

**CITY OF MELBOURNE
SUBMISSION TO
YOORROOK JUSTICE COMMISSION**

SEPTEMBER 2024



CITY OF MELBOURNE

Acknowledgement of Traditional Owners

The City of Melbourne respectfully acknowledges the Traditional Owners of the land we govern, the Wurundjeri Woi-wurrung and Bunurong / Boon Wurrung peoples of the Kulin and pays respect to their Elders past and present. We acknowledge and honour the unbroken spiritual, cultural and political connection they have maintained to this unique place for more than 2000 generations.

We accept the invitation in the Uluru Statement from the Heart and are committed to walking together to build a better future.

This Submission relies heavily on the colonial sources, some of this Submission will contain offensive and racist words and ideas. These words and ideas maintain their ability to harm and wound us all. We apologise for any harm caused to the reader and hope that shedding light on these words and ideas leads to a greater understanding and the end of their circulation.

Aboriginal and Torres Strait Islander people are advised this Submission contains the names and words of people who have passed away.

Acknowledgement:

The City of Melbourne wishes to acknowledge the work of historian Dr Amanda Lourie who sourced and interrogated documents from the Public Records Office of Victoria, the National Archives of Australia, the National Library of Australia including Trove, and the State Library of Victoria. The research was time limited and therefore only preliminary in nature.

Cover Image:

Moreton Bay fig trees in the Carlton Gardens became a significant gathering place for Aboriginal people. Aboriginal civil rights activists, community workers and leaders addressed gatherings here.

Image taken by Wayne Quilliam 2024.

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Introduction

The City of Melbourne welcomes the opportunity to provide this Submission to the Yoorrook Justice Commission as we recognise the importance of truth-telling into injustices experienced in all areas of life by First Peoples in Victoria since colonisation.

The City of Melbourne stands on the land of its Traditional Owners, the Wurundjeri Woi-wurrung and the Bunurong Boon wurrung peoples of the Kulin.

Melbourne City Council is the local government body responsible for the municipality of Melbourne. Councils are area based, representative governments with a legislative and electoral mandate to manage local issues and plan for the community's needs. Local government enables the economic, social and cultural development of the municipal area it represents, supports individuals and groups, and provides a wide range of services for the wellbeing of the local community. Councils are designed to respond to local community needs. Each council has the powers to set their own regulations and local laws, and provide a range of services, including the implementation of policies, regulations and programs set by other levels of government.

Melbourne was incorporated as a Town in 1842, before becoming a City in 1847. Melbourne became the capital of the Colony of Victoria when it formed in 1851, after the Port Phillip District separated from the Colony of New South Wales.

The work of the Yoorrook Justice Commission coincides with the City of Melbourne's progress along our truth-telling journey. The City of Melbourne's commitment is evidenced through embedding truth-telling in our Reconciliation Action Plans, identifying truth-telling as a Major Initiative for Council and prioritising truth-telling within our 10 Year Plan.

To date the City of Melbourne has focused on providing opportunities for the deliberate sharing of history and experience, inclusive of injustices and wrongdoings, by Aboriginal voices. This submission process has now provided the impetus for the City of Melbourne to explicitly and specifically examine its own role in colonisation, including the dispossession of Wurundjeri Woi-wurrung and Bunurong Boonwurrung Traditional Owners.

It is important to note that the information contained in this Submission was sourced through the research of publicly available documents from the Public Records Office of Victoria, the National Archives of Australia, the National Library of Australia including Trove, and the State Library of Victoria. The research was time limited and therefore only preliminary in nature. As a result, further work is required before definitive conclusions or actions can be drawn. Nevertheless, the findings from the research inform the content of this Submission and provide guidance for further research.

Further the Submission draws directly from the research sources, ensuring a more accurate understanding of what has been said and how Aboriginal people (and others) were written about in a colonial context. As this Submission relies heavily on the colonial sources, some of this Submission will contain offensive and racist words and ideas. These words and ideas maintain their ability to harm and wound us all. We apologise for any harm caused to the reader and hope that shedding light on these words and ideas leads to a greater understanding and the end of their circulation.

This submission is divided into three sections: direct injustices; indirect injustices; and areas of potential further research.

The period covered is from 1842 until the present. This submission is presented chronologically, with time periods reflecting significant shifts in public policy.

Aboriginal and Torres Strait Islander people are advised this Submission contains the names and words of people who have passed away.

Direct injustices

City of Melbourne Council not seeing Aboriginal people as part of its constituency

From its inception the City of Melbourne did not consider Aboriginal people as part of its constituency or responsibility. When the Council was concerned about Aboriginal people in the first decade of its existence, it approached the Port Phillip Aboriginal Protectorate.¹ Through the nineteenth and twentieth centuries there was limited, if any, mention of Aboriginal people in Council minutes. From around the 1990s this began to change as ideas of reconciliation and acknowledging and working with the Traditional Custodians whose land the City of Melbourne sits on began to be explored and practised.²

In 1842, the requirements for voting for the Council were: occupying a house or business to a value of £25 and not receiving charitable assistance or have a child enrolled in a charitable institution within three years of the election. This meant Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people were not eligible to vote.³ It is clear that the Town Councillors and their later City Councillor counterparts did not view Aboriginal people as part of their constituency; during this period they expected the Port Phillip Aboriginal Protectorate to 'manage' Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people. As historian Rob Watts noted, it was 'normative until 1971' to omit 'entirely the population of Aborigines residing in the area' when counting population numbers.⁴ Rather, it was the role of the Protectorate, and later the Board for the Protection of the Aborigines (BPA) to count Aboriginal people and document where they were. Watt noted the 'surveillance of the Aboriginal people would continue but it was never allowed to contaminate the only true record of progress in the settlement, the population of the white settlers.'⁵ The Council did not explicitly state that they were ignoring Aboriginal people in thinking about their constituents, but there is a silence regarding Aboriginal people in the Council minutes over decades, where care for constituents was widely discussed.

This is a difficult area to research, as it is primarily absences from records that one can observe the Council's omissions. Below are a few examples where Aboriginal people were not considered as part of the Council's constituency.

Not advocating for Aboriginal soldiers' rights after World War II

At the end of the war, many Aboriginal people returned from armed service to challenges in getting employment and housing, with little to no support from Federal or State Governments. If they could get pensions, they suffered having these quarantined and they were denied access to military funerals, marching on Anzac Day and membership of the RSL.⁶ There were some who attended reunions of the units after the Anzac Day march, indicating they felt a camaraderie and acceptance with the men they fought with. For example, in April 1946 Chris (Snowy) Saunders attended the reunion of the 10th Machine Gunnaikurnai Co of the 1st AIF. He had been a driver with the unit.⁷

¹ For example, see: Letter, William Thomas to Chief Protector, George Augustus Robinson, 31st October 1845, Volume 09 Item 02: William Thomas correspondence, returns, etc., 1843-1845, William Thomas papers, SLNSW. Report, December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW. Entries, 21st December 1844, 26th November 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

² For example, see: City of Melbourne, City of Melbourne (Innovate) Reconciliation Action Plan, City of Melbourne, June 2021-June 2023, p. 12. Environment Sustainability and Indigenous Affairs Committee, 'Progress of Indigenous Programmes at the City of Melbourne', City of Melbourne, 14th October 2004, Agenda item 5.4, pp. 3, 4. Minutes, 28th February 2006, City of Melbourne Council Proceedings, Minutes of Meetings, 28th February 2006 to 30th May 2006, SLV, p.2. Ponch Hawkes (ed), Art of Reconciliation, City of Melbourne, 2002, p. 1. Ray Thomas, Megan Evans and Robert Mate Mate, Another View Walking Trail, The City of Melbourne, 1995.

³ An Act to incorporate the Inhabitants of the Town of Melbourne (NSW), 12th August 1842, No. VII, pp. 1270, 1272. Garryowen, Chronicles of Melbourne, vol. 1, pp. 258, 259-260. David Dunstan, 'Melbourne City Council', eMelbourne: the city past & present, accessed 5th April 2024, <https://www.emelbourne.net.au/biogs/EM00930b.htm>.

⁴ Rob Watts (2003), 'Making numbers count: The birth of the census and racial government in Victoria, 1835-1840', Australian Historical Studies, vol. 34, no.121, pp. 26-47, p. 39.

⁵ Watts, 'Making numbers count', p. 45.

⁶ 'Anzac Day and Aboriginal Service People', Deadly Story, accessed 5th March 2024, [Anzac Day & Aboriginal Service People - Deadly Story](#).

⁷ 'Men of Two Wars at Reunions', Argus, 25th April 1946, p. 4, accessed 27th December 2023, <http://nla.gov.au/nla.news-article22242989>. 'Walter Christopher Saunders', Australian War Memorial, 25th August 2020, accessed 20th March 2024, <https://www.awm.gov.au/learn/schools/resources/anzac-diversity/aboriginal-anzacs/walter-saunders>.

The Council did not appear to advocate for the Aboriginal soldiers it saw enlist at Melbourne Town Hall or camp at Royal Park or drum up recruits through gumleaf playing out the front of the Town Hall. It was not alone in this, but there were organisations that did advocate for Aboriginal people. In 1946, the Railways Union stated support for Aboriginal people to have full citizen rights.⁸ In 1946 the RSL's annual congress passed a resolution asking the Commonwealth Government to 'grant the franchise to Aboriginal ex-servicemen.'⁹ In 1947, the Caulfield Central sub-branch of the Returned Soldiers', Sailors' and Airmen's' Imperial League of Australia 'unanimously moved that the Federal executive of the league be urged to do all within its power to obtain the Commonwealth franchise for all [A]boriginal ex-servicemen.'¹⁰ That same year Reverend Ray Williams of the South Melbourne Methodist Mission wrote to *The Age* newspaper lamenting that Victorian Aboriginal people:

'have no vote; no old-age pensions; no freehold property rights; no right (strictly legal) to ride in our trains. They receive a dole of flour, sugar &c; they speak of their reserves as concentration camps, yet, withal, if they dare to earn money by free labor they are subject to taxation.'¹¹

As Reverend Williams noted, many of these concerns were Federal Government or State Government concerns. However, it shows that there were people and organisations advocating for Aboriginal people after World War II whilst the Council did not.

Council Health Committee

Annual Health Committee reports allowed an overview of the services provided and the health and welfare needs of the residents of Melbourne. Only a limited number were examined for this Submission, but the area of health and welfare would be worth further research, in relation to engagement with, or lack thereof, Aboriginal people living in Melbourne.

The City of Melbourne Health report for 1965 outlined in some detail information about rates of death, illnesses, vaccinations and proposals for the future. Dr Philip Gilbert noted that the Health Committee and staff working for the Council in health had been keeping records that recorded people's nationalities. However, the statistics for nationality of parents in the Council area only identified people not of Australian or British birth, such as Italian people, Greek people, Yugoslavian people or Maltese people.¹² Aboriginal people were not identified separately. This demographic and presentation of information continued to be reflected through to the 1968 report.¹³ By 1971 Lebanese people and Egyptian people had been added to the statistics, reflecting migration demographics. There remained no mention of Aboriginal people throughout the report.¹⁴ When organisations that the Council staff worked with to help with the distribution of food vouchers, clothing and completing visits, there is no mention of Aboriginal groups such as the Aborigines' Advancement League (AAL).¹⁵

Use of the Dog Act to keep Aboriginal people out of Melbourne streets

During the 1840s the Council directed Town Police to enforce the *Dog Act* to kill Kulin nation people's dogs. This resulted in the killing of Wurundjeri ngurungaeta Billibellary's dog, among others. The Council believed the killing of dogs would keep Aboriginal people out of the streets of Melbourne.

⁸ 'Fund Suggested for Training Aboriginal Girl', *Argus*, accessed 15th April 1946, p. 7, accessed 27th December 2023, <http://nla.gov.au/nla.news-article22242631>.

⁹ Noah Riseman, 'Ex-service activism after 1945', in Joan Beaumont and Allison Cadzow (eds), *Serving Our Country: Indigenous Australians, War, Defence and Citizenship*, NewSouth Press, Sydney, 2018, pp. 261-281, p. 264.

¹⁰ 'Franchise for Blacks', *The Age*, 22nd March 1947, p. 2, accessed 27th December 2023, <http://nla.gov.au/nla.news-article205311007>. 'Aboriginal Ex-Servicemen', *Argus*, 25th March 1947, p. 7, accessed 27th December 2023, <http://nla.gov.au/nla.news-article22416761>.

¹¹ 'First Things First', *The Age*, 19th May 1947, p. 2, accessed 27th December 2023, <http://nla.gov.au/nla.news-article206030905>.

¹² Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1965, City of Melbourne Proceedings, 1965-1966, SLV, Appendices, p. 17.

¹³ Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1968, City of Melbourne Proceedings, 1968-1969, SLV, Appendices, p. 9.

¹⁴ Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1971, City of Melbourne Proceedings, 1971-1972, SLV, Appendices, p. 13.

¹⁵ For example, see: Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1971, City of Melbourne Proceedings, 1971-1972, SLV, Appendices, p. 23.

On 8th June 1839, Governor Gipps extended the Dog Act, *An Act for abating the nuisances occasioned by Dogs in the Streets of certain Towns and Highways in New South Wales* to the Town of Melbourne.¹⁶ Stray dogs were considered a problem in the streets of Melbourne. Police made good money from killing them, collecting rewards for each tail presented.¹⁷ Yet colonists continued to complain about dogs, especially the dogs that accompanied Kulin nation women.

These dogs were assumed by colonisers to be diseased. They were described as ‘predatory’ and seemed to ‘swarm’ the streets of Melbourne.¹⁸ Colonist writers horrendously described Kulin women as behaving akin to their beloved dogs: ‘their prying into every hole and corner, in imitation it may be supposed, of their owners’.¹⁹ Books published in Britain to tell those at ‘home’ of the state of Melbourne and the Port Phillip Settlement mentioned the dogs of Aboriginal people as a feature that reminded one ‘that you are not in the British isles.’²⁰

Whilst the *Dog Act* covered Melbourne, on 12th September 1843 a committee was established to consider ‘the best means of ridding the Town of the nuisance of the maingy [*sic*] dogs which follow in the Train of the Aborigines’²¹. The committee’s members were Aldermen Andrew Russell and William Kerr and Councillors John Fawkner and George Beaver.²² Newspaper reports acknowledged the formation of the committee and called for residents who owned dogs to complain to the Council committee about the Kulin women’s dogs.²³ The membership of the committee changed quickly that same month, now consisting of Aldermen Andrew Russell and Henry Mortimer and Councillors John Orr and James Dobson.²⁴ During the November 1843 Council meeting, Russell was recorded as stating this was ‘a most necessary committee, the numerous mangy dogs in the town being an insufferable nuisance; he would be equally anxious that mangy bipeds should be got rid of, but that was a more difficult achievement.’²⁵

In that same meeting the committee became known as the ‘Native Dogs committee’.²⁶ This was in response to Fawkner, who ‘to spare the feelings’ of the committee members, suggested the renaming.²⁷ In February 1844 the Council decided to streamline and merge various committees and the ‘Native Dogs committee’ came under the auspices of the Legislative Committee.²⁸ From April to August that year, most of the mentions in the Council minutes regarding dogs and a Dog Act were in relation to ‘appropriation of the Fees and Fines received under the

¹⁶ *New South Wales Government Gazette*, Number 423, Wednesday June 12th, 1839, pp. 667-685, p. 670. Letter, Colonial Secretary E Deas Thomson to Police Magistrate Melbourne 8th June 1839, VPRS4 P0000 Folder no 14, 1839/114, Inward Registered Correspondence, Police Magistrate, Port Phillip District, 1836-1839, PROV.

¹⁷ Contemporary reports decried the cruel methods used by the police to kill the dogs, often resulting in slow and painful deaths. ‘The Dog Nuisance’, *Port Phillip Gazette*, 15th February 1843, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article225008521>.

¹⁸ ‘Semi-Weekly Abstract’, *Port Phillip Gazette*, 19th November 1842, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article225011123>

¹⁹ ‘Semi-Weekly Abstract’, *Port Phillip Gazette*, 19th November 1842, p. 2.

²⁰ ‘Review: The present state and Prospects of the Port Phillip, District of New South Wales’, *Port Phillip Gazette*, 28th June 1845, p. 4, accessed 30th November 2023, <http://nla.gov.au/nla.news-article224812343>.

²¹ Minutes, 5th September 1843, Minutes of Proceedings of Town Council, 1842-1843, No 1, VPRS 8910 P0001 Item 1, Minute Books of Council Meetings, PROV. Letter, Colonial Secretary to Police Magistrate, Port Phillip District, 21st September 1838, VPRS 4 P0000 Item 434 Folder No 49/1838, Inward Registered Correspondence, Police Magistrate Port Phillip District, 1836-1839, PROV. Letter, Colonial Secretary to Police Magistrate, Port Phillip District, 8th June 1839, VPRS 4 P0000 Folder No 14 1839/114, Inward Registered Correspondence, Police Magistrate Port Phillip District, 1836-1839, PROV.

²² Minutes, 12th September 1843, Minutes of Proceedings of Town Council, 1842-1843, No 1, VPRS 8910 P0001 Item 1, Minute Books of Council Meetings, PROV.

²³ ‘The Mange’, *Port Phillip Gazette*, 11th November 1843, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article224809704>.

²⁴ ‘Town Council November 9, 1843’, *Port Phillip Gazette*, 11th November 1843, p. 4, accessed 30th November 2023, <http://nla.gov.au/nla.news-article224809705>.

²⁵ ‘Town Council November 9, 1843’, *Port Phillip Gazette*, 11th November 1843, p. 4.

²⁶ Minutes, 7th November 1843, Minutes of Proceedings of Town Council, 1842-1843, No 1, VPRS 8910 P0001 Item 1, Minute Books of Council Meetings, PROV.

²⁷ ‘Town Council November 9, 1843’, *Port Phillip Gazette*, 11th November 1843, p. 4.

²⁸ Minutes, 9th February 1844, Minutes of Proceedings of Town Council, 1842-1843, No 1, VPRS 8910 P0001 Item 1, Minute Books of Council Meetings, PROV.

Dog Act' and correspondence about this continued between the Council, Superintendent La Trobe and the Government.²⁹

However, as summer neared, and Kulin nation people began moving into Melbourne, the Council returned their concerns away from financial concerns and back to Aboriginal people and their dogs. In November 1844, Chief Protector of Aborigines Robinson wrote to Town Clerk John King stating:

'I have the honor to state in acknowledging the receipt of yours of the 25th Inst. on behalf of the Town Council of Melbourne "Drawing my attention to the nuisance occasioned by the large number of dogs following in the train of the natives and intimating that hereafter prompt measures will be taken for the destruction of all unregistered dogs found within the limits of the Town" that immediate notice of the same will be given to the Aboriginal natives.'³⁰

In December 1844, Alderman Kerr brought a report of the Legislative Committee. In the report the committee indicated:

'that having placed themselves in communication with the Chief Protector, they had had it intimated, through that officer to the [A]borigines frequenting the town, that in case of their dogs being allowed to infest the streets in future, measures would be taken for enforcing the provisions of the Dog Act, in order to abate the nuisance.'³¹

In May 1845, William Hull, a magistrate in the Mayor's Court, addressed the Chief Constable of Police about the 'dog nuisance' and Aboriginal people.³² Hull noted the provisions of the *Dog Act* that were pertinent to the police, namely:

'the 7th section of the Dog Act, which provides that all constables are authorised to kill dogs not registered; and the 9th section compels the court to give 2s 6d for the tail of every dog so killed; he would also direct particular attention to the 13th section, which imposes a fine of from 10s to 20s upon constables for a neglect of duty'.³³

Hull further noted that the Town Clerk and Robinson, Chief Protector, had corresponded and Robinson had assured the Town Clerk that Kulin nation people had been told that if they brought their dogs into Melbourne they would be 'destroyed'.³⁴ Robinson had indicated that Aboriginal people were not taking this threat seriously as it had not eventuated, that is their dogs had not been killed when going with them into Melbourne.³⁵ In response Chief Constable Sugden stated 'he would order the constables to slaughter all the dogs forthwith'.³⁶

The day after Hull reminded the Chief Constable of the requirements of police under the *Dog Act*, Assistant Protector of Aborigines, William Thomas reminded the Kulin people near Melbourne to take care with their dogs. He wrote 'does the Corporation [Council] intend to be sincere, or make me appear foolish again?'³⁷

²⁹ Minutes, 19th April 1844, 26th April 1844, 5th July 1844, 12th July 1844, 23rd August 1844, Minutes of Proceedings of Town Council, 1842-1843, No 1, VPRS 8910 P0001 Item 1, Minute Books of Council Meetings, PROV. Letter, Colonial Secretary to La Trobe, 27th March 1844, VPRS 19 P0000 No 44/ 599, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Henry Condell to La Trobe, 30th April 1844, VPRS 19 P0000 No 44/ 759, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Crown Solicitor to La Trobe, 4th May 1844, VPRS 19 P0000 No 44 / 786, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Crown Solicitor to La Trobe, 20th May 1844, VPRS 19 P0000 No 44 / 855, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Mayor Henry Condell to His Honor the Superintendent Charles La Trobe, 23rd July 1844, VPRS 19 P0000 Item 5876, 44/1259, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV.

³⁰ Letter, George Augustus Robinson to John King, 28th November 1844, VPRS 3622 P0001 Item 1, Correspondence Inward, Miscellaneous Letters, 1842-1858, PROV.

³¹ 'Town Council', *The Melbourne Weekly Courier*, 21st December 1844, p. 4, accessed 12th December 2023, <http://nla.gov.au/nla.news-article228063832>.

³² 'Dog Nuisance', *Port Phillip Gazette*, 14th May 1845, p. 2, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article224812860>.

³³ 'Dog Nuisance', *Port Phillip Gazette*, 14th May 1845, p. 2.

³⁴ 'Dog Nuisance', *Port Phillip Gazette*, 14th May 1845, p. 2.

³⁵ 'Dog Nuisance', *Port Phillip Gazette*, 14th May 1845, p. 2.

³⁶ 'Dog Nuisance', *Port Phillip Gazette*, 14th May 1845, p. 2.

³⁷ Entry, 14th May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

A week later Town Police killed Wurundjeri ngurungaeta Billibellary's dog.³⁸

Thomas wrote to La Trobe, to let him know, stating:

'On Saturday last a Dog belonging to Billibellary was killed, which so displeased him that on the Sunday morning he broke up the E Ent consisting of Mogollombak, Gouldbourn [sic], Devils River + Yarra'³⁹

Thomas wrote about the despair of the Kulin nation people, especially women, at any dog they witnessed being killed or saw the result of (such as tails hung on a tree).⁴⁰ In the same month that Billibellary's dog was killed, Thomas described Kulin women who approached him 'crying about Dogs'.⁴¹ Contemporary descriptions of how police killed dogs are horrific and disturbing.⁴² Kulin nation people changed their behaviour to protect their dogs. They would head into Melbourne under the cover of fog to a 'kind butcher' to get food for their dogs, an act Thomas acknowledged as 'thoughtful'.⁴³

Billibellary led the Wurundjeri people and Taungurung people away from Melbourne, distressed and angry at this killing.⁴⁴ There had been a number of Kulin nation people in Melbourne for the trial of Ninggollobin, but the killing of Billibellary's dog caused them to leave, some Kulin nation men telling Thomas they were 'sulky' with the Melbourne police.⁴⁵ At least five dogs had been slaughtered before the killing of Billibellary's dog and the murder of Kulin people's dogs continued after Billibellary and other Wurundjeri people and Taungurung people left the town.⁴⁶

In June 1845, Thomas noted that Kulin nation people would leave their dogs behind to be cared for by other Kulin nation people as they went into Melbourne.⁴⁷ Whilst this removed the dogs who the Kulin women cared for from the streets of Melbourne, it did not remove Aboriginal people: they continued to visit Melbourne for supplies, to sell wares, and to meet people.

An October 1845 article in the *Port Phillip Gazette and Settler's Journal*, a paper owned by soon to be Councillor Thomas McCombie, noted that with the 'warm weather having set in' Melbourne was 'swarming' with Aboriginal people.⁴⁸ Kulin nation people were staying at Melbourne and going into the town at this time.⁴⁹ The article noted that police had 'slaughter[ed]' Kulin nation people's dogs during the previous summer and the writer hoped similar measures, such as 'slaughtering a few dogs' would 'rid ourselves of their [Kulin nation people] disagreeable presence'.⁵⁰

In June 1846, complaints were made again, this time in the *Port Phillip Patriot and Morning Advertiser*, about Kulin nation people and their dogs and about the Council's apparent lack of action despite the 'Mangy Dog Committee' having been formed a few years prior.⁵¹ This paper was owned by John Pascoe Fawkner, who was still a Councillor

³⁸ Letter, William Thomas to La Trobe, 22nd May 1845, VPRS 19 P0000 No 45 / 864, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV.

³⁹ Letter, William Thomas to La Trobe, 22nd May 1845, VPRS 19 P0000 No 45 / 864, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV.

⁴⁰ Entry, 16th May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW.

⁴¹ Entry, 16th May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW.

⁴² 'The Dog Nuisance', *Port Phillip Gazette*, 15th February 1843, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article225008521>.

⁴³ Entry, 16th May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW.

⁴⁴ Entry, 18th May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW. Letter, William Thomas to Superintendent La Trobe, 22nd May 1845, Volume 09 Item 02: William Thomas correspondence, returns, etc., 1843-1845, William Thomas papers, SLNSW.

⁴⁵ Entry, 21st May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁴⁶ Entries, 15th May 1845 and 21st May 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁴⁷ Entry, 3rd June 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁴⁸ 'The Aborigines', *Port Phillip Gazette and Settler's Journal*, 1st October 1845, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article225063564>.

⁴⁹ Letter, William Thomas to Chief Protector, George Augustus Robinson, 27th October 1845, Volume 09 Item 02: William Thomas correspondence, returns, etc., 1843-1845, William Thomas papers, SLNSW.

⁵⁰ 'The Aborigines', *Port Phillip Gazette and Settler's Journal*, 1st October 1845, p. 2.

⁵¹ 'Living nuisances', *Port Phillip Patriot and Morning Advertiser*, 22nd June 1846, p. 2, accessed 30th November 2023, <http://nla.gov.au/nla.news-article226349907>.

and had been originally on the committee formed with regard to 'Maingy dogs'. The writer complained of colonist's dogs being infected and of the poor appearance of the dogs of the Kulin nation people.⁵²

In January 1848 the *Port Phillip Gazette and Settler's Journal* reported that a proclamation had been issued at the Police Office, titled 'Order to the Police to Kill Dogs'.⁵³ It was signed 'By order of his Worship the Mayor, W J Sugden, Chief Constable'.⁵⁴ The proclamation noted:

'The constables on duty in the last watch, from twelve to six o'clock in the morning, will catch all dogs they find without collars, at large, and take them to the Eastern Hill watchhouse yard, at or before six o'clock in the morning.

Any constable taking dogs to the yard after the hour of six o'clock in the morning, will not be allowed anything for the dogs he may catch.

Should a constable catch a dog before the hour of twelve o'clock, at night (except native dogs), he will subject himself to be reported to his Worship the Mayor for disobedience of orders.

Any constable passing a *native dog* in the street, and not attempting to catch the same, will be reported for neglect of duty, and the sergeants of police will be particular in reporting all disobedience of orders and neglect of duty to the Chief Constable.' [my emphasis]⁵⁵

In January there were few Aboriginal people near Melbourne, but in February they came into Tromgin [the Royal Botanic Gardens site], with around 175 Wurundjeri people, Bunurong Boon Wurrung people, other Kulin nation and Gunaikurnai people staying there.⁵⁶ This was a pattern that was familiar to colonists, that sometime in late summer Kulin nation came to Melbourne to camp either at Merri Creek or Tromgin.⁵⁷ The timing of the Mayor's proclamation suggests this colonial awareness of Kulin nation movements.

