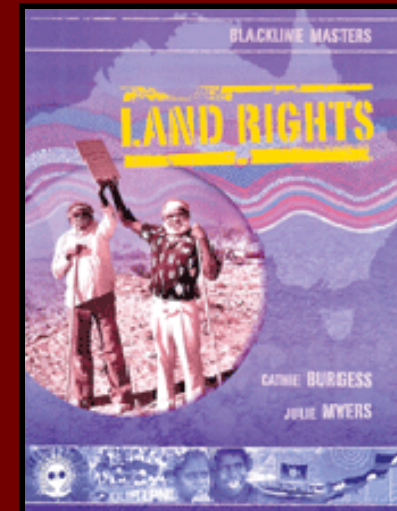
Australian Indigenous Studies 100-181

Local histories: Koori struggles for Land
Justice in Victoria: Exposing the myths

Lecturer: Dr Wayne Atkinson-Yorta
Yorta

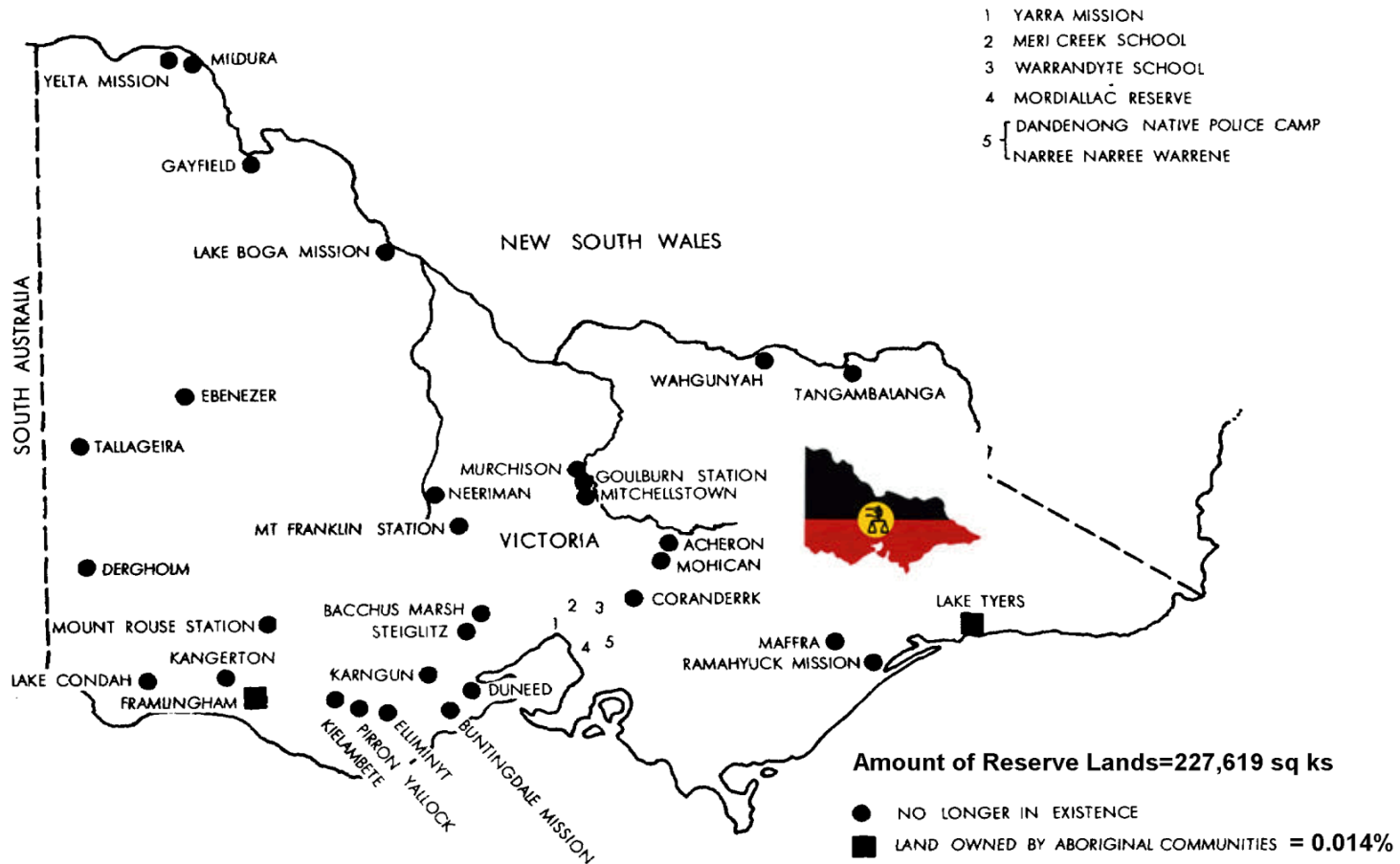


Land Rights Struggle in Victoria



Allocation of Reserve Lands after failed Protectorate 1838-49

Reserve Lands Granted for Kooris 1835-1970's



From: Felton, P. 1981

Reserve Lands Granted for Kooris 1830's-1970's

- **254,945 acres (398 sq miles), an area equivalent to one-fifth the size of Melbourne, set aside for Koori use (Felton, 1981:176)**
- **Except for Lake Tyers and Framlingham, 1970 (4,586 acres) all the reserve lands were revoked and sold off to Europeans (Felton, 1981:175).**

Second Wave of Dispossession

Reserves were seen as a form of compensation but the loss of reserve land was seen as another act of dispossession and betrayal on the part of the government and settler society

Land Rights Legislation in Victoria after Woodward, 1974

- **Attempt to establish a Victorian Aboriginal Land Council, following the Woodward Inquiry into Aboriginal Land Rights in the Northern Territory (1974), was unsuccessful.**
- **Key issue was representation and control of the proposed council-state wanted control.**

Land Right Legislation for Victoria fails under Cain, Kirner, Govts