Killing dogs of Aboriginal people was a means colonists used to try and remove Aboriginal people from their area. For example, in March 1849 Robinson recorded in his journal: 'Watton said the settlers shot the native dogs when they wanted to get rid of them [Aboriginal people], he knew it and so do I.'⁵⁸ In May 1849 Robinson recorded 'Forbes said he tried strychning on natives' dogs, killed three, the natives did not like it and went off.'⁵⁹ The Council also used this method to try and keep Kulin nation people out of the streets of Melbourne through enforcing the *Dog Act* and Mayors regularly ordering police to kill Kulin nation people's dogs.

Preventing Wurundjeri people and Bunurong Boon Wurrung people from bathing in Birrarung

In October 1843, as part of policing areas under their concern, a motion from Councillor John Stephen and seconded by Alderman Andrew Russell, required the Street Keeper, employed by the Town Council, to

'daily inspect the Banks of the River Yarra within the boundaries of the Town above the Falls and to report to the Town Surveyor, who will cause the carcasses of all dead animals to be removed and cause all Bathing between the Dam and the Police Paddock by natives or others to be prevented.'⁶⁰

At this stage Melbourne relied on this part of the Birrarung for its drinking water. The inclusion of Aboriginal people in this motion indicated Councillors were aware that Aboriginal people did swim and bathe in this part of the Birrarung. Thomas had noted 'Bathing is all their delight', observing Aboriginal people's enjoyment of swimming in

⁵² 'Living nuisances', *Port Phillip Patriot and Morning Advertiser*, 22nd June 1846, p. 2.

⁵³ 'The Canine Species', *Port Phillip Gazette and Settler's Journal*, 22nd January 1848, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article223153612>.

⁵⁴ 'The Canine Species', *Port Phillip Gazette and Settler's Journal*, 22nd January 1848, p. 2.

⁵⁵ 'The Canine Species', *Port Phillip Gazette and Settler's Journal*, 22nd January 1848, p. 2.

⁵⁶ Marguerita Stephens with Fay Stewart-Muir, *The Years of Terror: Banbu-Deen*, Australian Scholarly Publishing, North Melbourne, 2023, p. 400.

⁵⁷ Stephens with Stewart-Muir, *The Years of Terror*, pp. 304, 333, 361, 385.

⁵⁸ Entry, 22nd March 1849, Ian D. Clark (ed.), *The Journal of George Augustus Robinson Chief Protector, Port Phillip Aboriginal Protectorate, 1 January 1839-30 September 1852*, Clarendon, 2014.

⁵⁹ Entry, 21st May 1849, Clark, *The Journal of George Augustus Robinson*.

⁶⁰ Minutes, 6th October 1843, Minutes of Meeting of Town Council, 1842-1843, no. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV.

that area.⁶¹ This was an area that included the camping site of the Bunurong Boon Wurrung people and Wurundjeri people on the southern banks of the Birrarung, around where Government House and the Royal Botanic Gardens are now located. The Police Paddock (part of current day Yarra Park) was on the northern banks of the Birrarung, where Native Police and their families stayed at times.⁶² It was a rare instance of Aboriginal people being specifically mentioned in a motion or the minutes of a Council meeting.

In March 1844 the Council passed By-Law No. 8, 'A Bye-Law for regulating Bathing in the River Yarra Yarra, within the boundary of the Town of Melbourne.'⁶³ The by-law stated:

'it shall not be lawful for any person to bathe in that portion of the River Yarra Yarra above the Dam at the Queens Wharf which lies within or adjoins the Town boundary, and any person who shall so offend shall on conviction before any one or more Justices of the Peace for the said Town, forfeit and pay, for every such offence, a sum not exceeding forty shillings nor less than ten shillings.'⁶⁴

Aboriginal people were not specifically mentioned in this by-law, but the earlier reference indicated that the Council knew that Wurundjeri people, Bunurong Boon Wurrung people and other Kulin nation people swam in and used the Birrarung. This law would bring such practices to the attention of the Councillors, the Street Keeper and the Town Police.

Role of Mayor as Police Magistrate in warrants, trials and imprisonment of Aboriginal people

From 1843 to 1853 the Mayor became acting Police Magistrate and presided over what became known as the Mayor's Court. In this role he had the power to sign warrants and incarcerate Aboriginal people. For this period the role of acting Police Magistrate was tied to the position of the role of Mayor, linking the Council and judicial system together.

Mayor as Police Magistrate

In 1843 the stipendiary Police Magistrate for the Town of Melbourne was removed. Because of the ongoing tensions over funding between the Council and colonial government Governor Gipps refused to use colonial revenue to pay for a Police Magistrate.⁶⁵ In October 1843, La Trobe informed the Council that 'the business of the town police office would devolve upon the Mayor and town Magistrates.'⁶⁶ The Mayor of Melbourne became the *de facto* Police Magistrate for the town of Melbourne, and when corresponding with Superintendent La Trobe, subsequent Mayors wrote from the Police Office, signing as Mayor and occasionally including Acting Police Magistrate in their signature, demonstrating the coalescence of these roles.⁶⁷

⁶¹ Stephens with Stewart-Muir, *The Years of Terror*, p. 333. See also: John Cotton, 'Native [sic] bathing scene on the Yarra Yarra River, 1847, Pictures Collection, SLV, accessed 10th April 2024, <http://handle.slv.vic.gov.au/10381/71871>.

⁶² Stephens with Stewart-Muir, *The Years of Terror*, pp. 15-16. Meyer Eidelson, *Melbourne Dreaming: A Guide to important places of the past and present*, 2nd ed., Aboriginal Studies Press, Canberra, 2014, pp. 29-30, 37.

⁶³ Minutes, 2nd March 1844, Minutes of Meeting of Town Council, 1842-1843, no. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Letter, Mayor to La Trobe, 2nd March 1844, VPRS 19 P0000 No 44/ 408, Inward Registered Correspondence, Superintendent, Port Phillip District, PROV.

⁶⁴ Letter, Mayor to La Trobe, 2nd March 1844, VPRS 19 P0000 No 44/ 408, Inward Registered Correspondence, Superintendent, Port Phillip District, PROV.

⁶⁵ Thomas A Weber (1980), 'The origins of the Victorian Magistracy', *Australian and New Zealand Journal of Criminology*, vol. 13, pp. 142-150, p. 144.

⁶⁶ 'The Police Bench', *Melbourne Times*, 10th October 1843, p. 2, accessed 13th February 2024, <http://nla.gov.au/nla.news-article226925067>. A Publican and Heavy Rate Payer, 'Original Correspondence', *Port Phillip Gazette*, 21st October 1843, p. 4, accessed 13th February 2024, <http://nla.gov.au/nla.news-article224810933>. Letter, Colonial Secretary to La Trobe, 28th October 1843, VPRS 19 P0000 43/ 2523, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Minutes, 15th September 1843, 17th October 1843, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV.

⁶⁷ For example, see: Minutes, 1st June 1843, 15th September 1843, 16th September 1843, 31st July 1844, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Minutes, 4th April 1848, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. James Theodore Ivan Rangelov, *The Port Phillip Magistrates, 1835-1851*, PhD thesis, Victoria University, Melbourne, 2005, p. 249. Letter, J F Palmer to La Trobe, 5th December 1845, VPRS 19 P0000 45/ 2065, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, J F Palmer to La Trobe, 28th January 1846, VPRS 19 P0000 46/ 250, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Henry Moor to La Trobe, 19th April 1847, VPRS 19 P0000 47/ 696, Inward Registered

James Rangelov, in his history of the magistracy in colonial Australia in the 1830s and 1840s, noted that when deciding penalties '[m]agisterial discretion, however, could be and was exercised.'⁶⁸ He noted that the 'exercise of discretion therefore became a matter of personal inclination or disposition' which were 'naturally linked to the belief systems and world-view of the individual magistrates.'⁶⁹ In the Port Phillip Settlement the community 'relied on those regarded as 'gentlemen' to provide social and legal leadership.'⁷⁰ As Historian Susanne Davies wrote, when examining Aboriginal people and cases of murder in the Port Phillip District:

'[m]ost often in Port Phillip, the pressures of active colonisation and the social inequality of the Aborigines produced a wide gulf between the law's theoretical promises and its practical results. As a consequence, legal equality for the Aborigines remained, and still does remain, an attractive theory rather than a practical reality'.⁷¹

As acting Police Magistrate the Mayor had power to incarcerate people and heard cases where Aboriginal people were charged with minor crimes such as theft or drunkenness. The Mayor also oversaw cases to determine if the case warranted being heard in the Supreme Court, such as for murder. And the Mayor signed warrants for the arrest of Aboriginal people. Examples of these are discussed in detail below. The Police Magistrate's Court became quickly known as the Mayor's Court during this time.

Mayor Moor and the imprisonment of Ninggollobin

On 21st of December 1844 Chief Protector Robinson and Assistant Protector Thomas visited Mayor Henry Moor in his capacity as Police Magistrate. They were visiting in relation to the murder of Aboriginal man Booby and the subsequent arrest of Ninggollobin, the Gunung-william-balluk clan ngurungaeta. Mayor Moor had previously issued warrants for Ninggollobin (also known as John Bull and Captain Turnbull), Bob Cunninghame, Dicky (who was one of the Native Police and also known as Yeaptune) and Billy for Booby's murder. Alderman Andrew Russell 'backed' the warrants.⁷² A newspaper report described the arrest of Ninggollobin the previous week:

'at about 3 o'clock yesterday morning, the Chief Constable for the Town, with his force, the Chief Constable for the District, with his force, the mounted police, and about twenty inhabitants, proceeded to the blacks encampment, about a mile from Melbourne, which they surrounded at daylight and having collected all the blacks together, Fitzgerald and Comerford, who had accompanied the party, pointed out Bull as the black who had speared Booby'.⁷³

This would have been a frightening experience for the Aboriginal people involved. Cunninghame, Dicky and Billy were released, but Ninggollobin was arrested, charged with murder and imprisoned. Ninggollobin protested his innocence. After his visit on 14th of December 1844, Robinson recorded in his journal that 'Nin kallerbul [Ninggollobin], said in gaol, it was not him, it was Wormduller that killed the Native boy.'⁷⁴ The next day Thomas heard from Billibellary that Wormdella was the one who had speared Booby. When Thomas saw the spear that had killed Booby, he realised it did 'not appear anything like Ninggollobin's' spear, meaning Ninggollobin was innocent.⁷⁵ Thomas knew of Ninggollobin's spear making skills, so he wrote a report to Moor stating Ninggollobin's innocence.⁷⁶ This was why Thomas and Robinson were visiting Moor.

Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Letter, Andrew Russell to La Trobe, 21st December 1847, VPRS 19 P0000 47/ 2398, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV. Weber, 'The origins of the Victorian Magistracy', p. 144.

⁶⁸ Rangelov, *The Port Phillip Magistrates*, p. 7.

⁶⁹ Rangelov, *The Port Phillip Magistrates*, p. 7.

⁷⁰ Rangelov, *The Port Phillip Magistrates*, p. 7.

⁷¹ Susanne Davies (1987), 'Aborigines, murder and the criminal law in early Port Phillip 1841-1851', *Historical Studies*, vol. 22, no. 88, pp. 313-335, p. 332.

⁷² 'Spearing of an Aboriginal', *Port Phillip Gazette*, 14th December 1844, p. 2, accessed 13th February 2024, <http://nla.gov.au/nla.news-article224809985>.

⁷³ 'Spearing of an Aboriginal', *Port Phillip Gazette*, 14th December 1844, p. 2.

⁷⁴ Entry, 14th December 1844, Clark, *The Journal of George Augustus Robinson*.

⁷⁵ Report, December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW. Stephens with Stewart-Muir, *The Years of Terror*, pp. 327-328.

⁷⁶ Report, December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844- 31st December 1845, William Thomas papers, SLNSW.

Thomas recorded in his journal that 'several of the Bench read it [his report] + some observations is made touching the evidence against the present Prisoner being so conclusive, one magistrate Mr Curr, said he was so satisfied with the evidence already given that it would a great deal [*sic*] to make him alter his opinion'.⁷⁷ Thomas continued that at the meeting 'the Mayor said "it was the duty of the bench to assist the Protectorate and that the duty of the bench to assist the Protectorate + that their issuing warrants to apprehend Aborigines would appear like prosecuting instead of defending + Protecting them".'⁷⁸ Thomas reads as frustrated towards the bench when he recorded, '[a]fter an observation of the Mayor that if not inconvenient the subject might be left till Monday – it was ultimately agreed that it should be settled this day.'⁷⁹ Both Robinson and Thomas recorded in their journals that a warrant was granted for Wadawurrung man Wormdella by Moor.⁸⁰ Ninggollobin remained imprisoned until his trial in the Supreme Court on the 14th of March 1845 where he was found not guilty by the jury, after evidence from Thomas and Sergeant Bennett, a non-Indigenous member of the Native Police.⁸¹ Billibellary, with nine men and seven women attended the trial.⁸²

Mayor's Court and Lively

In August 1846, Wurundjeri man Lively (also known as Warwardor) was brought before the Mayor's Court charged with being drunk the previous day and also for assaulting Phillip Anderson the previous November. Lively was fined two pounds for the assault. Being unable to pay the fine, the Mayor committed him to prison for fourteen days.⁸³

Mayor's Court and Warrigal Jemmy

In October 1846, Warrigal Jemmy was brought before the Mayor's Court, with the Mayor on the bench, on five charges of trying to murder and maim John Forrester with a spear.⁸⁴ Warrigal Jemmy had developed a fierce reputation for defending his Country amongst colonists in the Lower Loddon district.⁸⁵ On September 18th Robinson had met the Mayor to discuss Warrigal Jemmy's case. Robinson's journal indicated the meeting with the Mayor was with regard to language and interpretation.⁸⁶ Warrigal Jemmy was brought before the Mayor's Court and the Mayor to be assessed for his understanding of proceedings. The Mayor found Warrigal Jemmy could comprehend events 'tolerably well' and he was committed to trial.⁸⁷ Before a jury Warrigal Jemmy denied the charge, but was found guilty and sentenced to be transported for life.⁸⁸ He was sent to Van Diemen's Land in May 1847 and died there in June 1855 aged around 35 years of age.⁸⁹

Mayor's Court and Jemmy Cabbensore

In February 1850, Jemmy Cabbensore was brought before Mayor Frederick Augustus Greeves and Andrew Russell (who had served as Mayor in the previous term and therefore retained his privilege of magistracy).

⁷⁷ Entry, 21st December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁷⁸ Entry, 21st December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁷⁹ Entry, 21st December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁸⁰ Entry, 21st December 1844, Volume 03 item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW. Entry, 21st December 1844, Clark, *The Journal of George Augustus Robinson*.

⁸¹ 'Supreme Court', *The Melbourne Weekly Courier*, 21st March 1845, p. 4, accessed 13th February 2024, <http://nla.gov.au/nla.news-article228063528>. Stephens with Stewart-Muir, *The Years of Terror*, p. 336.

⁸² Stephens with Stewart-Muir, *The Years of Terror*, p. 336.

⁸³ 'A Son of the Sod in trouble', *Port Phillip Gazette and Settler's Journal*, 5th August 1846, p. 3, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article225064472>. Fels, 'I succeeded once', pp. 27, 65, 67, 199.

⁸⁴ 'Warrigal Jemmy', *Port Phillip Gazette and Settler's Journal*, 14th October 1846, p. 2, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article223152591>. 'Domestic Intelligence', *Melbourne Argus*, 20th October 1846, p. 3, accessed 6th March 2024, <http://nla.gov.au/nla.news-article4760286>.

⁸⁵ Kristyn Evelyn Harman, *Aboriginal Convicts: Race, Law, and Transportation in Colonial New South Wales*, PhD thesis, University of Tasmania, 2008, pp. 266-271.

⁸⁶ Entry, 18th September 1846, Clark, *The Journal of George Augustus Robinson*.

⁸⁷ 'Warrigal Jemmy', *Port Phillip Gazette and Settler's Journal*, 14th October 1846, p. 2.

⁸⁸ 'Domestic Intelligence', *Melbourne Argus*, 20th October 1846, p. 3.

⁸⁹ Harman, *Aboriginal Convicts*, pp. 279, 281.

Cabbensore was charged with assaulting J W Coulson of the Queen's Head. Cabbensore's sentence was sixty shillings or gaol for one month.⁹⁰ Cabbensore was unable to pay the fine and went to gaol for the month.⁹¹

The Mayor using the police and the Mayor's Court to keep Aboriginal people out of Melbourne's streets

Unpaid honorary justices of the peace, such as the Mayor of Melbourne, 'held authority over members of the police force. The constables were obliged to follow their directions.'⁹² Constables in Melbourne were 'obliged to apprehend any drunken person he found in the streets or public places and to bring them before a Justice of the Peace.'⁹³ Any 'idle, drunken or disorderly persons found between sunset and the hour of eight in the forenoon, lying or loitering in any street, highway, yard or other place in the town' would be delivered to the nearest watch-house.⁹⁴

In November 1845, William Hull told the Mayor, John F Palmer, that the previous night two Aboriginal men had been drunk and sat opposite Hull's residence. According to Hull, the two men began arguing, fought, and swore. Hull reported he could not find a constable and the two men left. In response the Mayor stated,

'that he had given strict orders to the constables to apprehend and bring before him any [A]borigines found in a state of intoxication, and directed the chief constable to ascertain who the constables were on duty in that locality at the time specified, and cause them to satisfactorily account for their non-interference in the matter'.⁹⁵

Palmer's comments to Hull and his earlier motion to La Trobe regarding keeping Aboriginal people out of the streets of Melbourne demonstrate how the Mayor and Councillors used their positions of power within the Council and in relation to the police and justice system to keep Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people from the streets of Melbourne.

Destruction of Wurundjeri Country and Bunurong Boon Wurrung Country

By its role in planning and developing Melbourne, the Council caused changes, harm and destruction to Wurundjeri Country and Bunurong Boon Wurrung Country.

During the 1840s the Council and the colonial government had a tense relationship with regards to managing the Birrarung. The Council had some responsibility for the river within its boundaries, but there were limits as to how much it could modify the wharf areas below Queen and William Streets. The banks of the Birrarung in the Council's boundary were modified and built upon with wharves, water pumps, and attempts (and proposals) to cut into and alter the banks for better navigation. The Council also requested to reserve land along the river for public recreation.⁹⁶ Councillor John Pascoe Fawkner, in January 1843 put a motion to allow the Town Surveyor to cost piping of water from the Birrarung to the town.⁹⁷ That same month a survey of the Birrarung was proposed to determine if the removal of banks would allow river vessels to travel further along the Birrarung.⁹⁸ In January 1846, siting of water pumps near Elizabeth Street was proposed.⁹⁹ There were ongoing requests for surveys of the river,

⁹⁰ 'Charge against an Aboriginal', *The Age*, 9th February 1850, p. 2, accessed 20th February 2024, <http://nla.gov.au/nla.news-article4770166>.

⁹¹ 'Committal in default of paying fine', Volume 04 Item 01: William Thomas Journal, 1st January – 31st December 1850, William Thomas papers, SLNSW.

⁹² Rangelov, *The Port Phillip Magistrates*, p. 210.

⁹³ Rangelov, *The Port Phillip Magistrates*, pp. 364-365.

⁹⁴ Rangelov, *The Port Phillip Magistrates*, p. 365.

⁹⁵ 'The Aborigines', *The Port Phillip and Morning Advertiser*, 27th November 1845, p. 2, accessed 27th December 2023, <http://nla.gov.au/nla.news-article226314765>

⁹⁶ Minutes, 10th June 1847, 15th July 1847, 5th August 1847, 9th August 1847 and 16th September 1847, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. Minutes, 5th December 1849, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

⁹⁷ Minutes, 13th January 1843, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV.

⁹⁸ Minutes, 19th January carried across to the 31st January 1843, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV.

⁹⁹ Minutes, 15th January 1846, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV.

as well as deepening it.¹⁰⁰ The loss of food sources for Wurundjeri people and Bunurong Boon Wurrung people around the Birrarung and through the settled parts of Melbourne happened quickly. Ethnobotanist Beth Gott noted that within five years of colonists arriving in Melbourne, murnong, or yam daisy, 'had disappeared from the surrounding area'.¹⁰¹

The Council was responsible for the upkeep of the streets and was involved in planning new streets. It oversaw the elevation, levelling and surfacing of streets within the Hoddle Grid and within new suburbs and sites as the Council's boundaries extended and altered over the years. For example, in March 1845 the Council passed a motion instructing the Town Surveyor to plan the streets, lands and rights of way of Collingwood.¹⁰² In March 1849, new plans for North Melbourne and East Melbourne and Collingwood were presented to Council by the Town Surveyor.¹⁰³ In this regard the Council played a prominent role in the destruction and reshaping of Wurundjeri Country and Bunurong Boon Wurrung Country through the Council's role in building legislation and planning decisions.¹⁰⁴

In January 1843, the Council resolved to approach the Town Surveyor, William Weston Howe, about 'draining Elizabeth Street and Flinders Street in the rear of the Queen's Wharf'.¹⁰⁵ Elizabeth Street was laid over a creek, known as Townend Creek, which was home to eels and part of the eel migration process.¹⁰⁶ This caused ongoing drainage and flooding problems in Elizabeth Street and other streets along the Birrarung. People have drowned in Elizabeth Street floods and the Council has worked since its beginning to tame this creek and reduce the water problems developed from situating the grid inappropriately.¹⁰⁷ In 1877 they considered a drain running from Elizabeth and La Trobe streets to the west Melbourne swamp.¹⁰⁸ And in 1879 the Council was seeking help to construct a 'drainage culvert' under the railway and into Birrarung.¹⁰⁹

Eels were an important food source and part of Kulin people's lives. The abundance of eels at certain times of year resulted in large ceremonial gatherings occurring, due to the abundance of food available.¹¹⁰ The development of the colonial-built environment on Wurundjeri Country and Bunurong Boon Wurrung Country not only altered the physical environment, but it also harmed the environment for animals, birds and fauna. Custodial and spiritual practices were disrupted.¹¹¹

¹⁰⁰ Minutes, 27th April 1848, 25th May 1848, 15th June 1848, 6th July 1848, 13th July 1848, 27th July 1848, 31st August 1848 and 16th November 1848, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV.

¹⁰¹ Beth Gott (2008), 'Indigenous use of plants in south-eastern Australia', *Telopea*, vol. 12, no. 2, pp. 215-226, p. 223.

¹⁰² Minutes, 29th March 1845, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV.

¹⁰³ Minutes, 6th March 1849, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV.

¹⁰⁴ For example, see: Minutes, 23rd August 1845, 3rd June 1847, 23rd March 1848 and 30th March 1848, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. Minutes, 29th August 1849, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁰⁵ Minutes, 2nd January 1843, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV.

¹⁰⁶ The eels are believed to continue their journey today using the drains. Shawana Andrews, Ngarra Murray and Craig Torrens, *Billibellary's Walk*, Onemda VicHealth Koori Health Unit and Murrup Barak Melbourne Institute for Indigenous Development, 2013, pp. 14-15.

¹⁰⁷ For example, see: Minutes, 22nd March 1844, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Minutes, 10th October 1849, 14th November 1851 and 1st December 1851, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. Rod Giblett, *Modern Melbourne: City and Site of Nature and Culture*, Intellect Books, Melbourne, 2020, pp. 81-83.

¹⁰⁸ For example, see: Minutes, 11th December 1844, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Minutes, 10th September 1877, Minutes of Meeting of City Council, no. 28, VPRS 8910 P0001 item 28, Minutes March 1877- October 1878, Minute Books of Council Meetings, PROV.

¹⁰⁹ 'Deputations: Elizabeth Street Drain', *Argus*, 11th September 1879, p. 7, accessed 13th February 2024, <http://nla.gov.au/nla.news-article5955513>.

¹¹⁰ 'Birrarung', *Yalinguth App*. Podcast, Charles Pakana and Uncle Dave Wandin, 'Coranderrk truth-telling with Uncle Dave Wandin (part 1)', Season 2, episode 14, *Victorian Aboriginal News*, 29th February 2024, accessed 29th February 2024, [Podcast: Coranderrk truth-telling with Uncle Dave Wandin \(Part 1\) - Victorian Aboriginal News \(vicaboriginalnews.com.au\)](https://www.vicaboriginalnews.com.au). Carolyn Briggs, *The Journey Cycles of the Boonwurrung*, 2nd ed., Boonwurrung Foundation, Melbourne, 2014, p. 37.

¹¹¹ Uncle Dave Wandin 'Wurundjeri Stories and Totems', *Deadly Story*, accessed 12th February 2024, https://deadlystory.com/page/aboriginal-country-map/Aboriginal_Country_Completed/Wurundjeri/Wurundjeri_Stories_and_Totems. Briggs, *The Journey Cycles of the Boonwurrung*, p. 37.

Council also supported the killing of trees within its boundaries and adjoining its area. The City Council proposed chopping down all of the trees between the city and the beach, to allow the sea breezes to reach the town, based on a proposal from the Council's Sanatory Committee, chaired at the time by Thomas McCombie.¹¹² When trees were planted in Melbourne, it was generally exotic plants such as Portuguese Laurels and exotic grasses such as clover.¹¹³ In 1845 the Public Works Committee of the Council reported that '400 tree stumps had been grubbed from the main streets of the town but that 1000 still remained to be cleared.'¹¹⁴ Historian and politician William Westgarth noted the 'vigorous campaign' of removal of tree stumps was one of the Council's 'earliest proceedings'.¹¹⁵ By 1849 this had largely been completed. Competition for resources resulted in Wurundjeri people and Bunurong Boon Wurrung people, coming into conflict with colonists around sheet bark – more and more trees were stripped of their bark making it harder for Wurundjeri people and Bunurong Boon Wurrung people to make their housing, and because of the privatisation of land, when they stripped bark from trees they were accused of stealing.¹¹⁶

In 1848 the Council's Sanatory Committee, chaired by Councillor Thomas McCombie, sent a circular to a number of Melbourne medical men and religious ministers. It asked questions about the sanatory conditions of Melbourne, rates and causes of diseases and ideas for improving the sanatory conditions. Prior to the understanding of bacteria and its role in disease, the role of 'emanations' from still water sources, especially when mixed with vegetation, was a concern.¹¹⁷ Surgeon D J Thomas noted that the 'exhalation from Lonsdale Swamp is in my opinion prejudicial, containing as it does, a quantity of decomposed vegetable matter'. This water and decomposed matter 'remains, from want of drainage, until the warm weather sets in, when under the influence of a higher range of temperature, it sends forth a most unhealthy effluvia.'¹¹⁸ Dr Thomas Black had similar concerns about the 'exhalations from Lonsdale swamp'.¹¹⁹ Dr David Wilkie was not so sure about the role of Lonsdale swamp in spreading and causing diseases, but raised concerns about the stagnant water in low lying areas of Melbourne in his responses.¹²⁰ The Lonsdale swamp was at the eastern end of Lonsdale Street, between Exhibition and Russell streets.¹²¹

Such complaints resulted in the Council undertaking to change the levels of the city – to flatten it out and improve drainage. This largely occurred during the 1850s and 1860s through land filling orders and included Carlton and West Melbourne as well as the area within the Hoddle Grid. These orders meant that some places were raised by several feet (to roof height in some instances), land to the level of the road, many of which had been raised as part of the process to make and macadamise them.¹²² Council correspondence at times included residents or representatives of institutions writing to complain about water running into their property after some work to level or

¹¹² Minutes, 28th September 1848, 11th January 1849, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. *Report of Sanatory Committee*, 31st August 1848, Town Clerk's Correspondence, Health, 1848-1864, VPRS 3181 P0000 item 364, Town Clerk's Files, Series 1, PROV.