- **Attempts to introduce land rights by Cain Govt in 1983 failed because they did not have numbers in upper house—a privilege that Bracks and Brumby have. Kirner Govt faced same barriers.**
- **Some land returned under separate Land Acts—see Graph.**

STATUS OF INDIGENOUS LAND JUSTICE IN VICTORIA, 2006

State	% of Land Held	Nature of Title	Land Rights Legislation-Comm/State
VIC	0.014	Inalienable freehold	<p><i>Aboriginal Land Act 1970 (Lake Tyers-Framlingham) (Vic)</i> <i>Aboriginal Land (Lake Condah and Framlingham Forest) Act 1987 (Cwth)</i> <i>Aboriginal Land Fund Commission 1974 (Cwth)</i></p>
		Freehold subject to conditions that land be used for community cultural and burial purposes.	<p><i>Aboriginal Land Rights (Aborigines Advancement League Watts St Northcote) Act 1982 (Vic)</i> <i>Aboriginal Land (Northcote Land) Act 1989(Vic)</i> <i>Aboriginal Land Act 1991(Vic)</i> (return of cemeteries at Coranderrk, Ebenezer, Ramhayuck <i>Aboriginal Land (Manatunga Land) Act 1992 (Vic)</i> Transfer of Land at Healesville by Commonwealth and purchase of land at Coranderrk by Indigenous Land Fund, 1998.</p>



Land Rights achieved through Native Title process: Wotjoboluk, Mallee Wimmera and Gunditjmara, Western District, mediated consent agreements for use of some of their traditional lands and for co- management of National Parks within thier traditional lands. Nature of title is permissive use rights controlled by the State.