¹¹³ For example, see: Minutes of the Health Committee, 6th June 1860 and 31st July 1861, VPRS 4039 P0000 item 1, Minutes of Special Committees 15th September 1859- 10th March 1869, Minutes of Special Committees, 1859-1919, PROV.

¹¹⁴ Records and Archives Branch of the City of Melbourne, *The History of the City of Melbourne*, City of Melbourne, Melbourne, 1997, p. 21.

¹¹⁵ William Westgarth, *Victoria: Late Australia Felix*, Oliver & Boyd, Edinburgh, 1853, p. 81. Geoffrey Serle, 'Westgarth, William (1815–1889)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 11th March 2024, <https://adb.anu.edu.au/biography/westgarth-william-4830/text8057>.

¹¹⁶ Entry, 2nd November 1843, William Thomas Journal, Volume 03 Item 02: William Thomas journal, 1st September 1843- 29th January 1844, William Thomas papers, SLNSW.

¹¹⁷ Warwick Anderson, *The Cultivation of Whiteness: Science, Health and Racial Destiny in Australia*, Melbourne University Press, Carlton, 2005, p. 33.

¹¹⁸ Dr D J Thomas, 'Response to Sanatory Committee Circular', 30th June 1848, VPRS 3181 P0000 item 364, Town Clerk's Correspondence, Health 1848-1864, Town Clerk's Files, Series 1, PROV.

¹¹⁹ Dr Thomas Black, 'Response to Sanatory Committee Circular', 30th June 1848, VPRS 3181 P0000 item 364, Town Clerk's Correspondence, Health 1848-1864, Town Clerk's Files, Series 1, PROV.

¹²⁰ Dr David Wilkie, 'Response to Sanatory Committee Circular', 30th June 1848, VPRS 3181 P0000 item 364, Town Clerk's Correspondence, Health 1848-1864, Town Clerk's Files, Series 1, PROV.

¹²¹ Zach Hope, 'It's a bit Pompeii-like': The unexpected 'buried blocks' of Melbourne', *The Age*, 9th October 2019, accessed 15th March 2024, <https://www.theage.com.au/national/victoria/it-s-a-bit-pompeii-like-the-unexpected-buried-blocks-of-melbourne-20190905-p520a6.html>.

¹²² Sharon Land and Alyssa Gilchrist, *Heritage in Ruins: an investigation into Melbourne's 'buried blocks'*, Heritage Council Victoria, 2019, pp. 24, 26, 28, 29, 33.

raise roads nearby.¹²³ This was a localised, but also widespread, change of the terrain of Wurundjeri Country and Bunurong Boon Wurrung Country that had been 'undulating open woodland and had a system of natural drainage' at the time of invasion and became 'disrupted by the creation of the settlement' of Melbourne.¹²⁴

Certainly, by the mid-1850s the main streets within the grid had been 'macadamized on the most improved principle', removing the 'heaps of clay, stones, and mud' of a few years earlier.¹²⁵ As road building continued, the Council became concerned with roads outside of what is now known as the Hoddle Grid. For example, as well as Sydney Road, using stone broken by the incarcerated men in nearby Pentridge, the Council sought to extend Brunswick Street to meet Heidelberg Road.¹²⁶

In the 1870s the Council began meeting with John Coode¹²⁷, invited by the Victorian colonial government, as the Council and government considered silting problems in the Birrarung, and ways to increase accessibility to ships. In 1883 the waterfall in the Birrarung at the bottom of Queens Street was dynamited by Council engineers, to increase access for ships. This fall had been a crossing point for Wurundjeri people and Bunurong Boon Wurrung people and an important 'meeting place for community'.¹²⁸ The detonation also destroyed the natural separation between salt and fresh water on the Birrarung, compromising the environment for fish and other fauna that lived in and brought to life that Country.¹²⁹

Pollution of the Birrarung continued through to the 1880s. In March 1881 the Governor of Victoria wrote to the Council to complain of the state of the river.¹³⁰ The Yarra Improvement works of 1897-1901 redirected the Birrarung and channelled the Elizabeth Street Creek into the Birrarung.¹³¹

Fencing of Crown Land

In the first few decades the Council fenced areas of land Aboriginal people still visited and stayed on. This served to keep Aboriginal people out of these spaces. For example, Aboriginal people, especially the Wadawurrung, continued to camp in the vicinity of the Old Melbourne Cemetery during 1839 and 1840.¹³² However, a publicly funded fence built around the cemetery appears to have prevented the Wadawurrung camping in the area from the 1840s, as they were no longer recorded as staying in that space.¹³³

In October 1850 the Council let La Trobe know they were 'prepared to fence in and take charge' of the northern bank of the Birrarung.¹³⁴ At the same meeting it identified its willingness to enclose [fence] the land at Batman's Hill

¹²³ For example, see: Minutes, 12th March 1846, Minutes of Proceedings of Town Council, VPRS 8910 P0001 item 2, Minutes February 1845-June 1849, Minute Books of Council Meetings, PROV. Petition, 2nd January 1857, VPRS 3181 P0000 item 653, Town Clerk's Correspondence, Nuisances, 1854-1867, Town Clerk's Files, Series 1, PROV.

¹²⁴ Land and Gilchrist, *Heritage in Ruins*, p. 9.

¹²⁵ Captain H Butler Stoney, *Victoria: with a description of its principal cities, Melbourne and Geelong*, Smith, Elder & Co., London, 1856, pp.25, 26.

¹²⁶ Notice Paper, 17th January 1853, No. 6, VPRS 54 P0000 item 2, Printed notice papers of Council meetings, November 1852-October 1853, PROV.

¹²⁷ This is the same person who recommended the development of the port of Melbourne, and who is remembered by Coode Island. Coode played a role in forming and reforming sites around the Australian colonies to facilitate shipping and develop ports. D R Crawford described him as 'the most distinguished harbour engineer of the nineteenth century.' D. R. Crawford, 'Coode, Sir John (1816–1892)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 5th April 2024, <https://adb.anu.edu.au/biography/coode-sir-john-3250/text4915>.

¹²⁸ 'The Falls - Birrarung (Yarra River)', *Mapping Aboriginal Melbourne*, City of Melbourne, accessed 15th March 2024, <https://aboriginal-map.melbourne.vic.gov.au/85>.

¹²⁹ 'The Falls - Birrarung (Yarra River)', *Mapping Aboriginal Melbourne*.

¹³⁰ 'Wednesday March 30, 1881', *Argus*, 30th March 1881, p. 5, accessed 26th February 2024, <http://nla.gov.au/nla.news-article5958693>.

¹³¹ Helen Doyle, *Thematic history – A History of the City of Melbourne's Urban Environment*, Context for City of Melbourne, 2011, p. 54.

¹³² Entries, 7th May 1839, 21st May 1839, 21st September 1840, Clark, *The Journal of George Augustus Robinson*.

¹³³ 'Burial Ground', *Port Phillip Patriot and Melbourne Advertiser*, 3rd September 1840, p. 3, accessed 27th February 2024, <http://nla.gov.au/nla.news-article228129027>. 'The Cemetery', *Port Phillip Gazette*, 9th September 1840, p. 3, accessed 27th February 2024, <http://nla.gov.au/nla.news-article225006776>.

¹³⁴ Minutes, 17th October 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0000 item 3, Minute Books of Council Meetings, PROV.

and land to the north of the Town.¹³⁵ In November 1850 La Trobe gave consent for the Council to manage the north bank of the Yarra River and Batman's Hill and stated he would do 'what lies in my power to facilitate the final determination of the approaches to the City from the north and north-west and to the new General Cemetery' to ensure these areas would become 'the special object of public recreation'.¹³⁶ Fencing public spaces tended to prevent Aboriginal people staying at that space. As noted, the Wadawurrung stopped camping around the cemetery once it was fenced in. Denis Byrne has written about how Aboriginal people learned to use unfenced spaces for travel and camping, often travelling along waterways to avoid fences and potential conflicts with white people and the law.¹³⁷ Thomas wrote of colonists complaining of Kulin nation people camping too close to fences and having conversations with them about how and where it was safe to travel.¹³⁸ The Council's fencing of spaces such as the northern banks of the Birrarung stopped Aboriginal people using these spaces.

The Council fenced a number of parks over the next few decades.¹³⁹ In May 1862 the Council gardener was asked to purchase chains and padlocks for gates around various gardens.¹⁴⁰ Carlton Gardens, Princes Park, Lincoln Square and Argyle Square were all fenced by or during the 1860s.¹⁴¹ La Trobe's rare actions in approving the land, appeared to come after the sweetener of the Council fencing the land.

Ongoing profiting from Wurundjeri Country and Bunurong Boon Wurrung Country

The Melbourne Town Council developed because of the markets formed in Melbourne. The Incorporation of the town was a result of the legislative need to have market commissioners.¹⁴² These markets linked the economy of Melbourne to the broader Port Phillip Settlement economy.¹⁴³ The economic success of Melbourne was tied to the development of Country beyond its boundaries. In October 1849 stock owners in Western Port and Gippsland (Bunurong Boon Wurrung Country and Gunaikurnai Country) were petitioning Councillors for stock yards in South Melbourne.¹⁴⁴ Aboriginal people from areas beyond the Country of the Kulin nation people came into Melbourne bringing in cattle and riding drays.¹⁴⁵

The fish market was one of the markets under the control of and earning money for the Council. At this time it was part of the Western Market, moving to near Princes Bridge in the late 1850s.¹⁴⁶ Fish that also belonged to Country was caught by Aboriginal people to be sold in this market. In the 1877 *Royal Commission on the Aborigines* Joseph Parker gave evidence that Aboriginal people on the Upper Murray caught 'quantities of fish'.¹⁴⁷ This they sold,

¹³⁵ Minutes, 17th October 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0000 item 3, Minute Books of Council Meetings, PROV.

¹³⁶ W A Sanderson (1932), 'The Alienation of the Melbourne Parks', *The Victorian Historical Magazine*, vol. XIV, No. 4, pp. 141-165, p. 146.

¹³⁷ Denis Byrne (2003), 'Nervous landscapes: Race and Space in Australia', *Journal of Social Archaeology*, vol. 3, no. 2, pp. 169-193.

¹³⁸ For example, see: Entries, 13th March 1841, 6th July 1841, Volume 02 Item 05: William Thomas journal, 1st January 1841-14th April 1842, William Thomas papers, SLNSW.

¹³⁹ For example, see: Minutes, 13th March 1854, Minutes of Proceedings of City Council, 10th May 1852- 27th April 1854, No. 4, VPRS 8910 P0001 item 4, Minute Books of Council Meetings, PROV.

¹⁴⁰ Minutes, 14th May 1862, Meeting of the Health Committee, VPRS 4039 P0000 item 1, Minutes of Special Committees 15th September 1859- 10th March 1869, PROV.

¹⁴¹ 'City Council', *Argus*, 30th August 1864, p. 6, accessed 6th March 2024, <http://nla.gov.au/nla.news-article5747267>. 'City Council', *Argus*, 24th May 1864, p. 7, accessed 6th March 2024, <http://nla.gov.au/nla.news-article5749054>. 'City Council', *The Age*, 8th March 1859, p. 5, accessed 6th March 2024, <http://nla.gov.au/nla.news-article154837206>. 'City Council', *Argus*, 10th February 1864, p. 2, accessed 6th March 2024, <http://nla.gov.au/nla.news-article5743918>. Princes Park Master Plan, 4th September 1985, City of Melbourne Minutes of Council, 1985-1986, vol. 1, Minutes of Meetings 13th August 1985 to 16th December 1985, SLV, p. 181.

¹⁴² David Dunstan, *Governing the Metropolis: Melbourne 1850-1891*, Melbourne University Press, Carlton, 1984, p. 44.

¹⁴³ Minutes, 20th March 1845, 7th August 1845, 15th November 1845, 28th May 1846, 17th November 1846, 15th November 1847, 9th August 1848, 23rd November 1848, 1st March 1849 and 22nd March 1849, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. Minutes, 14th November 1849, undated November 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁴⁴ Minutes, 3rd October 1849, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁴⁵ For example, see: Entry, 27th March 1850, Volume 04 Item 01: William Thomas journal, 1st January -31st December 1850, William Thomas papers, SLNSW.

¹⁴⁶ Sally Ruljancich, 'Fish Market', *eMelbourne: the city past & present*, accessed 10th April 2024, <https://www.emelbourne.net.au/biogs/EM00571b.htm>.

¹⁴⁷ Joseph Parker, cited in *Royal Commission on the Aborigines on the Aborigines*, John Ferres, Government Printer, Melbourne, 1877, p. 23.

getting 'very little for them', to fishing companies who sent them to Melbourne for sale at the markets overseen by the Melbourne City Council.¹⁴⁸ The Council was not directly involved in the purchase and sale of the fish, but they provided and profited from the market that the fish were sold in.

Council advocating for a White Australia

In the 1840s the Council wanted immigration to support 'the wants of the Community', but it wanted to control the sort of people who entered Melbourne.¹⁴⁹ The Council protested against convict transport and labour, as well as the immigration of Irish female orphans.¹⁵⁰ In these cases the character of the convicts and orphans were disparaged during Council debates and in correspondence from the Council. The female orphans were described as 'depraved' by Alderman William Kerr and the Town Clerk wrote of the 'demoralizing effect' convicts had on 'the entire community.'¹⁵¹

Whilst not wanting Irish orphans or convicts indicated a class and religious bias by the Council¹⁵², the gratitude expressed by the Council for colonist William Westgarth for his 'exertions in promoting emigration from Germany' hinted at a preference for a particular sort of immigration, with race as part of the mix.¹⁵³ A preference for white immigration was demonstrated in October 1847 when Councillor Thomas McCombie introduced a motion with regards to the immigration and labour needs of the settlement. McCombie moved:

'Deeply alive to the pressing want of labour throughout the district, and particularly in the town of Melbourne, foreseeing the necessity of prompt and energetic measures to obtain a supply of labour from the mother country – and by that means prevent the further introduction of Coollie [sic] and Cannibal labourers, which by their amalgamation with our British Colonists would detract from our social position...'.¹⁵⁴

The motion was seconded by Councillor John Thomas Smith and unanimously passed.¹⁵⁵

The Melbourne City Council had long advocated around issues to do with immigration. In the 1840s and 1850s the Council protested the immigration of Irish female orphans and convicts and wanted greater control over who was allowed into Melbourne. Immigration continued to be a concern for various levels of government (1901 had seen the enactment of what became known as the White Australia policy) and in the 1920s the Council, through the Lord Mayor, became publicly involved again.

In 1921 the Lord Mayor, James Swanson, convened a conference at the Town Hall

¹⁴⁸ Joseph Parker, cited in *Royal Commission on the Aborigines*, p. 23.

¹⁴⁹ Minutes, 25th February 1847, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV.

¹⁵⁰ Minutes, 10th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. Benjamin McHutchion (2015), 'Derision and Demography: New South Wales and the Irish Orphan Girls of the Earl Grey Immigration Scheme, 1848 to 1850', *Constellations*, vol. 6, no. 2, pp. 18-34. 'Irish Orphan Immigration', *The Melbourne Daily News*, 20th April 1850, p. 2, accessed 5th April 2024, <http://nla.gov.au/nla.news-article226324953>. Minutes, 17th October 1850, 31st October 1850, 24th November 1851, 1st December 1851, 8th December 1851 and 19th January 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0000 item 3, Minute Books of Council Meetings, PROV. Minutes, 9th August 1852, Minutes of Proceedings of City Council, 10th May 1852- 27th April 1854, No. 4, VPRS 8910 P0001 item 4, Minute Books of Council Meetings, PROV.

¹⁵¹ Minutes, 10th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. 'Irish Orphan Immigration', *The Melbourne Daily News*, 20th April 1850, p. 2. Letter, Town Clerk to La Trobe, 6th September 1843, VPRS 19 P0000, no. 43/2180, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV.

¹⁵² There is some debate as to how Irish people were understood racially at this time, indicating that race and ideas of whiteness were also possibly invoked in Kerr's descriptions of the orphans. For example, see: Elizabeth Malcolm and Dianne Hall, *A New History of the Irish in Australia*, NewSouth Publishing, Sydney, 2018, pp. 23-43.

¹⁵³ Minutes, 12th December 1849, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁵⁴ Minutes, 14th October 1847, Minutes of Proceedings of Town Council, February 1845- June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. 'Town Council', *Port Phillip Gazette and Settler's Journal*, 16th October 1847, p. 2, accessed 26th March 2024, <http://nla.gov.au/nla.news-article223151126>.

¹⁵⁵ 'Town Council', *Port Phillip Gazette and Settler's Journal*, 16th October 1847, p. 2.

'of representatives of all organised bodies in Victoria, rural and urban, with a view of stimulating interest in immigration and of taking steps to establish an honorary auxiliary organisation in this State to co-operate with the Commonwealth and State Governments as far as practicable in this important question.'¹⁵⁶

The Prime Minister attended, as did the Premier of Victoria and representatives from the Returned Sailors and Soldiers Imperial League of Australia and the ANA.¹⁵⁷ At the meeting the resolutions passed included:

'This meeting, representative of all classes of the community rural and urban, wishes to impress upon the people of Victoria the vital importance of immigration to the maintenance of a White Australia, to national safety, and to the industrial development of the Commonwealth, and appeals to each individual and all organised bodies to exercise every endeavor to assist the flow of selected people from overseas, particularly Britishers, and to ensure their well-being upon arrival.'¹⁵⁸

Additionally, the conference 'place[d] on record its appreciation of the generous offer of the British Government to provide free passages to Australia for ex-service men and women and their dependents during the year 1921'.¹⁵⁹ Dr Victor Hurley, a surgeon and Captain with the Australian Army Medical Corps, noted 'it was desirable to introduce into Australia a class of immigrant who would be capable of producing a strong, virile white race.'¹⁶⁰

As in the 1840s, there was eagerness for the 'right' kind of immigration and Lord Mayor Swanson was keen to be involved. In opening the conference, Lord Mayor Swanson stated:

All thoughtful Australians who had at heart the welfare and destiny of the Commonwealth as the permanent home of an enlightened Anglo-Saxon race were agreed that special steps must be taken to stimulate the growth of population.¹⁶¹

One of the resolutions of the conference, moved by past chief president of the Australian Natives Association (ANA), M M Phillips, was to develop an 'honorary auxiliary body' to 'give practical assistance to the immigration movement' with Swanson its president.¹⁶² This was called the New Settlers' League (NSL). The Lord Mayor of Melbourne was automatically bestowed presidency of the NSL, with Sir William Brunton and later Alderman Stephen Morell and H D Luxton taking over the presidency upon becoming Lord Mayor.¹⁶³ Throughout 1921 Swanson pursued the NSL agenda of immigration and a big Australia.¹⁶⁴ Historian Jacqueline Stockdale noted the NSL sought to bring out young men and youths, to ensure there was not competition for jobs against returned soldiers and family men.¹⁶⁵ Throughout the 1920s, NSL conferences and meetings were regularly held at the

¹⁵⁶ Letter, Lord Mayor Swanson to Prime Minister, 16th February 1921, Series A457, D400/2, Immigration Encouragement Conference convened by Lord Mayor of Melbourne, Correspondence files, Prime Minister's Department, NAA.

¹⁵⁷ 'Immigration Conference: Draft of Agenda', Series A457, D400/2, Immigration Encouragement Conference convened by Lord Mayor of Melbourne, Correspondence files, Prime Minister's Department, NAA.

¹⁵⁸ 'Immigration', *The Ballarat Star*, 10th March 1921, p. 3, accessed 21st February 2024, <http://nla.gov.au/nla.news-article212713353>.

¹⁵⁹ 'Immigration', *The Ballarat Star*, 10th March 1921, p. 3.

¹⁶⁰ 'Immigration: A New Settlers' League', *The Age*, 10th March 1921, p. 6, accessed 21st February 2024, <http://nla.gov.au/nla.news-article201700507>. Diane Langmore, 'Hurley, Sir Thomas Ernest Victor (1888–1958)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 21st February 2024, <https://adb.anu.edu.au/biography/hurley-sir-thomas-ernest-victor-10579/text18791>.

¹⁶¹ 'Immigration: A New Settlers' League', *The Age*, 10th March 1921, p. 6.

¹⁶² Jacqueline Stockdale, *Empty spaces and smiling faces: the New Settlers' League and Australian Immigration*, PhD thesis, James Cook University, Queensland, 2016, pp. 53, 130.

¹⁶³ 'New Settlers' League', *Argus*, 22nd November 1923, p. 16, accessed 21st February 2024, <http://nla.gov.au/nla.news-article2000083>. 'New Settlers' League', *The Australasian*, 27th November 1926, p. 15, accessed 21st February 2024, <http://nla.gov.au/nla.news-article142167096>. 'Treating T B Migrants in Australia', *The Herald*, 13th December 1928, p. 2, accessed 21st February 2024, <http://nla.gov.au/nla.news-article244014102>. Stockdale, p. 179.

¹⁶⁴ Stockdale, *Empty spaces and smiling faces*, pp. 80, 118.

¹⁶⁵ Stockdale, *Empty spaces and smiling faces*, p. 120.

Melbourne Town Hall.¹⁶⁶ Decreasing immigration and financial support resulted in the NSL stopping operations in Victoria in June 1932, ending the Lord Mayor's involvement with this immigration campaign.¹⁶⁷

Incarcerated Aboriginal people and economic exploitation: The Quarry / Collingwood Stockade and Pentridge Prison

Until 1849, people sentenced to hard labour, or labour on the roads, in Melbourne were sent to Sydney.¹⁶⁸ After 1849, the City of Melbourne Council used the stones broken up by people sentenced to hard labour to make the colony's roads and the bluestone shaped into blocks to construct their buildings.¹⁶⁹ They did this to benefit from the incarceration of people by using them as cheap labourers, which reduced road and building construction costs for the Council.¹⁷⁰ The Council planned, financed and purchased from two stockades: the Corporation Stockade at the Melbourne Gaol [see the Potential injustices for discussion about this stockade] and the Quarry or Collingwood Stockade. The Council also purchased gravel and bluestone from Pentridge Prison. By using prison labour, the Council was involved in and benefitted from the economic exploitation of Aboriginal people incarcerated at these sites.

Pentridge Stockade and Prison

With the opening of Pentridge Stockade [known now as Pentridge Prison] in 1851, gangs of men worked at stone breaking, and others as stonemasons, to supply the Council and other facilities with materials.¹⁷¹ Pentridge was funded by the colonial government, but Council regularly provided money to purchase the stones and rubble for the imprisoned people to be forced to work with. The Council described the labour of these incarcerated people as 'working for the Corporation'.¹⁷² Bluestone 'pitchers' were used to pave Melbourne's streets, lanes, kerbs and gutters and were made 'using a mason's hammer and bolster' by imprisoned people.¹⁷³ These people worked stones from the nearby Merri Creek and either cut up the stone for road fill or cut blocks into rectangles for building. If breaking up stones, the men were expected to make a cubic yard of 'metal' each day.¹⁷⁴ This was not the only source of bluestone the Council used. Between 1854 and 1857 the Council 'imported no less than £45,000 worth of flagging from Scotland'.¹⁷⁵

Aboriginal incarcerated people were involved in this labour. In September 1852 an Aboriginal man named William was sent to Pentridge, having been sentenced to five years hard labour on the roads of the colony. Soon-to-be Councillor Walter Powell was part of the jury that judged William guilty.¹⁷⁶ In 1860 Wadawurrung man Peter

¹⁶⁶ For example, see: 'New Settlers' League', *The Yarrowonga Mercury and Southern Riverina Advertiser*, 24th May 1921, p. 3, accessed 21st February 2024, <http://nla.gov.au/nla.news-article274294517>. 'New Settlers' League', *Daily Telegraph*, 26th October 1923, p. 4, accessed 21st February 2024, <http://nla.gov.au/nla.news-article153260640>. 'New Settlers' League', *The Yackandandah Times*, 20th February 1925, p. 4, accessed 21st February 2024, <http://nla.gov.au/nla.news-article144884999>. 'New Settlers' League, State Council meets to-day', *Argus*, 19th October 1928, p. 11, accessed 21st February 2024, <http://nla.gov.au/nla.news-article3963865>.

¹⁶⁷ Stockdale, *Empty spaces and smiling faces*, p. 241.

¹⁶⁸ Rangelov, *The Port Phillip Magistrates*, p. 216.

¹⁶⁹ Minutes, 10th April 1850, 29th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minutes Books of Council Meetings, PROV.

¹⁷⁰ Whilst the Council described prisoners as employed and did pay for labour, this was to offset the costs to the colonial government for their incarceration, rather than paying prisoners for their work. See: Peter Andrew Barrett (2007), 'Her Majesty's Collingwood Stockade: A snapshot of Gold Rush Victoria', *Provenance*, issue no. 6, pp. 76-80, p. 77.

¹⁷¹ 'Pentridge Stockade', *Argus*, 25th June 1856, p. 4, accessed 30th November 2023, <http://nla.gov.au/nla.news-article7131993>.

¹⁷² For example, see: Minutes, 13th March 1851, 10th June 1851, 25th September 1851, 2nd October 1851, 8th December 1851, 19th January 1852 and 5th April 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. Minutes, 7th June 1852, Minutes of Proceedings of City Council, 10th May 1852- 27th April 1854, No. 4, VPRS 8910 P0001 item 4, Minute Books of Council Meetings, PROV. Notice Paper, 23rd February 1852, No. 8, VPRS 54 P0000 item 1, Printed notice papers of Council meetings, November 1851-October 1852, Notice Papers and Proceedings of the Council, 1842-1887, PROV.

¹⁷³ City of Melbourne, 'Background', *Operating Procedure: bluestone in Melbourne's streets and Lanes*, City of Melbourne report, February 2023.

¹⁷⁴ 'The Prisoners in Gaol', *Argus*, 8th June 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article4764672>. Stephanie Trigg (2017), 'Bluestone and the City: Writing an Emotional History', *Melbourne Historical Journal*, vol. 44, no. 1, pp. 41-53, p. 47.

¹⁷⁵ 'The news of the day', *The Age*, 23rd January 1869, p. 2, accessed 20th February 2024, <http://nla.gov.au/nla.news-article177007564>.

¹⁷⁶ William Thomas recorded that on being found guilty 'the court showed symptoms of great surprise on the verdict being given, even to the learned judge, who had no other alternative but to pass the five year sentence'. William was in the Native Police and it is recorded he was from Hopkins River, in the Western District. He had also worked as a servant, possibly from when a young child. 'William (An Aboriginal), No. 286',

Mungett was sentenced to 15 years on the roads and imprisoned at Pentridge. He was sentenced to spend the first three years in irons. Mungett was released with a ticket-of-leave in 1871.¹⁷⁷

The Council continued to use Pentridge Bluestone, as it was called, for some decades. In the 1870s it was used to construct the tramways along Royal Parade and Sydney Road and for general road upkeep.¹⁷⁸ In March 1883 'gaol metal' was referenced as a cost.¹⁷⁹ Incarcerated Aboriginal people continued to be sentenced to hard labour during these decades, such as James Kirby, described as of mixed parentage and from around the Bendigo and Mansfield areas. Kirby was charged with horse-stealing in 1875 and sentenced to five years hard labour, being transferred to Pentridge on the 8th of May 1875, where he remained until 1879.¹⁸⁰

Quarry or Collingwood Stockade

The Quarry Stockade was located north of Carlton Gardens, on the site of the present-day Lee Street Primary School. At the time the area north of Melbourne was known as Collingwood and so the stockade was also referred to as the Collingwood Stockade.¹⁸¹ In February 1852 a Public Works Committee report recommended a new stockade be constructed at the quarry grounds north of Melbourne, with men imprisoned at Melbourne Gaol to be used at the site.¹⁸² Lieutenant Governor La Trobe readily approved of this new stockade and offered to do what was 'in his power to facilitate its being carried into effect.'¹⁸³ The Public Works Committee was then instructed to determine costs of the stockade so that construction could commence, the approval for construction granted on 12th April 1852.¹⁸⁴ The colonial government worked with the Council on the Quarry Stockade, including proclaiming it as a place 'where prisoners may be worked in irons'.¹⁸⁵ To be 'worked in irons' means that men were forced to work wearing iron shackles around each ankle that were joined by a chain of varying weight. This caused severe pain, bruising and skin lesions.¹⁸⁶

The Council sought to reduce costs in the 1850s at a time when labour and other costs had increased due to the Gold Rush. The Quarry Stockade was important for this, as in May 1852 Alderman John Hodgson identified using labour and materials from the Quarry Stockade would reduce the costs of building the Town Hall.¹⁸⁷ Historian Peter Barrett noted by November 1854, due to an agreement between the City of Melbourne and the Penal Department, labour and cartage of the stone to Melbourne was 'charged at twenty-five per cent less than free labour', resulting

VPRS 515 P0000, Central register for male prisoners, 1-517, 1850-1853, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV. 'Criminal Sittings', *Argus*, 24th August 1852, p. 3, accessed 19th February 2024, <http://nla.gov.au/nla.news-article255611892>. Marie Fels, *Good Men and True: The Aboriginal Police of the Port Phillip District, 1837-1853*, PhD thesis, University of Melbourne, 1986, pp. 343-344. T F Bride, *Letters from Victorian Pioneers*, Trustees of the Public Library, Melbourne, 1898, p. 243.

¹⁷⁷ Fred Cahir and Ian D Clark (2009), 'The case of Peter Mungett', *Provenance*, issue no. 8.

¹⁷⁸ 'City Council', *Argus*, 29th October 1878, p. 9, accessed 20th February 2024, <http://nla.gov.au/nla.news-article5918936>. 'City Council', *Argus*, 20th May 1879, p. 6, accessed 20th February 2024, <http://nla.gov.au/nla.news-article5943875>

¹⁷⁹ 'City Council', *Argus*, 20th March 1883, p. 9, accessed 26th February 2024, <http://nla.gov.au/nla.news-article8505117>.

¹⁸⁰ 'Kirby, James, No. 9912', VPRS 515 P0000 Central register for male prisoners, 9706-10160, 1872, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948,

PROV. 'Sandhurst Assizes', *The Age*, 27th April 1875, p. 3, accessed 20th February 2024, <http://nla.gov.au/nla.news-article202133348>.

¹⁸¹ Barrett 2007, 'Her Majesty's Collingwood Stockade', pp. 76, 77.

¹⁸² Minutes, 23rd February 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. Notice Paper, 5th April 1852, VPRS 54 P0000 item 1, Printed notice papers of Council meetings, November 1851-October 1852, Notice Papers and Proceedings of the Council, 1842-1887, PROV.

¹⁸³ Minutes, 5th April 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁸⁴ Minutes, 5th April 1852, 12th April 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

¹⁸⁵ Minutes, 19th April 1852, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV. Minutes, 12th July 1852, Minutes of Proceedings of City Council, 10th May 1852- 27th April 1854, No. 4, VPRS 8910 P0001 item 4, Minute Books of Council Meetings, PROV.

¹⁸⁶ Luke Donegan, *Convict Daily Life*, Fremantle Prison, Department of Treasury and Finance, Government of Western Australia, 2009, p. 4, accessed 21st March 2024, <https://fremantleprison.com.au/media/1150/fp-convict-daily-life.pdf>. Museums of History NSW, 'Leg irons, ovalled', *Museums of History NSW*, NSW Government, 7th March 2023, accessed 21st March 2024, <https://mhns.wa.gov.au/stories/convict-sydney/leg-irons-ovalled/>.

¹⁸⁷ Minutes, 10th May 1852, Minutes of Proceedings of City Council, 10th May 1852- 27th April 1854, No. 4, VPRS 8910 P0001 item 4, Minute Books of Council Meetings, PROV.

in the population of the quarry quickly grow to three hundred men.¹⁸⁸ The Council continued paying for gravel and stone throughout the 1850s.¹⁸⁹

The Quarry Stockade was a site where Aboriginal men were incarcerated. For example, Gunaikurnai men William Login and Tarra Bobby were imprisoned at the Collingwood Stockade in 1858 for three months, awaiting trial. After three months of detention, they were released when their case fell apart due to lack of evidence.¹⁹⁰ Some Aboriginal men from Sydney were also imprisoned there.¹⁹¹ In October 1858 Old Man Billy was convicted for murdering another Aboriginal man at Ballarat, with his death sentence commuted to seven years hard labour. In November 1858 he was moved from the Melbourne Gaol to the Collingwood Stockade. In June 1859 Old Man Billy died in custody at the Stockade, after an illness.¹⁹²

Young Man Billy had been tried and convicted with Old Man Billy and also transferred to Collingwood Stockade in November 1858. He was described as the nephew of Old Man Billy.¹⁹³ Both Old Man Billy and Young Man Billy bore evidence of initiation as their bodies and arms were described as scarified.¹⁹⁴ In July 1859 Young Man Billy had a ticket-of-leave issued for the District of Collingwood.¹⁹⁵ In April 1860 Aboriginal man Jemmy was sent to the Collingwood Stockade, having been convicted of indecent language. Jemmy had been convicted at Schnapper Point (present day Mornington), on Bunurong Boon Wurrung Country. He was discharged three months later, in June 1860.¹⁹⁶ Aboriginal man Davy, from Wadawurrung and Dja Dja Wurrung Country at Ballarat, spent a couple of months at the Collingwood Stockade in 1862, before being released. He had previously been incarcerated at Pentridge, having been given a sentence of 'two years on the roads'.¹⁹⁷

Exhumation of the section of the Old Melbourne Cemetery where Aboriginal people were buried for the development of Queen Victoria Market

In 1877 the *Melbourne General Market Site Act (Market Act 1877)* was passed whereby the Victorian Government granted the Council land for the site now known as the Queen Victoria Market. Some of the site included an area of Melbourne's first general cemetery [known as the Old Melbourne Cemetery].¹⁹⁸ The cemetery had an allocated section for the burial of Aboriginal people which became part of the land granted to Council.¹⁹⁹ Under the Act, the Council was required to take care to exhume bodies carefully and inter them in the New Melbourne Cemetery. The Council paid someone to exhume the bodies, but made little effort to determine how many Aboriginal people may

¹⁸⁸ Barrett 2007, 'Her Majesty's Collingwood Stockade', p. 77. Notice Paper, 4th August 1853, No. 22, VPRS 54 P0000 item 2, Printed notice papers of Council meetings, November 1852-October 1853, Notice Papers and Proceedings of the Council. 1842-1887, PROV.

¹⁸⁹ For example, see Notice Papers, 22nd November 1852, 12th November 1853, Nos. 2 and 31, VPRS 54 P0000 item 2, Printed notice papers of Council meetings, November 1852-October 1853, Notice Papers and Proceedings of the Council. 1842-1887, PROV.

¹⁹⁰ Peter Gardner (2020) 'Bruce Pascoe's *Dark Emu* and the McMillan Photograph', *Victorian Historical Journal*, vol. 91, no. 2, pp. 383-395, p. 392.

¹⁹¹ Barrett, 'Her Majesty's Collingwood Stockade', p. 79.

¹⁹² 'Old Man Billy, No. 4181', VPRS 515 P0000, Central register for male prisoners, 3591-4356, 1857-1859, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV. 'Inquest on a murderer', *Argus*, 4th June 1859, p. 5, accessed 20th February 2024, <http://nla.gov.au/nla.news-article5682248>.

¹⁹³ 'Young Man Billy, No. 4180', VPRS 515 P0000, Central register for male prisoners, 3591-4356, 1857-1859, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV. 'Inquest on a Murderer', *Argus*, 4th June 1859, p. 5.

¹⁹⁴ 'Old Man Billy, No. 4181', VPRS 515 P0000, Central register for male prisoners, 3591-4356, 1857-1859, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV. 'Young Man Billy, No. 4180', VPRS 515 P0000, Central register for male prisoners, 3591-4356, 1857-1859, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV.

¹⁹⁵ 'Young Man Billy, No. 4180', VPRS 515 P0000, Central register for male prisoners, 3591-4356, 1857-1859, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV.

¹⁹⁶ 'Jemmy (an Aboriginal), No. 5002', VPRS 515 P0000, Central register for male prisoners, 4357-5102, 1859-1860, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV.

¹⁹⁷ 'Davy (an Aboriginal), No. 5894', VPRS 515 P0000 Central register for male prisoners, 5848-6593, 1861-1863, Central Register of Male Prisoners, Penal and Gaols Branch, Chief Secretary's Department, 1850-1948, PROV. 'News and Notes', *The Star*, 15th July 1861, p. 2, accessed 20th February 2024, <http://nla.gov.au/nla.news-article66340605>.

¹⁹⁸ Note that there had been some burials at Flagstaff Hill prior to the opening of the Melbourne Cemetery. Records and Archives, *The History of the City of Melbourne*, p. 22.

¹⁹⁹ Map, Robert Hoddle, Melbourne North and South Historic Significance, VPRS 8168 P0003 item 114 Roll 112, 1842, Historic Plan Collection, PROV. Entry, 17th January 1842, Clark, *The Journal of George Augustus Robinson*.

have been buried in that section. This had repercussions later, when remains were unearthed from this section in the 1990s, as will be discussed in a later section.

The Crown Land for the Old Melbourne Cemetery had been set aside in 1836, the site being bound by present day Franklin Street, Queen Street, Peel Street and the no-longer Fulton Street. Robert Hoddle surveyed the land in 1837, dividing it into denominational sections.²⁰⁰ The cemetery opened in 1837, with the first burial happening in March that year.²⁰¹ Records of burials in the Old Melbourne Cemetery are scarce because records were destroyed by fire in 1865.²⁰²

Aboriginal people, especially the Wadawurrung, continued to camp in the vicinity of the cemetery during 1839 and 1840.²⁰³ Whilst it became an important site to the colonists, it retained its importance to Kulin nation people. However, a fence built around the cemetery from public funds raised by various clergy appears to have prevented the Wadawurrung camping in the area from the 1840s.²⁰⁴

In January 1842 Chief Protector George Augustus Robinson recorded that one acre had been 'sanctioned for an Aboriginal burying ground'.²⁰⁵ An 1842 map by Robert Hoddle shows the cemetery to the north of Melbourne with the denominational sections with one acre set aside for Aboriginal people on the northern end of the cemetery.²⁰⁶ As historian Clare Land noted, this was in response to the hanging of the palawa men Tunnerminnerwait and Maulboyheenner on the 20th of January 1842.²⁰⁷ who were buried there.

During the Protectorate, Robinson and Thomas kept an eye on the 'Aboriginal section' of the Old Melbourne Cemetery. On the 22nd of January 1842 Robinson recorded that the 'Aboriginal section' of the cemetery was 'to be fenced in'. He noted that the fencing was occurring a few days later. It is possible that some Native Police were fencing it, but it is not clear from Robinson's journal – he wrote 'Saw Danna [in charge of Native Police]. Fencing cemetery'²⁰⁸ In November 1848 Robinson recorded

'Walked round grave yard and Aboriginal bur[y]ing ground. At the bend the grave of [blank], the young lad heavy from loss, supposed murder of his companion. An Aborigine who died a natural death [possibly the unnamed Aboriginal person Robinson recorded being buried in September 1848] is buried. The native had been there and cleaned his grave and raised it.'²⁰⁹

In April 1849, when Thomas noted some cattle in the 'Aboriginal section' of the cemetery, he told Robinson and ordered a police officer to impound the cattle.²¹⁰

In 1844, a section of the cemetery to the west of the 'Aboriginal section' was set aside for Jewish burials.²¹¹ In November 1847, half an acre in the northern part of the 'Aboriginal section' was set aside for burials for the Society of Friends community.²¹² An article in the *Argus* newspaper, written in December 1877, noted the 'Aboriginal

²⁰⁰ Phoebe Heddell-Stevens (2013) 'The Old Melbourne Cemetery', *Artefact*, vol. 36, pp. 20-31, p. 20.

²⁰¹ Isaac Selby, *The Old Pioneers Memorial History of Melbourne*, The Old Pioneers Memorial Fund, Melbourne, 1924, p. 12.

²⁰² The Old Melbourne Cemetery Preservation League (n.d.), *The Old Melbourne Cemetery*, Melbourne, Modern Printing Co., p. 4. Garrie Hutchison, *In Memoriam: A Guide to the History and Heritage of Victoria's Cemeteries*, Hardie Grant Books, Richmond, 2014, p. 22.

²⁰³ Entries, 7th May 1839, 21st May 1839, 21st September 1840, Clark, *The Journal of George Augustus Robinson*.

²⁰⁴ 'Burial Ground', *Port Phillip Patriot and Melbourne Advertiser*, 3rd September 1840, p. 3, accessed 27th February 2024, <http://nla.gov.au/nla.news-article228129027>. 'The Cemetery', *Port Phillip Gazette*, 9th September 1840, p. 3, accessed 27th February 2024, <http://nla.gov.au/nla.news-article225006776>.

²⁰⁵ Entry, 17th January 1842, Clark, *The Journal of George Augustus Robinson*.

²⁰⁶ Map, Robert Hoddle, Melbourne North and South, Historic Significance, VPRS 8168 P0003 item 114 Roll 112, Historic Plan Collection, PROV.

²⁰⁷ Clare Land, *Tunnerminnerwait and Maulboyheenner*, City of Melbourne, Melbourne, 2014, p. 11. Entry, 17th January 1842, Clark, *The Journal of George Augustus Robinson*.

²⁰⁸ Entry, 22nd January 1842, Clark, *The Journal of George Augustus Robinson*.

²⁰⁹ Entries, 9th September 1848 and 14th November 1848, Clark, *The Journal of George Augustus Robinson*.

²¹⁰ Entries, 13th April 1849 and 14th April 1849, Volume 03 Item 07: William Thomas journal, 1st January -15th December 1849, William Thomas papers, SLNSW.

²¹¹ *Melbourne General Market Site Act 1877* (Victoria), pp. 3-4. See also: 'Grants of Town Allotments', *New South Wales Government Gazette*, September 26, 1843, No. 80, p. 1234.

²¹² *Melbourne General Market Site Act 1877* (Victoria), p. 5.

section', Jewish section and the Society of Friends section 'had never been consecrated, but had been used for the interment of such deceased persons as were deemed unfit to lie in holy ground.'²¹³ Historian Isaac Selby, writing in 1924 noted that 'convicts were buried just outside the northern end of the Cemetery in No Man's Land'.²¹⁴ Selby's comment is not clear as to whether this was north of the original 'Aboriginal section' and subsequent Society of Friends section, or if this was in the un-consecrated ground that was part of these sections, as mentioned in the *Argus* article. It is possible that non-Aboriginal people were buried in the 'Aboriginal section', especially deceased prisoners. The Old Melbourne Cemetery Trustees believed that 'a number of bodies of criminals and others' were buried in the 'Aboriginal section' during the Gold Rush period.²¹⁵ Some of these criminals may have been Aboriginal people and some may have been non-Indigenous people. For example, it is not known where Old Man Billy, mentioned in the previous section, was buried, but he may have been buried in the Old Melbourne Cemetery.

In 1876 Alderman John Smith moved and Councillor Orlando Fenwick seconded a motion requesting the Minister of Lands of the Victorian Government grant the land along Victoria Street and a section of the Old Melbourne Cemetery to the Council on the same conditions as the other markets overseen by the Council, with the Council's guarantee to spend not less than £10,000 on the site.²¹⁶ The Government granted the request and the various land exchanges that needed to occur with the passing of the *Melbourne General Market Site Act* in 1877.²¹⁷

This Act allowed the Council to access the 'Aboriginal section' of the cemetery, as well as the Society of Friends section and part of the Jewish section.²¹⁸ The Act stated that 'the mayor, aldermen, councillors and citizens of the city of Melbourne shall with all reasonable diligence cause enquiry to be made as to the number and position of the human bodies interred therein, and shall cause all the bodies found interred therein to be with all due care and respect exhumed therefrom and re-interred in the Melbourne General Cemetery.'²¹⁹ The Old Melbourne Cemetery Preservation League noted bluntly that, 'it was argued that, as Quakers [Society of Friends] had not any burials, and the [A]borigines but three, while the Jews were all clustered in ¼ of an acre, no great harm would be done.'²²⁰ Selby argued that the Bill 'was excused on the plea that there were not any Jews in the part of their ground taken, that no one was particularly interested in the bones of the Aborigines, and that there were but very few members of the Society of Friends in their ground. Francis Longmore²²¹, when introducing the Bill, affirmed that there were only three.'²²² Both Selby and the Old Melbourne Cemetery Preservation League were writing in the early 20th century, but their tone reflects both that period and the 1870s period of thinking about Aboriginal people. It is not clear where their number of Aboriginal burials was drawn from, but contemporary newspaper reports also reinforced a low number of Aboriginal people buried in the cemetery, reporting 'two or three' deceased Aboriginal people.²²³

Selby observed that when exhumation of the bodies in the cemetery occurred 'considerably more that it was thought were then exhumed'.²²⁴ The *Argus* reported in 'one place were found three skeletons, recognised as [A]borigines, and it is believed that they were executed in Melbourne about 30 years ago.'²²⁵ This may have been any of Tunnerminnerwait and Maulboyheenner, Roger or Ptolemy and Bobby, who were all executed by the

²¹³ 'Introduction', *Argus*, 27th December 1877, p. 1, accessed 12th February 2024, <http://nla.gov.au/nla.news-article5950015>.

²¹⁴ Selby, *The Old Pioneers Memorial History*, p. 14.

²¹⁵ Godden, Mackay Logan Heritage Consultants, *Old Melbourne Cemetery: Information Collation*, Stage 1: Research and Review, April 2013, Report, p. 10. Godden MacKay Logan Heritage Consultants, *Old Melbourne Cemetery: Information Collation*, Stage 2 Documentation, Draft Report, City of Melbourne Public Access version, January 2017, p. 74.

²¹⁶ Council Resolution, 26th December 1876, VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV.

²¹⁷ 'The Argus', *Argus*, 3rd August 1877, p. 5, accessed 21st December 2023, <http://nla.gov.au/nla.news-article5931734>.

²¹⁸ Heddell-Stevens, 'The Old Melbourne Cemetery', p. 23.

²¹⁹ *The Melbourne General Market Act 1877* (Vic), VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV, p. 2.

²²⁰ The Old Melbourne Cemetery Preservation League, *The Old Melbourne Cemetery*, p. 3.

²²¹ Jacqueline Clarke, 'Longmore, Francis (1826–1898)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 7th March 2024, <https://adb.anu.edu.au/biography/longmore-francis-4036/text6413>.

²²² Selby, *The Old Pioneers Memorial History*, p. 20.

²²³ 'The Argus', *Argus*, 3rd August 1877, p. 5, accessed 21st December 2023, <http://nla.gov.au/nla.news-article5931734>. The Old Melbourne Cemetery Preservation League, *The Old Melbourne Cemetery*, p. 4. Hutchison, *In Memoriam*, p. 22.

²²⁴ Selby, *The Old Pioneers Memorial History*, p. 20.

²²⁵ 'Introduction', *Argus*, 27th December 1877, p. 1, accessed 12th February 2024, <http://nla.gov.au/nla.news-article5950015>.

colonists in the 1840s. However, the article identified these bodies as Aboriginal using physical characteristics that were used at that time to differentiate between 'races', now outdated and acknowledged as incorrect.²²⁶ It described '[o]ne had a magnificent skull, large, in perfect preservation, and strongly marked with the characteristics of his race.'²²⁷ It is not clear from the article who made this assessment. The bodies were interred at the New Melbourne Cemetery in Carlton, but exactly where was not identified.²²⁸ In 1849 there was a section of the new cemetery allocated to Aboriginal people, but this was no longer the case by 1851.²²⁹

The BPA meeting minutes for the years 1873 to 1888 reveal no mention of the exhumations. In 1880 the Melbourne Cemetery Board did request use of the BPA offices for meetings (the BPA Offices were at Temple Court in Melbourne), which was granted. This is the only mention of any dealings with anything linked to a cemetery during this period.²³⁰ An undated note in Town Clerk correspondence files for Markets in 1877 states 'Return Book with maps of Old Cemetery to Albert Purchas Esq Temple Cr'.²³¹ Purchas was the person who designed the outlay of the Melbourne (New) Cemetery and acted as the Secretary of the cemetery for some years. His name is also on a plan of the Old Cemetery which indicates no burials in the sections for Aboriginal burials and Society of Friends burials.²³² There is also no record of any Council representative contacting the BPA. However, a wider search through Town Clerk or BPA correspondence than completed for this report may reveal something. The Godden MacKay Logan Heritage Consultants' report noted the researchers had searched through the Town Clerk correspondence records and did not describe any such correspondence between Council and the BPA.²³³

Across the three sections in which exhumations took place, 30 bodies, 45 bodies or 69 bodies have been identified as being exhumed and interred at the Melbourne General Cemetery in Carlton.²³⁴ A note in the Town Clerk's correspondence, undated and unsigned, puts the number of deceased bodies removed and reburied as sixty-nine.²³⁵ An initialled note dated 31st October 1878 states 'Mr Jennings [Thomas Jennings, the undertaker employed to complete the exhumations] cannot say how many bodies were contained in those coffins as he was not aware that such information would be required his books shew 9 coffins delivered on the 26th Nov 1877 he estimates the whole is 30 bodies.' The invoices included with these files are confusing, making it hard to determine numbers of coffins and deceased people's bodies.²³⁶ Other studies using these files state 45 bodies were exhumed.²³⁷ Regardless of the numbers, by January 1878 undertaker Jennings believed he had made a 'diligent search in the ground of the Old Cemetery' and 'decently interred' all of the bodies he had been able to find.²³⁸

²²⁶ Paul Turnbull (2012), 'The 'Aboriginal' Australian Brain in the Scientific Imagination, c. 1820-1880', *Somatechnics*, vol. 2, no. 2, pp. 171-197. Helen MacDonald, *Possessing the Dead: The artful science of anatomy*, Melbourne University Press, Carlton, 2010. Anderson, *The Cultivation of Whiteness*.

²²⁷ 'Introduction', *Argus*, 27th December 1877, p. 1.

²²⁸ 'Introduction', *Argus*, 27th December 1877, p. 1.

²²⁹ Celestina Sagazio and Don Chambers, 'An Ornamental Burial Site: Melbourne General Cemetery', in Peter Yule (ed.), *Carlton: A History*, Melbourne University Press, Carlton, 2004, pp. 352-360, p. 352.

²³⁰ Minutes, 1st September 1880, Series B314, Roll1, Minutes of BPA meetings, circa 1860- circa 1885, Central Board Appointed to Watch over the Interests of the Aborigines in the Colony of Victoria, NAA.

²³¹ Note, n.d., VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV.

²³² 'New Rules of the Melbourne Cemetery', *The Age*, 27th February 1875, p. 8, accessed 7th February 2024, <http://nla.gov.au/nla.news-article202137153>. 'The Melbourne General Cemetery', *Argus*, 30th July 1900, p. 6, accessed 7th February 2024, <http://nla.gov.au/nla.news-article9549911>. 'The Victorian Parliament', *Argus*, 8th May 1862, p. 6, accessed 7th February 2024, <http://nla.gov.au/nla.news-article5714508>. Helen Harris, 'Melbourne General Cemetery', in Andrew Brown-May and Shurlee Swain (eds), *The Encyclopedia of Melbourne*, Cambridge University Press, Cambridge, 2005, pp. 464-465, p. 464. A Purchas, 1873, VPRS 9582 P0001, item 1873, Plan of Old Melbourne Cemetery, PROV.

²³³ Godden MacKay Logan, *Old Melbourne Cemetery*, 2017, pp. 33, 34.

²³⁴ James Lesh and Kali Myers (2022) 'Beyond repair': modernism, renewal and the conservation of Melbourne's Queen Victoria Market, 1967-76', *Planning Perspectives*, vol. 37, no. 2, pp. 217-242, p. 220.

²³⁵ Recent histories have accepted this as the correct number. See: Godden Mackay Logan, *Old Melbourne Cemetery*, p. 14. Lovell Chen Consultants, *Queen Victoria Market*, p. 9. Correspondence, Thomas Jennings to Town Clerk, 14th November 1877, VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV.

²³⁶ Correspondence, Thomas Jennings to Town Clerk, 14th November 1877, VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV.

²³⁷ Lesh and Myers, 'Beyond repair', p. 220.

²³⁸ Letter, Thomas Jennings to Town Clerk, 19th January 1878, VPRS 3181 P0000 item 526, Town Clerk's correspondence Markets 1877, Town Clerk's Files, Series 1, PROV.

Chief Protector Robinson and Assistant Protector Thomas recorded Aboriginal deaths and burials in their reports and journals. They had recorded burials of Aboriginal people at the Police Paddock (part of present-day Yarra Park), at the former Langhorne mission site on the southern side of the Birrarung (part of what is now the Royal Botanic Gardens), at various Kulin camping sites, and at the Merri Creek reserve (now Yarra Bend). They also recorded burials in and around the Old Cemetery.²³⁹

As well as Tunnerminnerwait, Maulboyheenner and Roger, there are records of Aboriginal people being buried in the old cemetery after part of it was allocated for Aboriginal people in January 1842.²⁴⁰ In 1844 Thomas recorded burying a Wadawurrung man, Booby, at the 'Aboriginal ground' of the Melbourne Cemetery.²⁴¹ In 1847, two men from northern Country near the Murray river, Ptolemy and Bobby, were hanged by colonists in Melbourne for murdering settler Andrew Beveridge and would have been buried in the 'Aboriginal section' of the cemetery.²⁴² In September 1848 Robinson recorded an Aboriginal person dying and being buried in 'native ground', referring to the 'Aboriginal section' of the cemetery.²⁴³ In November the same year Robinson reported another burial of an Aboriginal person, noting another Kulin person 'had been there and cleaned his grave and raised it.'²⁴⁴

It is also possible that some Aboriginal people were buried near the cemetery or in what became the 'Aboriginal section', prior to 1842. Robinson often referred to the 'burial ground' in his journal.²⁴⁵ Whilst Flagstaff Hill was originally known as Burial Hill, contemporary sources show that burial ground was in use in the late 1830s and early 1840s for the Old Melbourne Cemetery.²⁴⁶ In May 1839 Robinson found an Aboriginal woman's body 'near the burial ground' and Robinson ordered her to be buried.²⁴⁷ Robinson did not identify where, but the cemetery would have been the most probable location. Robinson also noted in October 1840 that Wurundjeri man Winberri had been buried 'outside the burying ground' after being shot during the Lettsom raid.²⁴⁸ Narrokemulloke, was buried 'along side Winberri on south side' of the burial ground.²⁴⁹ In December 1840 Robinson noted an Aboriginal man had been buried with 'no notice to me. Understood he was buried 50 yards from the other two blacks.'²⁵⁰ This could have been close to Winberri and Narrokemulloke, near or in the cemetery. It is not clear if any of these people's bodies were exhumed and interred in the Melbourne General Cemetery, but it indicates that there were more than two or three Aboriginal people buried at the Old Melbourne Cemetery site.