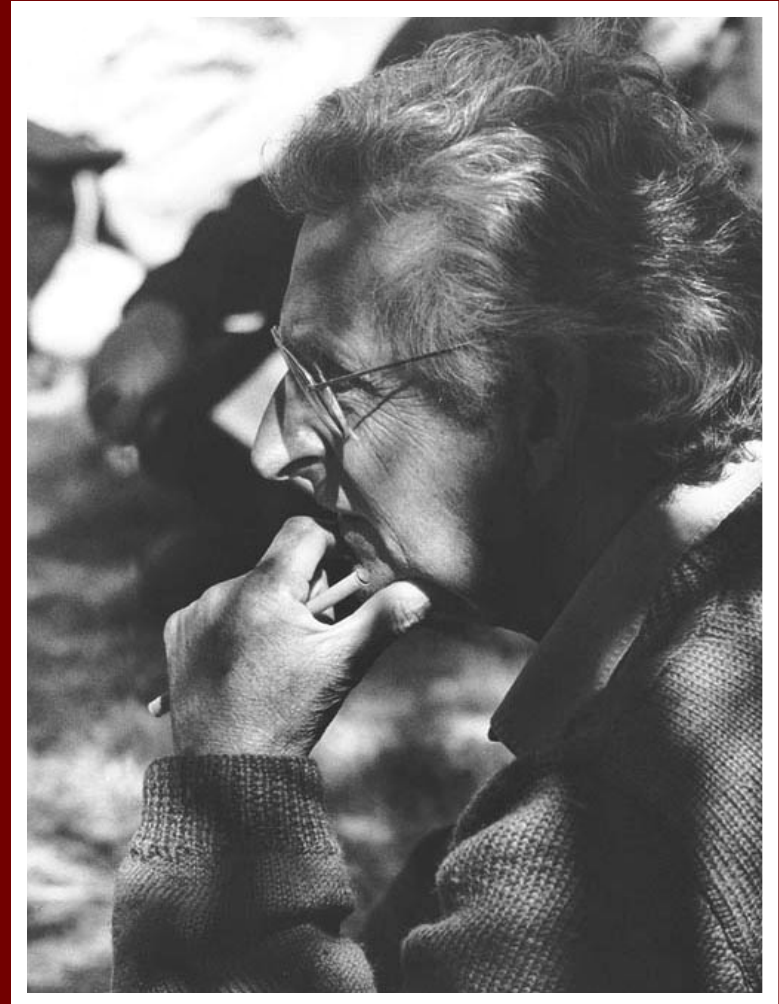
Other Land Justice can be delivered to Yorta Yorta through handback leaseback of Barmah State Forest as a National Park under inalienable freehold and Joint Managment structure if VEAC

Yorta Yorta v State of Victoria & Ors, Trial (1994-2002)



Justice Olney's Decision, Federal Court Melbourne 18 December 1998

- **The Court determines that native title does not exist in relation to the areas of land and waters identified in Schedule D to Native Title Determination Application VN94/1 accepted by the NT Registrar on 26 May 1994 (19 Seconds)**



Key Issues of Olney J. Decision , Dec 1998

- **Yorta Yorta ceased to occupy the lands in accordance with the traditional based laws and customs before the end of the 19 Century (pp.66-67,para 121).**
- **The tide of history, *Mabo* (No 2) at 43, had washed away any real acknowledgment and observance of Yorta Yorta traditional laws and customs in relation to the claim area (pp. 70-71, para 129).**

Olney J. replaces Terra Nullius with the Tide of History

- **Justice Olney, ignores the evidence of continuity, and disregards the majority of the evidence that was drawn from the Yorta Yorta-54%.**
- **He then takes Brennan's idea and applies it in the absolute sense as a trope for dispossession.**
- **The legal barrier of terra nullius which was abolished by Mabo has now been replaced with the 'Tide of History' euphemism (Mabo (No2), 1992 Brennan J, at 59-60).**
- **Olney J's test and his underlying reasoning support the sequential barriers process in the Yorta Yorta case.**

Barriers to Land Justice 21 Century Australia

- **Mindset of opposition to Indigenous rights**
- **Way law is being interpreted and applied.**
- **Anglocentric interpretation of Native Title Act, 1993.**

VEAC Study of Reg Gum Forest in Yorta Yorta land delivered National Parks along the Murray 2006-09