²³⁹ For burials described as outside the burial ground, see: Entries, 20th and 21st May 1839, 11th October 1840, 12th October 1840, 11th December 1840, Clark, *The Journal of George Augustus Robinson*. For burials in the Police Paddock see: Entries, 18th July 1839 and 15th August 1839, Clark, *The Journal of George Augustus Robinson*. For burials at the former mission run by George Langhorne see: Entry, 17th July 1839, Volume 01 Item 01: William Thomas journal, January -July 1839 and associated papers, 1834-1838, SLNSW. For burial at the Kulin nation camp site see: Entry, 20th April 1840, Clark, *The Journal of George Augustus Robinson*.

²⁴⁰ Report (No. 11), Chief Protector George Augustus Robinson to La Trobe, 14th December 1842, Encls. in No. 64, *Despatches, Aborigines, Australian Colonies*, House of Commons, London, 9th August 1844, pp. 253-256, p. 255. Report, William Thomas, 'Journal of Proceedings from 1 December 1842 to 1 March 1843, with Return of Births and Deaths of Aborigines during the last Six Months, in the Melbourne and Western Port District', Encls. 4, in No. 72, *Despatches, Aborigines, Australian Colonies*, House of Commons, London, 9th August 1844, pp. 322-324, p. 324. 'Colonial Intelligence', *Portland Guardian and Normanby General Advertiser*, 24th September 1842, p. 3, accessed 22nd December 2023, <http://nla.gov.au/nla.news-article71568689>. 'Supreme Court- Criminal Side', *Port Phillip Patriot and Melbourne Advertiser*, 21st July 1842, p. 2, accessed 22nd December 2023, <http://nla.gov.au/nla.news-article226509143>.

²⁴¹ Entry, 14th December 1844, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

²⁴² 'Supreme Court', *Geelong Advertiser and Squatters' Advocate*, 26th February 1847, p. 2, accessed 21st December 2023, <http://nla.gov.au/nla.news-article94444423>. Land, *Tunnerminnerwait and Maulboyheenner*, p. 10. McCombie, *The History of the Colony of Victoria*, pp. 93-96.

²⁴³ Entry, 9th September 1848, Clark, *The Journal of George Augustus Robinson*.

²⁴⁴ Entry, 14th November 1848, Clark, *The Journal of George Augustus Robinson*.

²⁴⁵ For example, see: Entries, 20th May 1839, 17th October 1839, 21st September 1840, 21st October 1840 and 17th January 1842, Clark, *The Journal of George Augustus Robinson*.

²⁴⁶ For example, see: 'Local Intelligence', *Port Phillip Patriot and Melbourne Advertiser*, 6th August 1840, p. 2, accessed 27th February 2024, <http://nla.gov.au/nla.news-article228130081>. 'The Burial Ground', *Port Phillip Gazette*, 29th July 1840, p. 3, accessed 27th February 2024, <http://nla.gov.au/nla.news-article225006593>.

²⁴⁷ Entries, 20th May 1839 and 21st May 1839, Clark, *The Journal of George Augustus Robinson*.

²⁴⁸ Entry, 11th October 1840, Clark, *The Journal of George Augustus Robinson*. Stephens with Stewart-Muir, *The Years of Terror*, pp. 138-140. Barwick, 'Mapping the past', p. 121.

²⁴⁹ Entry, 12th October 1840, Clark, *The Journal of George Augustus Robinson*.

²⁵⁰ Entry, 11th December 1840, Clark, *The Journal of George Augustus Robinson*.

The Council was keen to get the vegetable market up and running. In June 1877, prior to the *Market Act* being passed, the Market Committee had presented a report to the Council:

'recommending the [Market] Committee be authorised to take steps for the erection of two of the sheds immediately and for the fencing in of the land and the providing of further shed accommodation if required on an act being passed by the Legislature similar to the Bill introduced last session vesting the whole of the land in the Corporation for Market purposes'.²⁵¹

Alderman Thomas Moubray put the motion, Councillor Joseph Story seconded it, and the motion passed.²⁵²

In an October 1877 meeting the eagerness for the Council to construct and get the market up and running was evident. The Councillors had tenders ready to accept for building sheds and kerbing and channelling at the new market. However, through the discussion of these tenders 'it transpired' that the Councillors had not provided for the 'exhumation and re-interment of the bodies in the Old Cemetery that would have to be removed' despite this being explicitly stated in the *Market Act 1877*, as noted above.²⁵³ Mayor John Pigdon oversaw the formal opening of the Queen Victoria Market on the 20th of March 1878.²⁵⁴

In November 1990 the Council engaged an archaeologist 'to rescue any bones found during the fire service installation'.²⁵⁵ A fire hydrant was being installed in F shed. This was the area built over the where Aboriginal people were buried in the Old Melbourne Cemetery.²⁵⁶ Remains of two bodies were found. One of the bodies showed evidence of having been disturbed prior to the 'damage caused by the mechanical excavator'.²⁵⁷ It was determined by the archaeologist that the remains were Aboriginal people of mixed parentage, males and in their mid-twenties at death.²⁵⁸ Consultant reports written since this find have noted that it is not clear where these bodies were buried after they had been exhumed.²⁵⁹

Omission from celebrations

No Aboriginal involvement in Federation and royal visit celebrations - 1901

In May 1901 the Council was part of the Commonwealth Celebrations and the visit of His Royal Highness the Duke of Cornwall and York and his wife. The Council omitted including Aboriginal people in the celebrations.

The Council was involved in helping plan and run the Federation celebrations, having appointed a Special Committee, chaired by Mayor Samuel Gillott to oversee the celebrations. The Council's role during the Duke's and Duchess' visit included hosting an evening reception at the Town Hall. The Council were involved with organising and partly funding the street decorations placed throughout the city during the royal visit, as the Town Clerk, City Surveyor and City Electrical Engineer worked with the Special Committee.²⁶⁰ Illuminations, supported in part by funds from the Council, were set up in the city and numerous processions, including a Stockmen's procession, a Chinese procession, a Fire Brigades' procession and the procession to Parliament's opening at the Exhibition

²⁵¹ Minutes, 11th June 1877, Minutes of Meeting of City Council, VPRS 8910 P0001 item 28, Minutes March 1877-October 1878, Minute Books of Council Meetings, PROV, p. 109.

²⁵² Minutes, 11th June 1877, Minutes of Meeting of City Council, VPRS 8910 P0001 item 28, Minutes March 1877-October 1878, Minute Books of Council Meetings, PROV, p. 108.

²⁵³ 'City Council', *The Age*, 23rd October 1877, p. 3, accessed 21st December 2023, <http://nla.gov.au/nla.news-article206922209>.

²⁵⁴ Lovell Chen, *Queen Victoria Market*, p. 10.

²⁵⁵ Godden Mackay Logan, *Old Melbourne Cemetery*, 2017, p. 28.

²⁵⁶ Godden Mackay Logan Heritage Consultants, *Old Melbourne Cemetery: Information Collation, Stage 1 Research and Review*, Report, April 2013, p. 10.

²⁵⁷ Godden Mackay Logan, *Old Melbourne Cemetery*, 2017, p. 21.

²⁵⁸ Heddell-Stevens, 'The Old Melbourne Cemetery', p. 24. Godden Mackay Logan, *Old Melbourne Cemetery*, 2017, pp. 18, 21.

²⁵⁹ Godden Mackay Logan, *Old Melbourne Cemetery*, 2017, p. 18.

²⁶⁰ Letter, Secretary to the Premier to Melbourne City Council Town Clerk, 23rd October 1900, Town Clerk Correspondence – Celebrations 1901, VPRS 3181 P0000 item 84, Town Clerk's Files, Series 1, PROV. *Commonwealth Celebrations: Official Programme*, Town Clerk Correspondence – Celebrations 1901, VPRS 3181 P0000 item 84, Town Clerk's Files, Series 1, PROV. 'Memorandum submitted by the Special Committee in regard to the approaching Commonwealth Celebrations, with the Committee's Report No 1, on the 26th Order of the Day', 14th March 1901, Town Clerk Correspondence – Celebrations 1901, VPRS 3181 P0000 item 84, Town Clerk's Files, Series 1, PROV.

Buildings occurred.²⁶¹ Melbourne's Chinese Bo Leong Society had specially purchased a dragon for the Chinese procession. There was at least one other dragon in the procession, one being the well-known Loong dragon now housed in the Golden Dragon Museum in Bendigo. As historians Sophie Couchman and Leigh McKinnon wrote, by 1901 'Chinese participation in public processions in Victoria was common'.²⁶²

Aboriginal people were not included in processions or the formal receptions. The Secretary of the BPA applied for permission for each Aboriginal station to have an ensign and a Royal Standard flag and small flags for the children at each station (up to 24) with the BPA covering the costs.²⁶³ The Melbourne Assets Company asked the BPA 'for a subscription towards the decoration of the building on the Commonwealth celebration etc. The Board granted the sum of not exceeding £2.10'.²⁶⁴ It is not known what decorations the Melbourne Assets Company chose and whether it had any imagery linked to Aboriginal people. This was a city-based company, in Collins Street Melbourne, and the request for money did not get Aboriginal people closer to the celebrations.

Billy Hewitt, who lived on occasion at Lake Condah, but generally stayed away from the reserves and remained on his Country around Port Fairy, wanted to see the Duke, so he travelled to Melbourne. Billy got free steamer passage and funds from Port Fairy locals.²⁶⁵ It is not reported whether he met the Duke. Two Gunaikurnai men, King Billy and King Bobby met the Duke as he travelled to some quail shooting at Kilmany Park, outside of Sale on Gunaikurnai Country. The newspaper reports of King Billy and King Bobby's meeting with the Duke indicated that the Duke pulled over to meet them, so this was not a planned interaction. They had come from Ramahyuck station to meet the Duke and the two men demonstrated boomerang throwing for him. Some other Gunaikurnai people from Ramahyuck were also present.²⁶⁶ Both of these interactions or attempted interactions with the Duke reflected the relationship Aboriginal people had with royal representatives. When Wurundjeri people and other Kulin nation Aboriginal people attended the Governor's levee in 1863, they arrived with gifts and as representatives of their Countries. Historian Maria Nugent wrote that it showed an understanding of level of powers within the Imperial system.²⁶⁷ The Duke was 2nd son of the King of Australia. The organisers of the Duke's visit, including representatives from the Council, did not think to include Aboriginal people in the events, reflecting the settlers' lack of engagement with Aboriginal people in the process of Federation. By contrast, during the same royal visit Aboriginal people performed a corroboree for the Duke and Duchess in Queensland, organised by 'Aboriginal Protector' Archibald Meston.²⁶⁸ Meston had overseen removal of Queensland Aboriginal people to an Aboriginal reserve at K'gari [Fraser Island], so it may have been that some of the performers came from there.²⁶⁹

²⁶¹ *Commonwealth Celebrations: Official Programme*, Town Clerk Correspondence – Celebrations 1901, VPRS 3181 P0000 item 84, Town Clerk's Files, Series 1, PROV. Letter, Thomas Watson to John Clayton, 6th March 1902, VPRS 3183 P0000 item 1, 3rd Series Ceremonial Commonwealth Celebrations 1901, Town Clerk's Correspondence Files II, 1910-1985, PROV. Letter, Thomas Watson to John Clayton, 9th January 1902, VPRS 3183 P0000 item 1, 3rd Series Ceremonial Commonwealth Celebrations 1901, Town Clerk's Correspondence Files II, 1910-1985, PROV.

²⁶² Sophie Couchman and Leigh McKinnon, 'The surprisingly Australian history of Chinese dragon parades', *The Conversation*, published 9th February 2024, <https://theconversation.com/the-surprisingly-australian-history-of-chinese-dragon-parades-221594>.

²⁶³ Minutes, 7th November 1900, Series B314 Roll 2, Minutes of meetings, circa 1885-circa 1921, Central Board Appointed to Watch over the Interests of the Aborigines in the Colony of Victoria, NAA.

²⁶⁴ Minutes, 3rd April 1901, Series B314 Roll 2, Minutes of meetings, circa 1885-circa 1921, Central Board Appointed to Watch over the Interests of the Aborigines in the Colony of Victoria, NAA.

²⁶⁵ 'An Aborigine King in Melbourne', *The Age*, 13th May 1901, p. 10, accessed 9th February 2024, <http://nla.gov.au/nla.news-article190036605>. Board for the Protection of Aborigines, *Twelfth Report*, p. 26. 'A Loyal Aborigine', *Portland Guardian*, 13th May 1901, p. 3, accessed 9th February 2024, <http://nla.gov.au/nla.news-article63684100>.

²⁶⁶ 'The Royal Visit: A Royal Shooting Party', *The Ballarat Star*, 16th May 1901, p. 6, accessed 9th February 2024, <http://nla.gov.au/nla.news-article207037930>. 'The Duke in Gippsland', *The Herald*, 15th May 1901, p. 4, accessed 9th February 2024, <http://nla.gov.au/nla.news-article243005339>.

²⁶⁷ Maria Nugent, 'The politics of memory and the memory of politics: Australian Aboriginal interpretations of Queen Victoria, 1881-2011', in Sarah Carter and Maria Nugent (eds), *Mistress of Everything: Queen Victoria in Indigenous Worlds*, Manchester Scholarship Online, Manchester, 2017, pp. 1-25. Maria Nugent (2012), 'The queen gave us the land': Aboriginal people, Queen Victoria and historical remembrance', *History Australia*, vol. 9, no. 2, pp. 182-200.

²⁶⁸ 'Aboriginal Corroboree', *The Gippsland Farmers' Journal*, 24th May 1901, p. 2, accessed 9th February 2024, <http://nla.gov.au/nla.news-article264382291>.

²⁶⁹ Fiona Foley, *Biting the Clouds*, UQP, St Lucia, 2020, p. 96.

In 1901 the Zoological Gardens at Royal Park again had an Aboriginal camp on display. Unlike in 1888 when Aboriginal people had been brought from Coranderrk to 'live' in the camp, this time there were no residents from Coranderrk present. Weapons were included in the display.²⁷⁰

Victoria's and Melbourne's centenary celebrations in 1934 and 1935

The centenary of the colonisation of Victoria and Melbourne had events organised through a Centenary Celebrations Council, which included several Aldermen and Councillors. There was limited engagement by Aboriginal people in the celebrations within Melbourne, and any representation was linked to the past, particularly the period before colonisation and the arrival of Batman and his party. Batman was celebrated as the founder of Melbourne.

The Council was invested in the preparations of the centenary celebrations, developing a Committee in early 1930.²⁷¹ Eventually a larger Celebrations Council, involving the State Government, was developed and included Aldermen G H C Crespin and Horace Wootton and Councillors James Ferguson, Albert Kane and Thomas Nettlefold.²⁷² The Lord Mayors Henry Gengoult Smith and A S Wales were the chairs of the Council during their respective terms.²⁷³ The City of Melbourne Town Clerk, W V McCall, represented the Melbourne Council on the Officers Committee for the Royal Visit and the Deputy Town Clerk, H S Wootton was on the Officers and Sailors' Entertainment Committee.²⁷⁴ The City of Melbourne Council did not control the celebrations, but it had a strong representation on the organising body.

The Council provided funds to the Centenary Council and housed the Centenary Council's staff for free in Council premises.²⁷⁵ Additionally the Council funded decoration and illumination of the city streets to the cost of £15,000 during the visit of the Duke of Gloucester and for the centenary of Melbourne.²⁷⁶ These illuminations included a 'tableau of the landing of John Batman was carried out in coloured fireworks on the banks of' the Birrarung.²⁷⁷ The Council also provided £500 towards the cost of a Centenary medal for school children.²⁷⁸

John Porter, manager of the theatrical company Dante, approached the BPA, the Queensland Aboriginal Board and the Northern Territory Home and Territory Department. His request was 'to organise and build on a vacant piece of land controlled by the City of Melbourne Council, a big native village'.²⁷⁹ This was to last from October to December 1934. Porter hoped these organisations would find around 100 Aboriginal people and send them to Melbourne, proposing that 'corroborees, native dances, and an elaborate series of pageants of historic interest' would be performed.²⁸⁰ The BPA had refused all requests by councils across Victoria to have Aboriginal people involved, stating their policy was 'to isolate the [A]borigines...from contact with the white population to the fullest

²⁷⁰ 'A Zoological Retreat', *Argus*, 3rd May 1901, p. 8, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article10548921>.

²⁷¹ Minutes, 10th February 1930, VPRS 8910 P0001 item 61, Minutes 1929-1930, Minute Books of Council Meetings, PROV, p. 57.

²⁷² Working Programme, 'Visit to Victoria of His Royal Highness, The Duke of Gloucester', 1934, M5226, Box 1584, folder 24 (i), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV, p. 7.

²⁷³ Programme, Commemorative Ceremony, 8th June 1935, M5226, Box 1584, folder 24 (ii), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV. Ziegler, *The State of Victoria and the City of Melbourne Centenary Celebrations*.

²⁷⁴ Working Programme, 'Visit to Victoria of His Royal Highness, The Duke of Gloucester', 1934, M5226, Box 1584, folder 24 (i), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV, pp. 8, 9.

²⁷⁵ Minutes, 18th December 1933 and 22nd January 1934, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes 1933-34, Minute Books of Council Meetings, PROV, pp. 28, 44.

²⁷⁶ Minutes, 21st March 1934, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes 1933-34, Minute Books of Council Meetings, PROV, p. 88.

²⁷⁷ Ziegler, *The State of Victoria and the City of Melbourne Centenary Celebrations*.

²⁷⁸ Minutes, 3rd September 1934, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes 1933-34, Minute Books of Council Meetings, PROV, p. 239.

²⁷⁹ Letter, John Porter to Secretary Home and Territory Department, 22nd November 1933, Series A1, 1933/9533, Dante & Co. – proposed Aboriginal Village for Melbourne Centenary Celebrations, NAA.

²⁸⁰ Letter, John Porter to Secretary Home and Territory Department, 22nd November 1933, Series A1, 1933/9533, Dante & Co. – proposed Aboriginal Village for Melbourne Centenary Celebrations, NAA. 'Glimpse of Wild Australia: Aboriginal Pageants for Centenary', *Melbourne Herald*, 22nd November 1933, Series A1, 1933/9533, Dante & Co. – proposed Aboriginal Village for Melbourne Centenary Celebrations, NAA.

possible extent.²⁸¹ The BPA also refused Porter's request as did the other government agencies.²⁸² It is not clear how much input the Council had to Porter's request, although Porter was friendly with Councillor Thomas Nettlefold, who was on the Celebrations Council, so it would appear that there may have been some link or awareness of Porter's plans by both the Melbourne Council and the Celebrations Council.

Despite Porter's proposal being refused, there were some Aboriginal people who performed at the celebrations. In October 1934 there was a report of a 'party of 12 [A]borigines travelling by motor-truck' who had arrived in Bendigo 'on their way to Melbourne to take part in a corroboree which is being arranged for the Centenary celebrations.' In early November it was noted that there were Aboriginal people in Melbourne who were participating in the centenary celebrations with dances and singing. Radio station 3DB advertised it would broadcast 'a real Australian corroboree performed by [A]borigines' that was to be performed at the Tivoli Theatre.²⁸³ In Bourke Street.

In November 1934, there was a report of Aboriginal men 'forced to stand on Melbourne's streets playing tunes on gum leaves and mimicking bush birds, in order to raise a few pence to save themselves from starvation.'²⁸⁴ The men had been 'brought to Melbourne to enact a corroboree and perform other native rites for the entertainment of Melbourne and its visitors'.²⁸⁵ However they had been 'forgotten' once they had performed.²⁸⁶ In March 1935 the local press elaborated; two Aboriginal people from central Australia were 'stranded', having been brought to Melbourne for the centenary celebrations as performers in the 'Wild Australia Stampede'. The Centenary Council denied they were responsible but agreed to pay J R Williamson to cover the cost of shelter, clothing and food for the Aboriginal people. Councillor Thomas Nettlefold stated, 'the [Centenary] Council had been criticised unfairly' noting the Centenary Council had 'done everything possible to prevent the [A]borigines from coming to Melbourne'.²⁸⁷ It is not clear if these two reports, months apart, relate to the same Aboriginal people.

In 1934 the City of Melbourne Council had commissioned W E Mathieson to create two memorial windows to commemorate the centenary of Melbourne. One window featured John Batman and the windows were installed in the foyer of the Town Hall.²⁸⁸ The image with Batman in a boat, presumably on the Birrarung, included an Aboriginal person behind Batman. This would have been one of the Eora nation Aboriginal people Batman brought with him. There was some debate about Mathieson's depiction of Batman in a boat and its historical accuracy.²⁸⁹ No one questioned the representation of the Eora man, who was depicted naked except for a white pair of what look to the modern eye like underpants. In images painted in the 1870s and 1880s of Batman and the Eora men, they were usually clothed in European clothes, in what would seem to be a more accurate representation, especially as the Eora men had lived with Batman for some years.²⁹⁰

²⁸¹ Sianan Healy (2006), "'Years Ago Some Lived Here': Aboriginal Australians and the Production of Popular Culture, History and Identity in 1930s Victoria", *Australian Historical Studies*, vol. 128, pp. 18-34, pp. 18, 19, 26, 34.

²⁸² Letter, Deputy Chief Protector of Aboriginals to Secretary of the Department of the Interior, 9th July 1934, Series A1, 1933/9533, Dante & Co. – proposed Aboriginal Village for Melbourne Centenary Celebrations, NAA.

²⁸³ 'Corroboree at 3DB Singing', *The Sun News-Pictorial*, 3rd November 1934, p. 4, accessed 7th March 2024, <http://nla.gov.au/nla.news-article277077325>. 'Kew Children's Picnic', *The Age*, 3rd November 1934, p. 24, accessed 7th March 2024, <http://nla.gov.au/nla.news-article205085440>.

²⁸⁴ 'Aborigines abandoned in city', *Shepparton Advertiser*, 16th November 1934, p. 5, accessed 26th February 2024, <http://nla.gov.au/nla.news-article176813199>.

²⁸⁵ 'Aborigines abandoned in city', *Shepparton Advertiser*, 16th November 1934, p. 5.

²⁸⁶ 'Aborigines abandoned in city', *Shepparton Advertiser*, 16th November 1934, p. 5.

²⁸⁷ 'Stranded Aborigines Not Invite [sic] to City', *Sun News-Pictorial*, 14th March 1935, p. 19, accessed 26th February 2024, <http://nla.gov.au/nla.news-article277115459>.

²⁸⁸ Minutes, 16th April 1934, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes 1933-1934, Minute Books of Council Meetings, PROV, p. 112. Bain Attwood with Helen Doyle, *Possession: Batman's Treaty and the matter of history*, Miegunyah Press, Carlton, 2009, p. 200.

²⁸⁹ 'Batman's Journey', *The Herald*, 9th May 1934, p. 6, accessed 14th March 1934, <http://nla.gov.au/nla.news-article243255989>. 'The Batman Question', *The Herald*, 1st May 1934, p. 8, accessed 14th March 2024, <http://nla.gov.au/nla.news-article243260317>. 'Centenary Plans', *The Age*, 25th April 1934, p. 12, accessed 14th March 2024, <http://nla.gov.au/nla.news-article203827645>.

²⁹⁰ For example, see: John Wesley Burt, *Batman's treaty with the Aborigines at Merri Creek*, 6th June 1835, ca 1888, SLV, accessed 15th March 2024, <http://handle.slv.vic.gov.au/10381/106364>. A T Mockridge, *Batman's first meeting with the native women (near Gellibrand Harbour)*, 1934, Pictures Collection, PCLTEFBOX M, SLV, accessed 15th March 2024, <http://handle.slv.vic.gov.au/10381/298617>. H L van den Houten, *Batman's first meeting with Buckley*, 1878, PCLY 985, Pictures Collection, SLV, accessed 15th March 2024, <http://handle.slv.vic.gov.au/10381/153105>.

As part of the centenary of Melbourne celebrations the Council held a special commemorative meeting on the 7th of June 1935.²⁹¹ As well as the Council there were a number of visitors present, including the Governor of Victoria, Lord Huntingfield, Premier A A Dunstan and local Mayors. The meeting was held to pass a motion of two parts:

(a) That this Council place on record this expression of its gratification and pride at the unparalleled progress and development that has taken place in this City since the founding of Melbourne by John Batman on the 8th day of June, 1835.

(b) That in order to appropriately mark this historic occasion of the Centenary of the founding of Melbourne authority be now given by the Council for a painting in oils of the Founder, John Batman, to be executed and placed in a prominent position in the Town Hall Building, with a suitable inscription thereon, and that the Finance Committee be empowered to make all necessary arrangements to give effect hereto.²⁹²

Alderman Frank Stapley seconded the motion. Six Councillors rose to speak in support of the motion and it was carried unanimously. The only Councillor who rose to speak but did not orate at length, was Alderman E C Treadwell, who noted 'there is no occasion for me to give a silvery tongued display of oratory' and asked as 'there is no actual photograph of Batman in existence,...I would like to know how it will be possible to obtain an authentic picture of him.'²⁹³ The Lord Mayor waived away the question and after the vote passed the Council and guests attended a lunch hosted by the Lord Mayor.²⁹⁴ W B McInnes was commissioned to complete the portrait for a fee of £250.²⁹⁵ and based it on Batman's descendent Leslie Weire. (<http://citycollection.melbourne.vic.gov.au/portrait-of-john-batman/>)

In the City of Melbourne Art collection there are three versions of McInnes' painting.²⁹⁶ Two are studies and one of these depicts Aboriginal people in distance, sitting near a tree. The final artwork shows figures in the distance. One is in shadow and could possibly be an Aboriginal person, but the other figures are not. The removal of Aboriginal people from Batman's imagery reflected the broader stories told of Melbourne as part of the centenary – that is the absence of Aboriginal people, especially Wurundjeri people and Bunurong Boon Wurrung people, as either participants or in the representations of Melbourne.

On Saturday the 8th of June 1935 a parade was held 'in celebration of the Centenary of the city.'²⁹⁷ The procession travelled across Princes Bridge and up Swanston Street, along Bourke, Exhibition, Collins and Spring Streets. Councillors watched the parade from the steps of Parliament House, along with the Governor and Members of Parliament. The parade included a representation of John Batman on a float, representing his meeting with Kulin nation leaders. Who was representing the Kulin nation leaders was not mentioned. John Pascoe Fawkner was represented by a float, on his ship *Enterprize*, and the swearing in of the first Mayor Henry Condell was also depicted.²⁹⁸

²⁹¹ Minutes, 7th June 1935, Minutes of Special Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-1935, Minute Books of Council Meetings, PROV, p. 171. Invitation, Centenary Celebrations Council, 8th June 1935, M5226, Box 1584, folder 24 (ii), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV.

²⁹² Minutes, 7th June 1935, Minutes of Special Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-1935, Minute Books of Council Meetings, PROV, p. 175.

²⁹³ Minutes, 7th June 1935, Minutes of Special Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-1935, Minute Books of Council Meetings, PROV, p. 181.

²⁹⁴ Minutes, 7th June 1935, Minutes of Special Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-1935, Minute Books of Council Meetings, PROV, p. 181.

²⁹⁵ Minutes, 30th September 1935, Minutes of Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-35, Minute Books of Council Meetings, PROV, p. 279.

²⁹⁶ William Beckwith McInnes, 'Study for portrait of John Batman', c. 1934, City of Melbourne Art and Heritage Collection, City of Melbourne, accessed 10th January 2024, <https://citycollection.melbourne.vic.gov.au/study-for-portrait-of-john-batman-2/>. William Beckwith McInnes, 'Study for portrait of John Batman', c. 1934, City of Melbourne Art and Heritage Collection, City of Melbourne, accessed 10th January 2024, <https://citycollection.melbourne.vic.gov.au/study-for-portrait-of-john-batman/>. William Beckwith McInnes, 'Portrait of John Batman', c. 1934, City of Melbourne Art and Heritage Collections, City of Melbourne, accessed 10th January 2024, <https://citycollection.melbourne.vic.gov.au/portrait-of-john-batman/>.

²⁹⁷ 'City's progress in Pageant', *Argus*, 10th June 1935, p. 9, accessed 22nd December 2023, <http://nla.gov.au/nla.news-article12247117>. Invitation, Pageant Procession, 8th June 1935, M5226, Box 1584, folder 24 (ii), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV. Invitation, Commemorative Ceremony, 8th June 1935, M5226, Box 1584, folder 24 (ii), Centenary Celebrations Council 1934: Collection of invitations, cards of admission, programmes, etc, SLV.

²⁹⁸ 'City's progress in Pageant', *Argus*, 10th June 1935, p. 9. Ziegler, *The State of Victoria and the City of Melbourne Centenary Celebrations*.

There was a Centenary People's Fair as part of the celebrations, complete with a multi-tiered birthday cake. A souvenir booklet for the Fair had spaces for collecting coupon stamps for every 3 shillings spent at the Fair. The booklets were then to be sent to the offices of the Centenary People's Fair for the chance to win a solid silver birthday cake clock. The Birthday cake reflected the history of Victoria in its various layers.²⁹⁹ The foundation layer was before 1834,

'which by its very bareness, correctly signifies the history of Victoria prior to the year 1834. Till that date, Victoria was practically Terra Incognita. It was still the home of a few thousand [A]boriginal inhabitants, as yet completely unmolested by the whiteman.'³⁰⁰

The second layer included Batman's treaty with Kulin nation people.³⁰¹ Aboriginal people were not mentioned further in the history that described the layers of the cake and what they represented. Whilst the Council did not design the cake, it was gifted to the Lord Mayor's Fund, a charity with links to the Council, with proceeds from sales of the cake to go to the fund.³⁰²

As well as a parade, there was a ceremony in the Exhibition Building that simultaneously commemorated the founding of Melbourne and closed the centenary celebrations. The Lord Mayor, Councillor A G Wales, was present on the stage, alongside the Governor and Premier.³⁰³ Lord Mayor Wales gave a speech in which he stated:

'This day is a great day in the history of our magnificent city- a day on which any citizen possessing even a spark of civic pride might well let his thoughts turn to those sturdy and courageous pioneers who laid so well the foundations of the City of Melbourne. To-day Melbourne ranks as the seventh largest city in the British Empire – a city of spacious boulevards and gardens; of thriving industries, of tall, stately buildings, and beautiful garden homes; a city whose University, schools, art galleries, and libraries reflect an air of culture; a city of a million happy and contented inhabitants. This is the magical transformation that has taken place in the short space of 100 years – little more than the span of a lifetime.'³⁰⁴

Celebration of John Batman as 'founder' of Melbourne

In June 1882 the Mayor of Melbourne, C. J. Ham had unveiled a bluestone memorial to honour John Batman, who had been buried in an unmarked grave in 1839. The memorial was placed where they believed Batman to have been buried in the Old Melbourne Cemetery.³⁰⁵

In 1913 the Royal Historical Society of Victoria (RHSV) saw a need for a permanent memorial to Batman. They suggested to the Council a road running along the Birrarung, then named Yarra Bank Road, would be appropriate. The Council initially disagreed with the idea, given the existence of Batman Street in West Melbourne. However, with persistence from the RHSV, the Council agreed to name the road after Batman.³⁰⁶ Historian Bain Attwood noted this 'created an mnemonic device for Batman's rite of possession, 'This will be the place for a village', since it referred to the legendary journey he had made up the Yarra River to found the city.'³⁰⁷ Attwood also noted that this renaming by the Council simultaneously

'diminished any sense of the Aboriginal people's possession of this place, which might have been remembered by the settlers as a result of this road having previously been called Yarra Bank Road, 'Yarra' being (mis) understood as the Kulin people's name for the river.'³⁰⁸

²⁹⁹ *Souvenir of Victoria's Centenary Birthday Cake*, Mail Publishers, Footscray, 1934.

³⁰⁰ *Souvenir of Victoria's Centenary Birthday Cake*.

³⁰¹ *Souvenir of Victoria's Centenary Birthday Cake*.

³⁰² *Souvenir of Victoria's Centenary Birthday Cake*.

³⁰³ '25,000 people at exhibition', *Argus*, 10th June 1935, p. 9, accessed 22nd December 2023, <http://nla.gov.au/nla.news-article12247114>.

³⁰⁴ '25,000 people at exhibition', *Argus*, 10th June 1935, p. 9.

³⁰⁵ Hutchison, *In Memoriam*, p. 21. Attwood with Doyle, *Possession*, pp. 142-143.

³⁰⁶ Attwood with Doyle, *Possession*, p. 171.

³⁰⁷ Attwood with Doyle, *Possession*, p. 171.

³⁰⁸ Attwood with Doyle, *Possession*, p. 172.

In 1914 a memorial service was held at Batman's grave in the old Melbourne Cemetery.³⁰⁹ The Lord Mayor, Sir David Hennessy, was in attendance and the Old Melbourne Cemetery Preservation League reported that both the State Governor, Lord Stanley, and the Lord Mayor 'publicly stated that under no circumstances would one foot of this historic cemetery be further encroached upon.'³¹⁰ However, Lord Mayor Hennessy oversaw the Council's expansion of the Queen Victoria Market to take over the remaining Old Melbourne Cemetery a few years later.³¹¹

In 1917 the *Melbourne General Market Land Act* was passed and transferred the remaining Old Melbourne Cemetery land to the Council.³¹² There had been a proposal of exhuming some of the 'pioneers' of early Melbourne and reintering them in Flagstaff Gardens.³¹³ In March 1921 a petition by ratepayers in Bourke Ward was presented before the Council by Alderman William Cabena and Councillors Bartley Deveney and E C Treadwell. The ratepayers were protesting the interment of remains in Flagstaff Gardens.³¹⁴ This was in response to requests for both John Batman and his son, as well as over 100 'pioneers' to be moved from the cemetery to Flagstaff Gardens.³¹⁵ During that meeting the Council resolved, on a motion by Councillor E C Treadwell and seconded by Alderman Charles Jeffries, that:

'Batman's monument be removed and re-erected in Flagstaff Gardens, and also that an obelisk be erected in such Gardens, and that the names of prominent pioneers be inscribed thereon'.³¹⁶

Despite the above motion, the Batman memorial was moved as part of the exhumation process to Batman Avenue instead.³¹⁷ The monument desired by the Old Cemetery and Soldiers' Memorial Union, led by Isaac Selby, appears to have not eventuated.³¹⁸ After being moved to Batman Avenue on the bank of the Birrarung, Batman's memorial was moved back to the Queen Victoria Market in 1992.³¹⁹

In 1992 a plaque was added to the John Batman memorial which acknowledged that Aboriginal people were the original occupiers of the land. The original plaque had described that the land Batman came to was 'unoccupied'.³²⁰ The Council sought assistance from professional historians in trying to determine new wording for the plaque but ended up using wording created by the chief executive of the Council, Elizabeth Proust. It read:

'When the monument was erected in 1881 the colony considered that the Aboriginal people did not occupy the land. It is now clear that prior to the colonisation of Victoria, the land was inhabited and used by the Aboriginal people.'³²¹

In 2000, 'the City of Melbourne's Aboriginal Consultative Group requested a revised corrective plaque be added as it believed the wording of the 1992 plaque was too weak. A new plaque was installed on the monument in 2004.'³²² The new plaque states:

³⁰⁹ The Old Melbourne Cemetery Preservation League, *The Old Melbourne Cemetery*, p. 3.

³¹⁰ The Old Melbourne Cemetery Preservation League, *The Old Melbourne Cemetery*, p. 3.

³¹¹ The Old Melbourne Cemetery Preservation League, *The Old Melbourne Cemetery*, p. 3.

³¹² Heddell-Stevens (2013) 'The Old Melbourne Cemetery', p. 23.

³¹³ Attwood with Doyle, *Possession*, pp. 173-175.

³¹⁴ Minutes, 14th March 1921, Minutes of a Committee of the Whole Council, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

³¹⁵ Minutes, 14th March 1921, Minutes of a Committee of the Whole Council, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

³¹⁶ Minutes, 14th March 1921, Minutes of a Committee of the Whole Council, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

³¹⁷ Attwood with Doyle, *Possession*, pp. 171-172.

³¹⁸ Attwood with Doyle, *Possession*, pp. 173-176. Frank Strahan, 'Selby, Isaac (1859–1956)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 20th March 2024, <https://adb.anu.edu.au/biography/selby-isaac-11653/text20817>.

³¹⁹ Hutchison, *In Memoriam*, p. 21.

³²⁰ Attwood with Doyle, *Possession*, pp. 292.

³²¹ Attwood with Doyle, *Possession*, pp. 292-293.

³²² 'John Batman', Monument Australia, accessed 15th March 2024, <https://monumentaaustralia.org.au/themes/people/settlement/display/32371-john-batman>. 'John Batman memorial - Queen Victoria Market', *Mapping Aboriginal Melbourne*, City of Melbourne, accessed 15th March 2024, <https://aboriginal-map.melbourne.vic.gov.au/107>.

'The City of Melbourne acknowledges that the historical events and perceptions referred to by this memorial are inaccurate. An apology is made to Indigenous people and to the traditional owners of this land for the wrong beliefs of the past and the personal upset caused.'³²³

Celebration of Captain Cook as 'founder' of Australia

Russell Grimwade was chair of the Historical Sub-committee of the Centenary Celebrations Council.³²⁴ In time for the centenary celebrations he purchased what is now known as the Cooks' Cottage because it belonged to James Cook's parents. The cottage was transported to Melbourne from Yorkshire in small sections and re-erected in the Fitzroy Gardens.³²⁵ The City of Melbourne Council's Parks and Gardens Committee had proposed Fitzroy Gardens in December 1933, in response to Grimwade's desire to 'erect such cottage in a public position'.³²⁶ The official handing over ceremony was part of the centenary programme and occurred on the 15th of October 1934.³²⁷

In 1969 the Council approved work to be undertaken on the 'appearance of that section of the Fitzroy Gardens in the vicinity of Cooks' Cottage'.³²⁸ This included '[e]xtensive exotic trees and shrubs', some water features, paths and seating.³²⁹

Demonstrators marched through Melbourne on April 24th of 1970, to 'protest at the re-enactment of Cook's landing in Sydney'.³³⁰ During the protest Stewart Murray, a representative of the National Tribal Council, stated 'We want the return of all our other lands, and compensation if they cannot be returned'.³³¹ Around 150 people marched from the Cooks' Cottage to the City Square, where an all-night vigil was held. Signs carried during the protest included 'Cook is bad news for Aborigines' and 'Land is important to all Aborigines'.³³² That year the Council earned \$10,815 from fees to visit the Cooks' cottage. This was over \$4,000 more than estimated and was likely linked to the 1970 anniversary of Cook's voyage along the east coast of the continent.³³³

In 1991 Federal Minister for Aboriginal Affairs, Robert Tickner, wrote to the Lord Mayor, Richard Wynne, asking the Council to remove a sign at the Cooks' Cottage that 'suggest[ed] Australia was uninhabited before 1770'.³³⁴ The Lord Mayor stated that 'changes would be made on completion of a review of the cottage's presentation'.³³⁵ The sign had been put up around ten years prior.³³⁶ In 1977, a 2m bronze statue of Cook was installed in the grounds of the cottage. In 2024, the statue was cut down at the ankles by unknown persons.

³²³ J W Brown, John Batman Memorial, Erected by public subscription, 1881

City of Melbourne Art and Heritage Collection, accessed 15th March 2024, [John Batman Memorial - City Collection \(melbourne.vic.gov.au\)](https://www.melbourne.vic.gov.au/collection/John-Batman-Memorial). 'John Batman memorial - Queen Victoria Market', *Mapping Aboriginal Melbourne*, City of Melbourne, accessed 15th March 2024, <https://aboriginal-map.melbourne.vic.gov.au/107>.

³²⁴ As Clare Land, Paola Balla and Kate Golding noted, whilst this cottage was originally referred to as Captain Cook's Cottage, it is now known as Cooks' Cottage in reference to his parents who lived there. Clare Land, Paola Balla and Kate Golding, *Blak Cook Book: New Cultural Perspectives on Cooks' Cottage*, City of Melbourne, Melbourne, 2021, p. 46.

³²⁵ Ziegler, *The State of Victoria and the City of Melbourne Centenary Celebrations*.

³²⁶ Minutes, 18th December 1933, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes 1933-34, Minute Books of Council Meetings, PROV, p. 32.

³²⁷ Ziegler, *The State of Victoria and the City of Melbourne Centenary Celebrations*.

³²⁸ Minutes, 5th April 1972, Minutes of Meeting of City Council, 1971-1972, City of Melbourne Council Proceedings, SLV, p. 182.

³²⁹ Minutes, 5th April 1972, Minutes of Meeting of City Council, 1971-1972, City of Melbourne Council Proceedings, SLV, p. 182.

³³⁰ 'Aborigines to march in city', *The Age*, 26th March 1970, p. 10.

³³¹ 'Protest for Aborigines', *The Age*, 29th April 1970, p. 9.

³³² 'Protest for Aborigines', *The Age*, 29th April 1970, p. 9.

³³³ City of Melbourne Income under Parks, Gardens and Recreations Committee, Minutes, 1971-1972, City of Melbourne Council Proceedings, SLV, Appendices.

³³⁴ 'Moves to change history at Cooks' Cottage', *The Age*, 26 July 1991, p. 4.

³³⁵ 'Moves to change history at Cooks' Cottage', *The Age*, 26 July 1991, p. 4.

³³⁶ 'Moves to change history at Cooks' Cottage', *The Age*, 26 July 1991, p. 4.

Celebration of John Fawkner and Foundation Day / Melbourne Day

Foundation Day was commemorated with Council support for many years, with a focus on the arrival of John Fawkner's ship the *Enterprize*, reifying him as a 'founder' of Melbourne. Whilst there is some Indigenous engagement, primarily through a Welcome to Country, there appears limited truth-telling in this 'celebration' and the histories it tells, which appear at odds with the Council's aims of truth-telling and its RAP.

In 1992 there was a public ceremony at the Polly Woodside wharf on Foundation Day, to celebrate the 150th birthday of Melbourne's proclamation. It was held near the *Enterprize* replica which was under construction at that time.³³⁷ In 1994, the Council issued a 'special proclamation acknowledging 30th August as Melbourne's Foundation Day.'³³⁸ Historian Sarah Pinto noted that there 'are now annual celebrations of Melbourne Day that include a re-enactment at the present-day site' of the landing of the *Enterprize*.³³⁹ In 1997 the Council 'strongly supported' the launch of the *Enterprize* as part of Foundation Day, announcing the formation of Enterprize Park on the day.³⁴⁰ Historian Bain Attwood noted that 'commemoration around the *Enterprize* has continued apace, and particularly during the mayoralty of John So'.³⁴¹ (2001-2008)

The Council provided financial support to these commemorations until 2018, when the Council offered less money with conditions attached to it, which the Melbourne Day (as it had become known) Committee turned down.³⁴² Councillors also voiced concern about the way the day focussed on the arrival of the *Enterprize*, with little acknowledgement of the resulting impact of invasion on Wurundjeri people and Bunurong Boon Wurrung people and with little engagement with them. Councillors Nic Frances Gilley and Rohan Leppert stated they would not 'recognis[e] the day that the destruction of local [I]ndigenous culture started'.³⁴³ Councillor Frances Gilley noted, 'If we are going to celebrate, then we need to be inclusive. The current model does not promote reconciliation.'³⁴⁴ Councillor Leppert noted that 'questions should be put to traditional owners to determine what Melbourne Day's future should be.'³⁴⁵

Melbourne Day continues to be celebrated and Councillors did continue to attend up until 2019.³⁴⁶ The advertisement for this year notes it as a chance to 'cheer your city and help hoist the Melbourne and Aboriginal flags atop the 20m flagpole at Enterprize Park.'³⁴⁷ More recently Wurundjeri members have held Welcome to Country ceremonies at the event and the Boon Wurrung Foundation have had some presence. The Melbourne Day Committee's website links to Aboriginal Melbourne.³⁴⁸

In 2021 the Melbourne Day Committee published a book about Melbourne Day and Melbourne's history. Its mentions of Kulin nation people are limited and demonstrated little engagement or consideration of Wurundjeri and Bunurong Boon Wurrung communities. In the book it noted:

³³⁷ *Happy 150th birthday Melbourne: a catalogue of events to celebrate Melbourne's 150th birthday, July -December 1992*, City of Melbourne, 1992.

³³⁸ Sarah Pinto, *Places of Reconciliation: Commemorating Indigenous history in the heart of Melbourne*, Melbourne University Press, Carlton, 2021, p. 39.

³³⁹ Pinto, *Places of Reconciliation*, p. 39.

³⁴⁰ Attwood with Doyle, *Possession*, p. 310.

³⁴¹ Attwood with Doyle, *Possession*, p. 311.

³⁴² Shane Scanlan, 'Critics lash Melbourne Day', *Docklands News*, 31st August 2018, accessed 15th March 2024, [Critics lash Melbourne Day | Docklands News](#).

³⁴³ Shane Scanlan, 'Critics lash Melbourne Day', *Docklands News*, 31st August 2018.

³⁴⁴ Shane Scanlan, 'Critics lash Melbourne Day', *Docklands News*, 31st August 2018.

³⁴⁵ Shane Scanlan, 'Critics lash Melbourne Day', *Docklands News*, 31st August 2018.

³⁴⁶ Melbourne Day Committee, 'News', *Melbourne Day Committee*, accessed 15th March 2024, <https://www.melbourneday.com.au/news.html#party2019>. This is out of date

³⁴⁷ Melbourne Day Committee, 'Celebrating 188 years of Marvellous: 30th August 2023', *Melbourne Day Committee*, accessed 15th March 2024, <https://www.melbourneday.com.au/events.html>.

³⁴⁸ Melbourne Day Committee, 'Our Day FAQs', *Melbourne Day*, accessed 15th March 2024, <https://www.melbourneday.com.au/about.html>.

'On behalf of all Victorians, Melbourne Day Committee works with businesses, government authorities, community groups and tourism industry partners to raise awareness of Melbourne's story, celebrate its anniversaries, and showcase everything that's great and our city's fascinating Indigenous culture and heritage.'³⁴⁹

Council By-laws and effects on Aboriginal people

Camp Sovereignty

Camp Sovereignty was an Aboriginal protest at Kings Domain, utilising the increased attention on Melbourne hosting the Commonwealth Games in March 2006, to 'raise awareness of Indigenous issues'.³⁵⁰

Black GST (Genocide, Sovereignty, Treaty), a group of Aboriginal activists, sought to raise the profile of Indigenous issues. They centred their campaign on Camp Sovereignty, a campsite they set up at Kings Domain and referred to the Commonwealth Games as the 'Stolenwealth Games'. At the camp there was a fire that was tended by the activists. In their press releases they identified the importance of this fire to 'establish Aboriginal law on the campsite'.³⁵¹ A signed statement demanded treaty negotiations with the Crown and around 15,000 people attended the camp during its existence.³⁵²

The Council was involved as the protest occurred in parkland vested in Council management and Council By-laws were used to stop the protest and move the activists on. The Council was involved in attempts to negotiate a compromise; however, this was not successful. The Council attempted to engage with the Wurundjeri community and Bunurong Boon Wurrung community, as well as the activists, during this time to resolve the situation, but also engaged ongoing surveillance of the activists through employing security guards and ultimately used their by-laws to close the camp down.

Police and security officers regularly entered and surveilled the camp, including overnight. The security officers were hired by the City of Melbourne.³⁵³

The numbers in the camp reduced after the end of the Commonwealth Games on 26 March, with some remaining to tend the sacred flame. Those who remained wanted the site recognised as a cultural site, stating its importance to Bunurong Boon Wurrung people and to Aboriginal people through the nearby burial site.³⁵⁴ The State Government placed the onus to act on the City of Melbourne, stating it was a park issue. The Council refused to allow the camp to remain and sought to negotiate moving the sacred fire somewhere other than Kings Domain. There was some discussion that the Council was 'prepared to use force to remove the camp and the fire if necessary'.³⁵⁵

The Council served the camp an eviction notice to leave King's Domain by 4pm on the 10th April 2006. The *Activities Local Law* was cited as the law that the activists would be prosecuted under if they refused to leave.³⁵⁶ In 2002 the City of Melbourne had reviewed the *Activities Local Law* and camping in public places was included as one of the nuisances listed in Part 2 of the law.³⁵⁷ This new clause stated:

'Camping in Public Places. 2.9 Unless in accordance with a *permit*, a *person* must not camp in or on any *public place* in a *vehicle*, tent or caravan or any type of temporary or provisional form of accommodation' [original emphasis].³⁵⁸

³⁴⁹ Melbourne Day Committee, *The Race for History*, Melbourne Day Committee, 2021.

³⁵⁰ Maryrose Casey (2007), 'Carnivalising Sovereignty: Containing Indigenous Protest within the 'White' Australian Nation', *About Performance*, vol. 7, pp. 69-84, p. 77.

³⁵¹ Casey, 'Carnivalising Sovereignty', p. 78.

³⁵² Casey, 'Carnivalising Sovereignty', p. 78.

³⁵³ 'Domain Protest: Harsh winds and humpies: an average night at Camp Sovereignty with more than the odd heated moment', *The Age*, 19th April 2006, p. 5.

³⁵⁴ Casey, 'Carnivalising Sovereignty', p. 78.

³⁵⁵ Casey, 'Carnivalising Sovereignty', p. 78.

³⁵⁶ Casey, 'Carnivalising Sovereignty', p. 79.

³⁵⁷ 'Melbourne City Council: Notice of Making a Local Law', *Victorian Government Gazette*, No. G 29, 17th July 2003, pp. 1795-1797, p. 1796.

³⁵⁸ 'Proposed Amendments to the Activities Local Law, No 1 of 1999', Council Report, City of Melbourne, Council meeting, 26th June 2003.

Writing in 2001, Mike Berry, David MacKenzie, Linda Briskman and Thami Ngwenya from the Aboriginal Housing Board, noted that a 'major issue for the Indigenous community of Victoria is the implicit assumption underpinning government policy that Aboriginal people in Victoria are an insignificant minority with no distinct Aboriginal cultural life.'³⁵⁹ In their consideration of cultural practices they noted that local government by-laws may bring Aboriginal people into tension with the law and 'undermine a cultural and behavioural norm' for Aboriginal people.³⁶⁰ They noted that 'different Indigenous groups may make choices about indoors or outdoors cooking and sleeping, in line with a perfectly acceptable cultural norm, and not necessarily due to a lack of shelter'.³⁶¹ Whilst Camp Sovereignty was a protest, the activists were practising Aboriginal culture through the use of fire and camping and these cultural practices were bringing them into tension with Council By-laws that negated those practices.

Wurundjeri cultural heritage inspector, Vicki Nicholson Brown, signed an emergency declaration under the *Commonwealth Aboriginal and Torres Strait Islander Heritage Act 1984 (Aus)*. An emergency declaration could be made to protect a 'specified area from injury or desecration' if 'the area is a significant Aboriginal area' and 'it is under serious and immediate threat of injury or desecration' for 'such period, not exceeding 30 days, as is specified in the declaration'.³⁶²

The issue was brought before the Supreme Court, with Justice Betty King overseeing proceedings. Brown, as cultural heritage inspector, argued the Council order 'posed a threat to the sacred flame because it would break up the camp.'³⁶³ Whilst Justice King believed the sacred flame was a heritage issue and should remain until a heritage decision was made, she refused to allow the camp to remain and ordered camping equipment to be removed by 2pm on the 13th of April 2006.³⁶⁴ Lord Mayor John So stated, 'We will act if we have to' in the lead up to the court imposed deadline for the camp to pack up.³⁶⁵ He also stated 'the Council was willing to discuss the creation of a permanent memorial, but would not negotiate on having any form of shelter on the site.'³⁶⁶ One of the aims of the activists was to get a structure 'based on tradition' built to protect those who would look after the flame on an ongoing basis.³⁶⁷

As deadlines neared, Lord Mayor John So visited the camp twice in three days in an attempt to negotiate an agreement of some sort.³⁶⁸ The Lord Mayor also visited with the Victorian State Aboriginal Affairs minister Gavin Jennings, noting that the 'City of Melbourne is ready and willing to discuss with traditional owners further ways to recognise the cultural significance of the Kings Domain site, once the site has been vacated.'³⁶⁹ Camp Sovereignty activists refused to meet, noting 'This is Aboriginal land. This is an Aboriginal site. Their laws have no jurisdiction here.'³⁷⁰

A large number of police stood near the camp on the 13th of April, as the camp was packed up.³⁷¹ Minister Jennings suspended all Aboriginal Heritage Inspectors and removed their capacity to issue emergency declarations in the aftermath. He placed himself as the person responsible for issuing emergency declarations, meaning he also determined what happened to the fire beyond the 10th of May deadline.³⁷² This meant that there was no way of protecting the fire after the 30-day emergency declaration period ended, which was the 10th of May 2006. On this

³⁵⁹ Mike Berry, David MacKenzie, Linda Briskman and Thami Ngwenya, *Indigenous Homelessness- a discussion paper on Indigenous homelessness in Victoria*, Aboriginal Housing Board, Melbourne, 2001, p. 2.

³⁶⁰ Berry et al, *Indigenous Homelessness*, p. 4.

³⁶¹ Berry et al, *Indigenous Homelessness*, p. 4.

³⁶² *Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Aus)*.

³⁶³ Casey, 'Carnivalising Sovereignty', p. 79.

³⁶⁴ Casey, 'Carnivalising Sovereignty', p. 79.

³⁶⁵ Ben Doherty, 'Deadline closer for protest camp', *The Age*, 13th April 2006, p. 8.

³⁶⁶ Ben Doherty, 'Deadline closer for protest camp', *The Age*, 13th April 2006, p. 8.

³⁶⁷ Ben Doherty, 'Deadline closer for protest camp', *The Age*, 13th April 2006, p. 8.

³⁶⁸ Ben Doherty, 'Domain campers face deadline', *The Age*, 10th April 2006, p. 3.

³⁶⁹ Ben Doherty, 'Domain campers face deadline', *The Age*, 10th April 2006, p. 3. Casey, 'Carnivalising Sovereignty', p. 79.

³⁷⁰ Ben Doherty, 'Domain campers face deadline', *The Age*, 10th April 2006, p. 3.

³⁷¹ Casey, 'Carnivalising Sovereignty', p. 79.