<http://www.veac.vic.gov.au/>

Yorta Yorta Return to Base Camp Politics

**Always was, always will be
Yorta Yorta land.**



Campaign for National Parks, Joint
Management and Land Justice

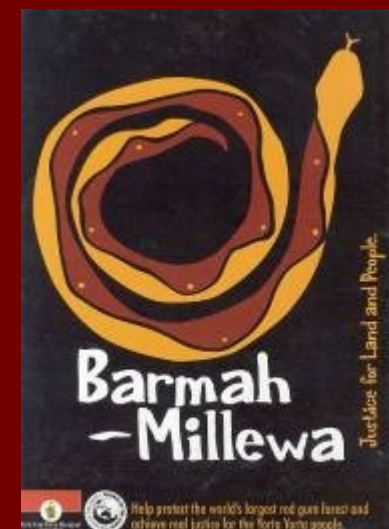
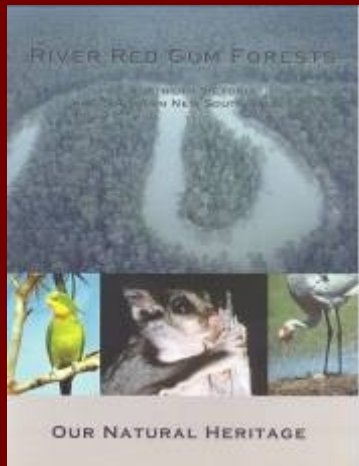
Back to Base Camp Politics

Achieving Land Justice via the Political Process

- **Barmah-Millewa Campaign for Nat Park-recognising Yorta Yorta as Traditional Owners under Joint Management Structure- Handback Leaseback**
- **Brumby Govt's announcement of National Parks along the Murray following the VEAC inquiry and report, 2008. Keneally Govt announcement of the same for Millewa Forest, November, 2009.**

Campaign for National Parks and Yorta Yorta Land Justice

- Collective movement of NGOs, FOE, VNPA,NSWNPA, ACF,EV, campaigned in support of Yorta Yorta for National Parks on both sides of Murray-Barmah Millewa. 2002-2010.**



'National Parks': 'Joint Management & Co-Management'



What is it ? How does it work? and how can it be used to enhance local Indigenous control & empowerment?

JM as a Concept

JM is a compromise position, to that of 'sole management' which has been practiced by Indigenous Australians for the majority of our land management history-60000 years or since creation, land has been cared for as ancestral lands in a more holistic way.

Joint Management Models

- **Jointly Managed NP are now well established in the NT: Uluru-Kata Tjuta, 1985, Nitmiluk NP, Katherine Gorge, 2000 and elsewhere in Aust- Boodaree (ACT) Mootawindigie (NSW).**
- **There is no generic model or blueprint for successful JM.**
- **They are not set in concrete but are evolving processes that can be adapted for the improvement of future management plans.**
- **Each agreement needs to be negotiated and be responsible to the needs and aspirations of each local community (Lawrence, 1996-97).**

Providing an Economic Base

- **National parks can provide employment and economic benefits.**
- **Aboriginal enterprises leading cultural tours of parks, the interpretation of culture, and the manufacture and sale of artefacts;**
- **Aboriginal people being contracted by park agencies to develop cultural heritage management strategies and to undertake certain land management activities.**
- **Aboriginal involvement has enhanced visitor experience at Kakadu, Boodaree,(ACT) Mutawinji (NSW) National Parks and generated an economic base for Traditional Owners (Altman and Smith,1990).**

Way Forward from Here:

- **Joint Management of Barmah-Millewa National Parks under agreements with Vic/NSW Governments that recognise the Yorta Yorta as the traditional owners through a hand back lease back arrangement similar to other National Parks in Australia- Kakadu,NT Boodaree,ACT, Mootawingie, NSW.**
- **Land management and cultural heritage restoration and promotion of Natural Cultural values on National International scale**
- **Tapping into equitable share of the tourism economy to promote cultural tourism and the employment of Indigenous people in the cultural & tourism industry**

VEAC: Key Recommendations

- **Recognition of Indigenous interests, Joint Management structures and hand/back lease back in five years, p.34.**

VEAC: Final Recommendations, p.32.

- **Joint management proposed as a mechanism to improve social outcomes and economic development for Aboriginal people.**

'Keeping it for the Future'

Mighty Dhungulla: Keep Her Flowin



Old River Reds: Keep-em Growin



**Thank you: Dr Wayne Atkinson, Yorta Yorta Elder
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