³⁷² Paul Austin, 'Sacred flame row claims 48 victims', *The Age*, 25th April 2006, p. 5. Eve Vincent (2006), 'Around the fire: Camp Sovereignty in Melbourne's King's Domain was an expression of the complexities of Aboriginal strategies of resistance', *Arena Magazine*, issue 83.

day, members of Camp Sovereignty held a final smoking ceremony and removed ashes from the fire. These ashes were taken across Victoria to be used in fires across the state. Forty police supported City of Melbourne workers as the Council workers extinguished the fire, the workers having been ordered by the Aboriginal Affairs Minister to do so.³⁷³ When it was out they 'hos[ed] the coals, shovelled the remains of the fire on to the tray of a truck, spread dirt on the site, raked the area smooth and by dawn the next day instant turf had been laid' removing any signs of Camp Sovereignty.³⁷⁴

On the 13th of March 2007 around 50 activists lit a fire again at Kings Domain, on the anniversary of the start of the 2006 protest. After a few hours the City of Melbourne ordered the fire to be put out. Councillor David Wilson noted that fire in the gardens is not allowed according to Council By-laws. When the protestors refused to put out the fire, police surrounded a water tanker that was driven in to extinguish the flames.³⁷⁵ Councillor Wilson noted 'the [C]ouncil will continue talking to [I]ndigenous people about a range of issues.'³⁷⁶

On 26 January 2024, the camp was reestablished. Activists obtained a permit for their fire, providing at least 2 people were present at all times. On 10 or 11 May, Council officers found the "smouldering" fire unattended and called fire services to put it out. By the time fire services arrived, the fire was out and may have gone out on its own. Council officers removed all unattended possessions left at the site and put them in storage. Robbie Thorpe filed an urgent injunction in the Federal Court which held an ex parte hearing on 13 May. The next day all 11 councillors and the Premier of Victoria were served with papers accusing them of complicity in genocide. The matter was heard in the Federal Court on 17 May. Thorpe agreed to drop the matter and entered discussions with Council officers to address his demands. Architect Nonda Katsalidis is working with Thorpe to design a cultural interpretation centre on the site.

³⁷³ Rachel Kleinman, 'Protestors won't leave park until demands met', *The Age*, 10th May 2006, p. 13. Dewi Cooke and Rachel Kleinman, 'Protest fire doused as police act', *The Age*, 11th May 2006, p. 2. Casey, 'Carnivalising Sovereignty', p. 80.

³⁷⁴ Rachel Kleinman, 'Protestors won't leave park until demands met', *The Age*, 10th May 2006, p. 13. Casey, 'Carnivalising Sovereignty', p. 80.

³⁷⁵ Chee Chee Leung, 'Group says it will maintain fire fight', *The Age*, 13th March 2007, p. 5.

³⁷⁶ Chee Chee Leung, 'Group says it will maintain fire fight', *The Age*, 13th March 2007, p. 5.

Indirect injustices

Lord Mayor's Children's Camp

Lord Mayor Thomas Nettlefold initiated the Lord Mayor's Children's Camp in the 1940s and subsequent Lord Mayors and Councillors, as well as Council staff, were involved in the Camp. The Council has financially supported the Camp, as well as funding city children to attend. The Camp began during the time of the Stolen Generations. A prime focus of the Camp was checking the health of the children and the Camp Manager wrote to local authorities where Aboriginal children lived, telling the authorities of health and welfare concerns. This risked child removal from families or at least further surveillance from authorities. There is potential of injustices to Aboriginal families through the Council's involvement in the Lord Mayor's Children's Camp if such removals did occur.

The first Lord Mayor's Children's Camp was held in February and March of 1945. The aim was to 'give children from the Mallee district a holiday at the seaside during summer.'³⁷⁷ Children had to be between 10 and 16 years of age and to have never seen the city. Shires had quotas of children, setting a limit on how many they could send, a feature that continued in years to come.³⁷⁸ Legacy children, children of returned service personnel, and those who lived in remote parts of Victoria were given preference. Nettlefold quickly settled on some form of children's camps being an annual event.³⁷⁹

Lord Mayor Francis Raymond Connelly continued the idea of a seaside camp after he took over the mantle of Lord Mayor from Nettlefold. Under Connelly's leadership John Porter became Camp Director and the Lord Mayor, the Town Clerk and Porter formed a special committee as well as being part of the Executive Committee. This reflected the ongoing involvement of the Council over the next couple of decades as several Councillors, the Melbourne City Treasurer and Town Clerk served on the Lord Mayor's Children's Camp Committee over the next few decades. Council gardeners also worked on the campgrounds. Following the death of Lord Mayor Raymond Connelly, in 1949, the sports oval and gates leading to the camp were named after him.³⁸⁰

The idea of using the camp to check the health of the children was realised when the camp moved permanently to Portsea.³⁸¹ At the first camp at Portsea, the army lent portable x-ray equipment for chest x-rays. Eye tests, dental check-ups and hearing tests were also undertaken, all by professionals volunteering their time, mainly linked to the Alfred Hospital.³⁸²

Medical check-ups on the children meant that sometimes they were taken, during the camp, to Melbourne for special examination. Children were also taken to the private rooms of specialists and to the Dromana Hospital. Some treatments occurred at the camp, whilst written reports were given to parents and the children's local doctors for follow-up. The results of these medical tests were used by health professionals in research away from the camp.³⁸³ There is no information in the archival sources accessed for this Submission about consent for children's information being used for research.

The Council provided substantial financial support to the camp, often matching or nearing the support given by the State Government. In 1963 and 1964 the Council provided a \$3,000 grant to the camp – the State Government gave \$5,000. The Lord Mayor's Command Performance donated \$1,000 both years.³⁸⁴ Lord Mayor Ian

³⁷⁷ Moorhead, *History of Lord Mayor's Children's Camp*, p. 1.

³⁷⁸ 'Mallee Children's Holiday Camp', *Weekly Times*, 24th January 1945, p. 18. 'Difficulty in filling Mallee Seaside Camp Quotas', *The Herald*, 6th February 1945, p. 3, accessed 15th February 2024, <http://nla.gov.au/nla.news-article245334014>.

³⁷⁹ 'Annual Camps Possible', *Weekly Times*, 7th February 1945, p. 22, accessed 15th February 2024, <http://nla.gov.au/nla.news-article224895354>. Moorhead, *History of Lord Mayor's Children's Camp*, p. 6.

³⁸⁰ Moorhead, *History of Lord Mayor's Children's Camp*, pp. 1-2, 7, 8, 9, 12.

³⁸¹ Moorhead, *History of Lord Mayor's Children's Camp*, pp. 3, 26.

³⁸² Moorhead, *History of Lord Mayor's Children's Camp*, p. 3.

³⁸³ Sir Frank Selleck, *Broadcast by the Right Honourable the Lord Mayor on 3AW, Wednesday, 29th February 1956*, Broadcast No. 40, VPRS 8863, P0001, item 3, Lord Mayor's Ceremonial Function and Fundraising Files, 1870-1974, PROV. Moorhead, *History of Lord Mayor's Children's Camp*, pp. 10, 11.

³⁸⁴ Lord Mayor's Children's Camp Fund, Profit and Loss Statement for year ended 30th September 1963, VPRS 8945 P0002 item 139, Lord Mayor's Children's Holiday Camp No 1, Committee minutes, 1851 to present, PROV. Lord Mayor's Children's Camp Fund, Profit and Loss

Beaurepaire opened new facilities built at the site in 1966. Public appeals to build and improve existing facilities were matched by donations from the Council and the State Government. Both donated \$50,000 over a five-year period from 1967.³⁸⁵ In 1971 \$45,000 was given by the Council as a grant to the Lord Mayor's Children's Camp.³⁸⁶ The Council also financially supported 'indigent children from within the City of Melbourne' to attend the camp.³⁸⁷ In 1968 this was to a maximum of \$2,000 and 87 children attended with eight leaders.³⁸⁸ In the summer of 1971 to 1972 106 children from the city attended the camp, with ten leaders.³⁸⁹ It is not specified in the records examined if any of these children were Aboriginal children.

Aboriginal children from outside of the City of Melbourne attended the camp. In 1959 an Aboriginal boy was photographed in *The Age* having a health checkup.³⁹⁰ In 1960 the Camp Manager's report noted that the Save the Children Fund supported 47 Aboriginal children and 4 leaders in attending the camp.³⁹¹ In 1962, Save the Children fund supported 22 Aboriginal children from Robinvale to attend the camp. Aboriginal children from Drouin, Swan Hill and 'other areas' also attended that year.³⁹² In 1966 some Aboriginal girls were used in a photo opportunity, having come to the camp from Deniliquin in New South Wales.³⁹³ In 1971, Lord Mayor Alwynne Rowlands had a photo taken with an Aboriginal girl from Stratford who was at the camp.³⁹⁴ It is possible that Lionel Rose attended the camp a couple of times as a child. In his autobiography he noted that money was put aside by a local woman, Mrs Buchanan, 'to provide holidays for the Aboriginal children. This money allowed me to make two trips to camps at Portsea, on the coast outside Melbourne.'³⁹⁵ This may have been the Lord Mayor's Children's Camp Rose was referring to.

The Camp Manager also noted, in 1960, that medical staff from the Alfred Hospital had examined the children and after 'examinations, quite a few children are transported to the Alfred Hospital to be examined by specialists, and in quite a few cases children have been admitted by the Alfred.'³⁹⁶ It was not identified if Aboriginal children were a part of these admissions.

In his 1962 report, the Camp Manager noted that Victoria Police provided four Junior Police Trainees for each camp. These trainees organised sports and helped with swimming activities. The Police Road Safety Squad also attended, to talk about road safety.³⁹⁷ The Camp Manager noted that 'there is no doubt it creates a feeling of trust amongst the children for the Police Force generally'.³⁹⁸

Statement for year ended 30th September 1964, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV.

³⁸⁵ Lord Mayor's Children's Camp Appeal, Interim Financial Report, 11th May 1967, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV. Moorhead, *History of Lord Mayor's Children's Camp*, p. 22.

³⁸⁶ Statement of Funds, 1971-1972, City of Melbourne Council Proceedings, SLV, Appendices.

³⁸⁷ Minutes, 3rd February 1969, Minutes of Meeting of City Council, 1968-1969, City of Melbourne Council Proceedings, SLV, p. 104.

³⁸⁸ Minutes, 3rd February 1969, Minutes of Meeting of City Council, 1968-1969, City of Melbourne Council Proceedings, SLV, p. 104.

³⁸⁹ Minutes, 15th March 1972, Minutes of Meeting of City Council, 1971-1972, City of Melbourne Council Proceedings, SLV, p. 170.

³⁹⁰ 'All smiles for the Doctor', *The Age*, 1st April 1959, p. 1.

³⁹¹ Camp Manager's Report, 1960, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 2.

³⁹² Camp Manager's Report, 1961, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 2.

³⁹³ No title, *The Age*, 5th February 1966, p. 5.

³⁹⁴ 'Talking crisply', *The Age*, 6th December 1971, p. 4.

³⁹⁵ Lionel Rose, *Lionel Rose: Australian, the life story of a champion*, Angus & Robertson, Sydney, 1969, p. 15.

³⁹⁶ Camp Manager's Report, 1960, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 2.

³⁹⁷ Camp Manager's Report, 1961, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 2. Sir Frank Selleck, *Broadcast by the Right Honourable the Lord Mayor on 3AW, Wednesday, 29th February 1956*, Broadcast No. 40, VPRS 8863, P0001, item 3, Lord Mayor's Ceremonial Function and Fundraising Files, 1870-1974, PROV.

³⁹⁸ Camp Manager's Report, 1961, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 2.

For Aboriginal children at this time trust in forms of authority such as the police and hospital staff would have been difficult. Yorta Yorta and Wiradjuri woman Melissa Brickell grew up playing 'games of hiding from the Welfare'.³⁹⁹ She described being in Fitzroy, sitting with her mum. She was aged six and the police stopped and physically removed her from her mother and took her to the Russell Street Police Station. This led to her being put in a children's home.⁴⁰⁰ Whilst Melissa did not appear to attend the Lord Mayor's Children's Camp, her experiences of being taught to be wary of authority differed from those of non-Aboriginal children and give insight to understanding the potential experience of Aboriginal children attending the Lord Mayor's Children's Camp with police and medical staff present. As historian, academic and Amangu woman from the Yamatji Nation, Crystal McKinnon noted:

'Growing up, my brothers and I were not told that the police were the good guys. We were told they were trouble. My parents made sure that we knew; if we had an encounter with police, we were to keep our head down and our mouths shut. Be deferential... The police weren't the people we ran to for protection, they weren't the ones we thought would help us if we got into trouble or if something bad happened.'⁴⁰¹

For some of those Aboriginal children, being taken to hospital and having the police present would have been disturbing or frightening.

In 1965, the camp manager reported that the camp had,

'accepted a large number of sponsored children, including groups of [A]boriginal children from various parts of the State. Unfortunately, we have had some problems with some of these children, the main one being that of a low standard of hygiene amongst them. I have written letters to the Shire Secretary of Mildura and other Portsea Camp Committees regards the [A]boriginal children'.⁴⁰²

The camp manager continued '[i]t is but natural to assume that these problems will re-occur as long as we take many [I]ndigenous-type children'.⁴⁰³ In the same paragraph he noted that he believed part of the challenge was also that a '[i]lack of efficient male leaders from some areas has, of course, contributed to our problem', although it is not clear if he was referring specifically to Aboriginal children in this commentary.⁴⁰⁴ Despite this negative assessment, the camp manager stated

'We took quite a large number of [A]boriginal children and also some White Russian kiddies. We are all rather proud of the fact that the Camp gives a holiday to children irrespective of color, class or creed... In short, I feel I can confidently state that we had a most successful season'.⁴⁰⁵

As previously noted, this was a time of forced child removal, and it could be through health professionals, hospitals and other organisations that Aboriginal children came to the notice of authorities and were removed. Members of the AAL would 'chase after individual children' within Melbourne hospitals to prevent Aboriginal children being discharged to a non-Indigenous family, rather than returning home to their own family.⁴⁰⁶ Further research through BPA and Aboriginal Welfare Board (AWB) files, as well as organisations such as Save the Children may provide information about the role of referrals, like the one the camp manager made to shire staff, in potential forced child removal.

³⁹⁹ Melissa Brickell, in Alick Jackomos and Derek Fowell, *Living Aboriginal History of Victoria: Stories in the Oral Tradition*, Cambridge University Press, Cambridge, 1991, p. 102.

⁴⁰⁰ Melissa Brickell, in Jackomos and Fowell, *Living Aboriginal History*, p. 102.

⁴⁰¹ Crystal McKinnon (2020), 'The lives behind the statistics: Policing practices in Aboriginal literature', *Australian Feminist Law Journal*, <https://doi.org/10.1080/13200968.2020.1800931>, pp. 1-18, p. 1.

⁴⁰² Camp Manager's Report, 1965, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 1.

⁴⁰³ Camp Manager's Report, 1965, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 1.

⁴⁰⁴ Camp Manager's Report, 1961, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 1.

⁴⁰⁵ Camp Manager's Report, 1965, VPRS 8945 P0002 item 139, Lord Mayor's Childrens Holiday Camp No 1, Committee minutes, 1851 to present, PROV, p. 3.

⁴⁰⁶ 'Interview with Lorna Lippman', *FCAATSI Oral History Project*, 21st November 1996.

Vesting of Crown Land in Melbourne Council and extinguishment from future land justice claims

Council sought vesting of Crown Lands in its management, in the form of parks and public recreation spaces, from its beginnings. Over time it has had a variety of parks vested in its management, and whilst not known at the time, this has led to complications in terms of land justice claims the Wurundjeri community and the Bunurong Boon Wurrung community may make. This is because this Crown Land is generally extinguished from land justice claims.⁴⁰⁷

In 1855 Carlton Gardens and Fitzroy Gardens [known then as Fitzroy Square] were vested in the City Council.⁴⁰⁸ In 1863 the colonial government informed the Council that Fawkner Park, Carlton Gardens, Lincoln Square, Macarthur Square, Murchison Square and Argyle Square were vested as reserves with the Council and the Board of Land and Works as joint trustees.⁴⁰⁹ The permanent reservation of Yarra Park under the Act was made in 1873 with the Board of Land and Works and the City of Melbourne Council were jointly vested as trustees. This did not include the MCG.⁴¹⁰

In 1917 the Council took over as sole committee of management of Princes Park.⁴¹¹ In October 1917, under the *Land Act 1915* (Vic), the City of Melbourne Council was appointed the Committee of Management of the Flagstaff Gardens.⁴¹² In December 1917 a Crown Grant vested Alexandra Park in the City of Melbourne and the Board of Land and Works.

In May 1929 the Honourable the Minister of Lands asked the Council to take over management of the Treasury Gardens. The government proposed paying the Council £1000 annually for 10 years, with a suggestion to spend 'immediately' £4000, 'with a view to relieving unemployment', the government 'recommending...that authority be given to proceed immediately with the work of effecting improvements to the Gardens, the cost to be charged to Loan.'⁴¹³ The Council formally acknowledged this arrangement on 26th August 1929.⁴¹⁴ The Council had been negotiating with the government for this to happen for at least a decade, having approved the Parks and Gardens Committee to negotiate on the Council's behalf in December 1919.⁴¹⁵

In 1933 the Council finally had Royal Park vested to its management. As part of taking on the management, the Council agreed to £28,000 of improvements over five years at Royal Park and annual maintenance of Royal Park at £5,000.⁴¹⁶ This meant that in 1933, ninety years after the Council's formation and requests for control of Royal Park began, the Council finally had Royal Park vested in it.

In 1933 the Council also had Domain Park vested in it, including the Shrine of Remembrance, the area surrounding the College of Surgeons building and the triangular section of land north of Parliament House [this is where the Sir

⁴⁰⁷ Leya Reid (2018) 'Native Title, land rights and Aboriginal self-determination', *NEW: Emerging Scholars in Australian Indigenous Studies*, UTS ePress. Native Title Unit, *Threshold Guidelines for Victorian Traditional Owner Groups seeking a settlement under the Traditional Owner Settlement Act 2010*, Department of Justice, State of Victoria, Melbourne, 2013. *Traditional Owner Settlement Act 2010 (Victoria)*. Department of Sustainability and Environment, *Native Title Issues for managers of Crown Land*, State of Victoria, 2003. Native Title Research Unit, *A Guide to Australian Legislation relevant to Native Title*, vol. 1, New South Wales, Victoria, Queensland and South Australia, Native Title Research Series, Aboriginal Studies Press, 2000.

⁴⁰⁸ Sanderson, 'The Alienation of the Melbourne Parks', p. 147.

⁴⁰⁹ Minutes, 30th June 1863, Meeting of the Health Committee, VPRS 4039 P0000 item 1, Minutes of Special Committees 15th September 1859-10th March 1869, PROV. Sanderson, 'The Alienation of the Melbourne Parks', p. 151.

⁴¹⁰ Sanderson, 'The Alienation of the Melbourne Parks', pp. 159-160.

⁴¹¹ Princes Park Master Plan, 4th September 1985, City of Melbourne Minutes of Council, 1985-1986, vol. 1, Minutes of Meetings 13th August 1985 to 16th December 1985, SLV, p. 181.

⁴¹² Preamble, *Additional Regulations for the Care, Protection, and Management of the Children's Playground in Flagstaff Gardens, in the City of Melbourne*, in Minutes, 16th December 1918, Minutes of Meeting of City Council, VPRS 8910 P0001 no. 50, City of Melbourne meeting minutes, 1918-1919, Minute Books of Council Meetings, PROV.

⁴¹³ Minutes, 6th May 1929, Minutes of Meeting of City Council, VPRS 8910 P0001 item 60, City of Melbourne meeting minutes, 1928-1929, Minute Books of Council Meetings, PROV, p. 128.

⁴¹⁴ Minutes, 26th August 1929, Minutes of Meeting of City Council, VPRS 8910 P0001 item 60, City of Melbourne meeting minutes, 1928-1929, Minute Books of Council Meetings, PROV, p. 215.

⁴¹⁵ Minutes, 8th December 1919, Minutes of Quarterly Meeting of City Council, VPRS 8910 P0001 no. 51, City of Melbourne meeting minutes, 1919-1920, Minute Books of Council Meetings, PROV, p. 22.

⁴¹⁶ Letter, Secretary to the Premier to Town Clerk, 24th July 1933, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

Doug and Lady Gladys Nicholls statues are placed].⁴¹⁷ This came about due to the government submitting a bill 'to amend the titles in respect of these two sites [the Western and Eastern Market sites] to remove the restrictions against the free use of these areas by the Melbourne City Council.'⁴¹⁸ The Council agreed to an annual cost of £10,000 per annum to maintain Domain Park, and £500 to maintain the other two parks. Additionally, the Council agreed to waive the government's annual contribution to the upkeep of Treasury Gardens.⁴¹⁹

Exhibitions and cultural loss

The Council is indirectly responsible for cultural loss through exhibitions in which Councillors were involved organising and that were hosted at the Carlton Gardens, the Council ceding land there for positions as Commissioners in return.

The Royal Exhibition Building was built for the 1880-1881 Melbourne International Exhibition. The Council ceded some of Carlton Gardens to the government for its construction 'provided the Trust remain remain [*sic*] with the Board of Land and Works and the City Council and subject to conditions to be mutually agreed upon'.⁴²⁰ The *Victorian Exhibitions Act 1878* (Vic), passed for the 1880-1881 exhibition stated that out of the maximum seven trustees:

'one shall be the mayor for the time being of the city of Melbourne, and one other shall be such member for the time being of the Council of the said city as the said Council may from time to time elect to be trustee for any period not longer than one year'.⁴²¹

John Pigdon, JP, was Mayor at the time of the Exhibition and he, as well as Councillors Joseph Aarons, JP, John McIlwraith, JP, Thomas O'Grady, JP, and Robert Richardson were Commissioners. Pigdon was part of the Executive Committee. The exhibition had 1.3 million visitors and included daily concerts, although the cultural benefits gained came at a large economic cost, with expenses being over £318,000 and receipts only £68,500.⁴²²

The Council also had some involvement in the 1888 Centennial Exhibition. The Council hosted exhibition meetings and the Mayor, William Cain, was an Executive Commissioner, as required by the legislation, although there appeared less involvement by Councillors as Commissioners.⁴²³

As with previous colonial and international exhibitions, there were examples of Aboriginal expertise in these exhibitions. In 1888 this included a group of Aboriginal prisoners in Fannie Bay Gaol in Darwin, whose paintings were collected by J G Knight and exhibited.⁴²⁴ J A Panton, a Police Magistrate, received a silver medal for his collection of 'spears, waddies, boomerangs and other Australian native weapons' that were displayed in two cases, with a 'stand of spears'.⁴²⁵ Panton spent time in the 1850s on Dja Dja Wurrung Country, but later spent time on Wurundjeri Country around Heidelberg and the Yarra Valley, as well as Waddawurrung Country at Geelong. He had been involved in the 1854 Melbourne Exhibition and the 1880 Melbourne International Exhibition,

⁴¹⁷ Letter, Secretary to the Premier to Town Clerk, 24th July 1933, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

⁴¹⁸ Letter, Secretary to the Premier to Town Clerk, 24th July 1933, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

⁴¹⁹ Letter, Secretary to the Premier to Town Clerk, 24th July 1933, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

⁴²⁰ Minutes, 9th November 1877, Minutes of Meeting of City Council, VPRS 8910 P0001 No 28, Minutes March 1877-October 1878, Minute Books of Council Meetings, PROV, p. 285.

⁴²¹ No. DCXIX *An Act to provide for the holding of Victorian Exhibitions*, 14th November 1878, p. 3.

⁴²² Ian Morrison (1995), "'The accompaniments of European Civilization": Melbourne Exhibitions 1854-1888', *The La Trobe Journal*, vol. 56, pp. 6-11, pp. 9, 10.

⁴²³ 'Friday July 4, 1879', *Argus*, 4th July 1879, p. 5, accessed 13th February 2024, <http://nla.gov.au/nla.news-article5949280>. 'News of the Day', *The Age*, 2nd June 1879, p. 2, accessed 13th February 2024, <http://nla.gov.au/nla.news-article199363271>. No. DCXIX, *An Act to provide for the holding of Victorian Exhibitions*, 14th November 1878, pp. 1, 4. Centennial International Exhibition, *Official record of the Centennial International Exhibition, Melbourne, 1888-1889*, Sands & McDougall, Melbourne, 1890, p. 1. *Centennial International Exhibition: Commission, List of Commissioners, Regulations*, Mason, Firth & McCutcheon, Melbourne, 1887, pp. 5, 11.

⁴²⁴ Andrew Sayers (n.d.), 'Aboriginal Artists of the Nineteenth Century', *NGA*, accessed 8th January 2024, Aboriginal Artists of the Nineteenth Century - National Gallery of Australia (nga.gov.au).

⁴²⁵ Centennial International Exhibition, *Official record*, pp. 252, 669, 1058.

understanding the requirements of displaying items.⁴²⁶ It would indicate that there was most likely Wurundjeri and other Kulin nation cultural objects in his collection, although in his role as informant for Robert Brough Smyth's book, *Aborigines of Victoria*, the information he provides indicated a broader range of collection, including Queensland and New South Wales.⁴²⁷ Such exhibitions caused cultural loss, as tools, weapons, woven items such as baskets, and cultural objects were initially taken for exhibition, and often at the exhibition's close they were passed (often sold) onto collectors and museums, both within the Australian colonies and beyond.⁴²⁸ Sometimes such exhibitions served as an advance to other exhibitions overseas, where the items would be sent, such as Paris or London.⁴²⁹ For example, baskets, mats, trays and nets made by the Coranderrk residents and exhibited in the 1875 Intercolonial Exhibition in the State Library of Victoria, were recommended to go to the 1876 International Exhibition in Philadelphia, USA.⁴³⁰ Many of these items were then used to argue and promote racist ideas and theories within museum collections and universities.⁴³¹ The drawings by the imprisoned men on Larrakia Country are now in the Museums Victoria collection.⁴³²

Aboriginal people themselves were not considered as potential visitors, nor given agency on how their crafted items would be displayed or where they would be housed afterwards. However, this did not mean that Aboriginal people were not drawn to the crowds and spectacle that surrounded such events. Historian Lynette Russell noted a French newspaper had a sketch of Aboriginal people 'begging' at the Exhibition Buildings during the 1880 International Exhibition.⁴³³ She stated this both challenged ideas that Aboriginal people had left Melbourne by the 1880s and revealed a 'well thought out strategy of economic engagement via soliciting for money', especially given the busyness around Melbourne because of the exhibition.⁴³⁴ At this time Aboriginal people had been complaining of a lack of funds, as revealed in the 1881 Coranderrk inquiry.⁴³⁵

In 1888, to coincide with the Centenary International Exhibition, the director of the Zoological Gardens, Albert Le Souef, brought some residents from Coranderrk to the Zoo in Royal Park to demonstrate boomerang throwing.⁴³⁶ Some Aboriginal people, Coranderrk residents, also 'inhabited' the display camp with mia mias that was also set up. Skin rugs, baskets and weapons were displayed. A bark canoe was by the lake near to the camp. This display camp was the work of the Zoological Society and the BPA.⁴³⁷

⁴²⁶ Elizabeth Willis noted a collection from Pantom was donated to the national museum in 1945. Alan Gross, 'Pantom, Joseph Anderson (1831-1913)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 8th January 2024, <https://adb.edu.au/biography/pantom-joseph-anderson-4362/text7091>. Elizabeth Willis, 'Gentlemen Collectors: The Port Phillip District, 1835-1855', in Nicolas Peterson, Lindy Allen and Louise Hamby (eds), *The Makers and Making of Indigenous Australian Museum Collections*, Melbourne University Press, Carlton, 2008, pp. 113-140, p. 132.

⁴²⁷ Robert Brough Smyth, *Aborigines of Victoria*, vol. 1, John Ferres, Government Printer, Melbourne, 1878, pp. vii, xl, lvii, 280, 364, 365, 367, 376, 379, 380, 391, 414.

⁴²⁸ Elizabeth Willis (2003), 'Exhibiting Aboriginal industry: a story behind a 're-discovered' bark drawing from Victoria', *Aboriginal History*, vol. 27, pp. 39-58. Penelope Edmonds, 'We think that this subject of the Native Races should be thoroughly gone into at the forthcoming Exhibition: The 1866-67 Intercolonial Exhibition', in Kate Darian-Smith, Richard Gillespie, Caroline Jordan and Elizabeth Willis (eds), *Seize the Day: Exhibitions, Australia and the World*, Monash University ePress, Melbourne, 2008, pp. 4.1-4.21.

⁴²⁹ Gaye Sculthorpe and Maria Nugent, 'Assemblages: researching and interpreting dispersed Indigenous Australian objects and collections', in Gaye Sculthorpe, Maria Nugent and Howard Morphy (eds), *Ancestors, artefacts, empire: Indigenous Australia in British and Irish Museums*, British Museum Press, London, 2021, pp. 24-35, pp. 28-29. Morrison, 'The accompaniments of European Civilization', p. 8. Smyth, *Aborigines of Victoria*, vol. 1, p. 227. Louise Douglas (2008) 'Representing colonial Australia at British, American and European international exhibitions', *reCollections*, vol. 3, no. 1.

⁴³⁰ *Official Record Containing Introduction, Catalogues, Official Awards of the Commissioners, Reports and Recommendations of the Experts and Essays and Statistics on the Social and Economic Resources of the Colony of Victoria*, McCarron, Bird & Co., Melbourne, 1875, pp. 59, 191, 192, 335, 339.

⁴³¹ Nicolas Peterson, Lindy Allen and Louise Hamby, 'Introduction', in Nicolas Peterson, Lindy Allen and Louise Hamby (eds), *The Makers and Making of Indigenous Australian Museum Collections*, Melbourne University Press, Carlton, 2008, pp. 1-26, p. 10.

⁴³² The Dawn of Art, Item X 92971, Drawing. Larrakia. Darwin, North, Northern Territory, Australia, 1888, Museums Victoria Collections, accessed 8th January 2024, <https://collections.museumsvictoria.com.au/items/237849>.

⁴³³ Lynette Russell (2014), 'An unpicturesque vagrant': Aboriginal Victorians at the Melbourne International Exhibition 1880-1881', *The La Trobe Journal*, vol. 93-94, pp. 77-81, pp. 79-80.

⁴³⁴ Russell, 'An unpicturesque vagrant', p. 80.

⁴³⁵ For example, see: *Coranderrk Aboriginal Station*, pp. 28, 30

⁴³⁶ 'The Zoological Gardens', *The Age*, 3rd August 1888, p. 5, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article196004728>. Minutes, 23rd November 1887, 5th September 1888, 5th December 1888, Series B314, Roll 2, Minutes of BPA meetings, circa 1885- circa 1921, Central Board Appointed to Watch over the Interests of the Aborigines in the Colony of Victoria, NAA.

⁴³⁷ 'New attractions at the Zoo', *The Herald*, 30th August 1888, p. 6, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article241423677>. Lucy Salt, 'Looking Again: Tom Nicholson, Tony Birch and Royal Park, Melbourne', *Meanjin*, vol. 73, No. 4.

Potential injustices meriting further research

Corporation Stockade at Melbourne Gaol

The Council planned and funded a stockade at the Melbourne Gaol (now known as the Old Melbourne Gaol). The Stockade was physically attached to the prison and known as the Corporation Stockade, reflecting its links to the Council. A brief search through newspapers and Robinson's journals has not revealed any Aboriginal person committed to the Stockade through a court trial. A search of criminal records for the period, Thomas' journals and reports and Native Police reports may reveal incarcerated Aboriginal people at this site. Police and courts apprehended and tried Aboriginal people across the colony and Aboriginal people may have been brought to Melbourne to serve their sentence.⁴³⁸ The Stockade is mentioned here as a site of incarceration developed and funded by the Council for unpaid and forced labour.

In April 1850 a report from the Public Works Committee recommended the 'employment of the Prisoners in the Gaol, sentenced to Hard Labor in breaking stones for the streets, and the appropriation of a sum of money for the erection of a stockade.'⁴³⁹ The members of the Public Works Committee were Councillors William Nicholson, Thomas Armitstead, John Bowler, Thomas McCombie, John Rankin, Andrew Russell, John Thomas Smith and John Stephen.⁴⁴⁰ In the next meeting Councillor Nicholson moved, and Councillor Annand seconded, the report regarding 'employment of Prison labor now be adopted'.⁴⁴¹ The motion was passed, but not without discord. Alderman Kerr 'objected to the assumption of such power by any Committee; the proposal to employ convict labour in preference to free had been made by Councillor Stephen as long ago as 1843, and repudiated by the Council and it had been made at a subsequent period in a letter from the Sheriff to the Mayor, when it was again rejected.'⁴⁴² He argued against the Public Works Committee having negotiated with the government, rather than the whole Council being involved in discussions.⁴⁴³

In the same meeting Councillor Nicholson and Councillor George Annand presented a motion 'recommending the appropriation of £100 for the Stockade and necessary tools' and this motion also was successful.⁴⁴⁴ The Stockade was positioned adjoining the Melbourne Gaol [now known as the Old Melbourne Gaol] and it was funded by the Council after being:

'favorably entertained by the Executive Government, who had consented that the prisoners under sentence of hard labor should be employed in breaking the metal at the rate of one shilling and twopence per cubic yard'.⁴⁴⁵

The Corporation Stockade and was built 'immediately outside of the gaol' on its western side.⁴⁴⁶ The Governor proclaimed it a place where men sentenced to hard labour could be detained and that any person near the

⁴³⁸ For examples of such trials see: 'Local Intelligence', *The Melbourne Daily News*, 4th August 1851, p. 3, accessed 6th March 2024, <http://nla.gov.au/nla.news-article226911860>. 'Melbourne', *Geelong Advertiser*, 31st July 1851, p. 1, accessed 6th March 2024, <http://nla.gov.au/nla.news-article91918879>. 'Friday Morning', *Geelong Advertiser*, 7th December 1850, p. 2, accessed 6th March 2024, <http://nla.gov.au/nla.news-article91920051>. 'Murder', *Port Phillip Gazette and Settler's Journal*, 7th December 1850, p. 2, accessed 6th March 2024, <http://nla.gov.au/nla.news-article225416937>.

⁴³⁹ Minutes, 10th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

⁴⁴⁰ Minutes, 14th November 1849, 29th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

⁴⁴¹ Minutes, 29th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Books of Council Meetings, PROV.

⁴⁴² 'City Council', *Argus*, 30th April 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article4769828>.

⁴⁴³ 'City Council', *Argus*, 30th April 1850.

⁴⁴⁴ Minutes, 29th April 1850, Minutes of Proceedings of Town Council, 26th June 1849- 26th April 1852, No. 3, VPRS 8910 P0001 item 3, Minute Book of Council Meetings, PROV.

⁴⁴⁵ 'City Council', *The Melbourne Daily News*, 11th April 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article226323168>.

⁴⁴⁶ 'City Council', *The Melbourne Daily News*, 11th April 1850. 'The Prisoners in Gaol', *Argus*, 8th June 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article4764672>. 'City Council', *Port Phillip Gazette and Settler's Journal*, 5th October 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article223157979>.

stockade or communicating with those in it without permission would be liable to a fine or imprisonment.⁴⁴⁷ The government in New South Wales agreed to ensure the agreement of the men's labour for six months 'and that if it were found to answer it might then go on to an indefinite period.'⁴⁴⁸ Such an agreement was argued as a cost saving measure:

'The cost by free labor for breaking metal was two shillings and sixpence per yard, whilst by the employment of the men under the sentence of hard labor, the cost after taking into consideration every expense would not exceed one shilling and nine pence per yard, and thus a positive saving of nine pence per yard would be effected.'⁴⁴⁹

Whilst the Council paid for labour, this was to offset the costs to the colonial government of housing the prisoners – the prisoners were not directly paid for their work.⁴⁵⁰ By October 1850 fifty-two men were at the stockade under hard labour 'breaking stones for the Corporation'.⁴⁵¹ By March 1852 the prisoners at the Gaol Stockade were providing the Council with an 'ample' supply of street metal and regular purchases of rubble to supply the stockade were approved by the Council.⁴⁵²

Council By-laws and Wurundjeri people, Bunurong Boon Wurrung people and other Kulin nation people

The Council made by-laws for governing the streets of Melbourne. Whilst Aboriginal people were rarely mentioned in the by-laws specifically, there would have been impacts and indirect injustices for Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people. The role of by-laws in managing people's behaviour in public spaces mean this is an area that would benefit from further research. Additionally, the relationship between the Council's By-laws and the *Police Offences Act* and the relationship between the police and Council Officers would benefit from research to understand potential direct and indirect injustices caused to Aboriginal people, including incarceration and limiting of movement and cultural practices.

The *Melbourne Incorporation Act 1842* (Vic) enabled the Council to make by-laws and to enforce fines and other punishments for infringement of the by-laws.⁴⁵³ These by-laws would assist the Council in,

'the good rule and government of the said town and for the prevention and suppression of all nuisances whatever and for regulating the quality and the place and manner of selling butchers' meat for regulating bathing in the waters adjoining the town for the suppression and restraint of disorderly houses and houses of ill-fame and repute for prohibiting forestalling and regrating and every kind of fraudulent device and practice in relation to the sale of marketable commodities for compelling the owners or occupiers of cellars tallow-chandlers' shops soap factories and tanneries and the owners of privies sewers slaughter-houses and other houses or places which may be in an unwholesome or offensive state or be likely to become so to cleanse the same from time to time and in such manner as the said Council may think necessary and proper with a view to promote the health and comfort of the inhabitants of the said town and for the regulation and government of carters porters and drivers...'.⁴⁵⁴

The areas of by-laws also included 'noisome and offensive trades billiard tables gaming tables and gambling of every description' as well as 'for preventing obstructions and incumbrances in and upon the streets wharves and waters of the said town for regulating the flagging pacing and repairing of the streets and roads and for keeping the

⁴⁴⁷ 'Stockade and Gaol, Melbourne', *The Melbourne Daily News*, 3rd July 1850, p. 4, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article226324367>.

⁴⁴⁸ 'City Council', *The Melbourne Daily News*, 11th April 1850.

⁴⁴⁹ 'City Council', *The Melbourne Daily News*, 11th April 1850.

⁴⁵⁰ Barrett, 'Her Majesty's Collingwood Stockade', p. 77.

⁴⁵¹ 'Employment of Prison Labor', *The Melbourne Daily News*, 16th October 1850, p. 2, accessed 22nd February 2024, <http://nla.gov.au/nla.news-article226521676>.

⁴⁵² Notice paper, 15th March 1852, No. 8, VPRS 54 P0000 item 1, Printed notice papers of Council meetings, November 1851-October 1852, Notice Papers and Proceedings of the Council, 1842-1887, PROV.

⁴⁵³ *Melbourne Incorporation Act*, 1842, pp. 1288-1289, 1290, 1293.

⁴⁵⁴ *Melbourne Incorporation Act*, 1842, p. 1293.

same clear from dirt'.⁴⁵⁵ There have been changes to the by-laws over the years and are now called local laws, allowing for technology such as cars and car parking, but they have remained a means to manage public spaces, citizens and businesses within the Council's boundaries.

Some of the early by-laws brought in licences which had the potential to restrict Aboriginal people from selling items. They also had the potential to bring Aboriginal people into contact with the law through the police and street keepers who dealt with by-law transgressions. This included licensing of street hawkers and drivers, the banning of making fires in open air within Melbourne and requiring Town Surveyor permission to pass through Melbourne streets with dead animals.⁴⁵⁶

Council rewards

The Council could also determine financial rewards within its by-laws. Under By-Law No 10, 'A Bye-Law for the more certain prevention of the nuisance occasioned by persons throwing the carcasses of animals into the River Yarra Yarra, within the Town boundary, and to provide for the removal of the carcasses of animals drowned therein', the Council decided to pay those involved in retrieving the dead animals.⁴⁵⁷ Wurundjeri people, Bunurong Boon Wurrung people and other Aboriginal people were respected and known for their swimming abilities. Thomas and others recorded that Kulin nation people would go and dive into the Birrarung to free dead animals such as horses and well as deceased people. Thomas did not mention payment to the rescuers, however, given the exchanges and entry into the local economy by Kulin nation people there may have been some exchange, whether through food, supplies, or money.⁴⁵⁸

Whilst Kulin nation people would have been eligible for rewards, their knowledge of this by-law and the requirement to attend the police station to claim one's reward had the potential to limit Kulin nation people's potential rewards.

Street Processions and Protests

For decades through the nineteenth and twentieth centuries the Council required consent from the Mayor (and later Lord Mayor) for street processions, parades or protests. In the late 1920s By-Law No. 204 required '[o]ne calendar month's notice in writing' to be given to the Town Clerk of the intention to hold a procession or protest march.⁴⁵⁹ The duration, time, starting place and route needed to be included. Twenty-four hours' notice in writing with the same information needed to be given to the Chief Commissioner of Police. There was to be only one procession per day, with the first received getting the nod if there was more than one application for a particular day.⁴⁶⁰

The Town Clerk's Subject Index for correspondence to the Town Clerk includes the applications by various groups for protest marches, street parades and processions. In 1965 the National Aborigines Day Observance Committee wrote to the Town Clerk notifying him of the annual NADOC march to be held on the 9th of July, starting at Russell Street at Collins and Little Collins Streets.⁴⁶¹

⁴⁵⁵ *Melbourne Incorporation Act*, 1842, p. 1293.

⁴⁵⁶ Minutes, 1st June 1843, 26th September 1843 Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Minutes, 29th March 1845, 18th December 1845, Minutes of Proceedings of Town Council, February 1845-June 1849, No. 2, VPRS 8910 P0001 item 2, Minute Books of Council Meetings, PROV. Entry, 9th January 1844, Volume 03 Item 02: William Thomas journal, 1st September 1843-29th January 1844, William Thomas papers, SLNSW. Entries, 19th September 1844, 6th October 1844, and 4th January 1845, Volume 03 Item 03: William Thomas journal, 16th May 1844-31st December 1845, William Thomas papers, SLNSW.

⁴⁵⁷ Minutes, 15th March 1844, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 item 1, Minute Books of Council Meetings, PROV. Letter, Henry Condell to La Trobe, 5th March 1844, VPRS 19 P0000 No 44 / 421, Inward Registered Correspondence, 1839-1851, Superintendent, Port Phillip District, PROV.

⁴⁵⁸ For example, see: Entries, 19th February 1848, 22nd February 1848, 13th November 1848, Volume 03 Item 06: William Thomas journal, 1st January to 31st December 1848, William Thomas papers, SLNSW. 'Accident', *Port Phillip Gazette and Settler's Journal*, 26th February 1848, p. 1, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article223150539>. 'Coroner's Inquest', *Port Phillip Patriot and Melbourne Advertiser*, 31st March 1842, p. 2, accessed 19th February 2024, <http://nla.gov.au/nla.news-article226511246>. 'Coroner's Inquest', *Port Phillip Gazette*, 15th January 1842, p. 3, accessed 19th February 2024, <http://nla.gov.au/nla.news-article225010304>. 'Coroner's Inquest', *Port Phillip Gazette*, 29th January 1845, p. 3, accessed 19th February 2024, <http://nla.gov.au/nla.news-article224811167>. 'Death by Drowning', *Port Phillip Gazette and Settler's Journal*, 21 February 1846, p. 3, accessed 3rd January 2023, <http://nla.gov.au/nla.news-article225064042>. 'Coroner's Inquests', *The Melbourne Courier*, 23 February 1846, p. 2, accessed 3rd January 2023, <http://nla.gov.au/nla.news-article226363429>.

⁴⁵⁹ By-Law No. 204, VPRS 8910 P0001 item 61, Minutes 1929-1930, Minute Books of Council Meetings, PROV, p. 9.

⁴⁶⁰ By-Law No. 204, VPRS 8910 P0001 no. 61, Minutes 1929-1930, City of Melbourne Meeting Minutes, PROV, p. 9.

⁴⁶¹ 'Processions and Parades', 1964-1967, Town Clerk's Index to Correspondence files, VPRS 8904 P0001, Subject Index to Town Clerk's Correspondence Files, 1913-1983, PROV, p. 219.

In 1947 the AAL marched in the annual May Day parade. There were around 4,000 who marched that year and around 15,000 went to the Yarra Bank to hear the speakers.⁴⁶² In June 1968 over 100 demonstrators in Melbourne were part of an Australia-wide twenty-four-hour vigil 'to demand Government recognition of Aboriginal land rights.'⁴⁶³ Aboriginal leaders Harry Penrith and Dexter Daniels led the protest in Spring Street, outside the Commonwealth offices. Penrith was from Lake Tyers and stated 'We don't want to lose our identity. The administration needs to start asking the Aboriginal people what they want'.⁴⁶⁴

In 1969 around '150 students, trade unionists' and Aboriginal people 'picketed the Melbourne offices of eight large companies associated with mining bauxite from traditional Aboriginal land.'⁴⁶⁵ This was part of a national picket against Swiss Australian consortium Nabaico. They were mining in Arnhem land. 'Police and City Council officers stood by' as the protestors handed out leaflets.⁴⁶⁶ The passing out of leaflets was restricted under Council By-laws and could be used by police or Council officers to charge someone.⁴⁶⁷ Black activist Patsy Kruger stood on the corner of Queen and Collins streets handing out pamphlets, asking passers-by, 'Do you support Aboriginal land rights?'.⁴⁶⁸

In 1972 around 760 people marched in Melbourne. A confrontation with foot and mounted police occurred. The march started in the Fitzroy Gardens near the Cooks' Cottage and ended in the City Square. The police stated NADOC 'had not provided the police with a route for their march, nor had they informed anybody of their intention to disrupt traffic'.⁴⁶⁹

In 2021 the Melbourne Activist Legal Support Group published a statement of concern regarding the misuse of Council local laws to restrict protest. They observed that the police had been 'using a City of Melbourne Council by-law...as a way of controlling and restricting protest events.'⁴⁷⁰ The police had been calling 'City of Melbourne compliance officers to enforce sections 5.7 and 12.8 of this Local Law [the *Activities Local Law 2019*] to restrict the use of amplified sound at protest events.'⁴⁷¹ The lawyers raised this as a concern as they believed 'this practice is a misuse of Council local laws which were developed for a different purpose.'⁴⁷² The lawyers noted this was not a measure used for larger protests, such as the Invasion Day protests, but it was used as 'selective enforcement'.⁴⁷³

All of this demonstrates that the relationship between Council and Council's By-laws regarding street processions, protests and parades and the police and the different versions of the *Police Offences Act* warrant further research with regard to Aboriginal people and Aboriginal protests.

Council overlooking Aboriginal people as part of its responsibility and as part of its constituency

Whilst this has been discussed previously, there are some areas that warrant further research to determine if Aboriginal people were included in certain policies and programmes of the Council, or whether these were further examples of the Council ignoring Aboriginal people as their responsibility.

⁴⁶² '4000 in May Day March', *The Age*, 5th May 1947, p. 3, accessed 27th December 2023, <http://nla.gov.au/nla.news-article206019682>.

⁴⁶³ 'Aboriginal lands vigil nation-wide', *The Age*, 20th June 1968, p.1.

⁴⁶⁴ 'Aboriginal lands vigil nation-wide', *The Age*, 20th June 1968, p. 1.

⁴⁶⁵ 'Bauxite backers picketed', *The Age*, 8th May 1969, p. 8.

⁴⁶⁶ 'Bauxite backers picketed', *The Age*, 8th May 1969, p. 8.

⁴⁶⁷ This was changed in the late 1960s amid the anti-Vietnam War protests. Roger Sander and John Hamilton, 'From the Archives, 1969: Archaic Melbourne pamphlet by-law repealed', *The Age*, 8th April 2021, accessed 20th March 2024, <https://www.theage.com.au/national/victoria/from-the-archives-1969-archaic-melbourne-pamphlet-by-law-repealed-20210331-p57fht.html>. David Dunstan, 'Nathan, Sir Maurice Arnold (1914–1982)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 20th March 2024, <https://adb.anu.edu.au/biography/nathan-sir-maurice-arnold-14983/text26172>.

⁴⁶⁸ 'Bauxite backers picketed', *The Age*, 8th May 1969, p. 8.

⁴⁶⁹ 'White stirrers' in natives' city protest', *The Age*, 15th July 1972, p. 5.

⁴⁷⁰ Melbourne Activist Legal Support Group, 'Statement of Concern: The misuse of Council Local Laws to restrict protest', *Melbourne Activist Legal Support Group*, 15th January 2021, p. 1.

⁴⁷¹ Melbourne Activist Legal Support Group, 'Statement of Concern', p. 1.

⁴⁷² Melbourne Activist Legal Support Group, 'Statement of Concern', p. 3.

⁴⁷³ Melbourne Activist Legal Support Group, 'Statement of Concern', pp. 3, 4, 5.

The Council had supported people who lived and worked within its boundaries from its earliest years. In October 1843, the Council was advocating for labourers and artisans they had sacked to instead be employed by the New South Wales colonial government in making a bridge.⁴⁷⁴ Melbourne being part of the NSW colony at the time. After the end of World War I and during the Depression, the Council supported returned soldiers and unemployed men. The Council did not appear to consider Aboriginal people in their programmes, but detailed research to determine if Aboriginal people were able to benefit from and were employed in these programmes was outside the scope of this research. It is an area that would benefit from further research.

Returned Soldiers favoured for Council employment

The favouring of returned soldiers for Council employment is an example of the Council not considering Aboriginal people. Whilst the committee formed to oversee the employment of former soldiers was focused on office positions, there were many returned soldiers who were also employed in labouring work. There is no indication that the Council supported Aboriginal soldiers in employment on their return.

After the end of World War One, at a meeting on the 25th of November 1918, the Lord Mayor William Cabena made a statement on behalf of the Council, noting:

‘it was with feelings of profound gratitude and rejoicing that he had to announce that since the last meeting of the Council news had been received that hostilities in Europe had ceased, resulting in the triumph of the Allied armies.’⁴⁷⁵

The Council also wished it recorded ‘its unbounded admiration of the splendid deeds of our sailors and soldiers, and fervently trusts that an early and lasting peace may be assured for all mankind.’⁴⁷⁶

In April 1919 the Public Works Committee reported it had been provided with Federal Government funds to employ soldiers unable to be absorbed back into the workforce on their return. The Council employed returned soldiers in labouring work such as forming roads and reserves.⁴⁷⁷ During the war the Council had assured soldiers they would be able to return to their jobs at the end of the war and it worked with the Returned Soldiers’ Association, Soldiers and Sailors Fathers Association and the Rejected Volunteers Association to do so.⁴⁷⁸ Married soldiers or married rejected volunteers – those who showed willingness to engage in ‘any patriotic undertaking’ were favoured in employment and re-employment schemes by the Council.⁴⁷⁹ The Council, in their approach, were following Defence Department guidelines about the employment of returned soldiers. However, Aboriginal soldiers who returned from the war found it hard to find employment and the reserves that they had lived on were closed or reduced in size as land was sold off for soldier settlements.⁴⁸⁰ As Ronald Johnson stated of his grandfather’s experience:

‘My grandfather served in the First World War, he was in the light-horse regiment and was gassed and all that in France, came back and they had a plan for soldiers resettlement and Lake Condah Aboriginal Mission was actually split up, torn apart and the white soldiers could use the mission land.’⁴⁸¹

⁴⁷⁴ Minutes, 26th October 1843, Minutes of Proceedings of Town Council, 1842-1843, No. 1, VPRS 8910 P0001 1 B79, City of Melbourne meeting minutes, PROV.

⁴⁷⁵ Minutes, 25th November 1918, Minutes of Meeting of City Council, VPRS 8910 P0001 no. 50, City of Melbourne meeting minutes, 1918-1919, Minute Books of Council Meetings, PROV, p. 14.

⁴⁷⁶ Minutes, 25th November 1918, Minutes of Meeting of City Council, VPRS 8910 P0001 no. 50, City of Melbourne meeting minutes, 1918-1919, Minute Books of Council Meetings, PROV, p. 14.

⁴⁷⁷ Minutes, 9th April 1919, Minutes of Meeting of City Council, VPRS 8910 P0001 no. 50, City of Melbourne meeting minutes, 1918-1919, Minute Books of Council Meetings, PROV, p. 74.

⁴⁷⁸ Minutes, 4th August 1920, 7th October 1920, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

⁴⁷⁹ Minutes, 4th August 1920, VPRS 4039 P0000 item 3, Committee of the Whole Council and Special Committees 11/12/1919-17/6/1938, Minutes of Special Committees, 1859-1919, PROV.

⁴⁸⁰ ‘Shadows of the Past’, *Healesville Guardian*, 23rd March 1956, p. 4, accessed 3rd January 2024, <http://nla.gov.au/nla.news-article65384802>. C F Black, *Report for the Land Conservation Council, Melbourne Area- District 1*, 1984, p. 53.

⁴⁸¹ Ronald Johnson, cited in Bunj Consultants, *Snapshots of Aboriginal Fitzroy*, p. 15.

In 1929, with a Depression beginning, the Council again reaffirmed its commitment to the 'principle of preference in employment to returned soldiers'.⁴⁸²

Unemployment support from the Council

The Council provided support to unemployed people before and during the Depression. Much of this involved employing them in physical work such as gardening and street maintenance. It is not known if Aboriginal people were involved in these programmes, although they were entering Melbourne looking for work. They are not mentioned in the minutes of the Council or of the Lord Mayor's Unemployment Relief Committee. Further research in this area is warranted.

In the late 1920s and early 1930s the Lord Mayor, Sir Stephen Morell, convened meetings at the Town Hall to consider proposals for an Odd Jobs Bureau for the unemployed in Melbourne. Other inner-city Mayors (such as Fitzroy and Footscray) were also involved.⁴⁸³ In the discussions that continued over the next couple of years, Aboriginal people were never included as potential recipients or users of the Odd Jobs Bureau, despite their growing presence in places such as Fitzroy. In one of the proposals, collecting wood to give to unemployed people for free from the Dandenong Police Paddocks was discussed.⁴⁸⁴ The Dandenong Police Paddocks was an important site on Bunurong Boon Wurrung Country. It had been a former reserve and Native Police site for Wurundjeri people and Bunurong Boon Wurrung people. It was also a site where beloved Aboriginal people were buried.⁴⁸⁵

From May 1930 the Council began to use funds to 'provid[e] work for the relief of unemployment'.⁴⁸⁶ Unemployed men were paid by the Council to undertake physical labour such as making roads.⁴⁸⁷ It also received financial support from the State Government to pay unemployed men.⁴⁸⁸ The Parks and Gardens Department of the Council benefitted from having the men gardening, digging trenches for tree planting and asphaltting roads.⁴⁸⁹

It is not clear whether there were some Aboriginal men employed on these projects, further research may reveal this. There were some concerns raised by Councillors that the cheaper cost and government support meant that full-paid employees were not being hired, indicating that the unemployment relief positions were money-saving measures and had the potential for exploitation.⁴⁹⁰

Council Welfare and Kindergarten services

In the late 1920s the Council's Health Committee oversaw the 'provision of basic diet in necessitous cases'.⁴⁹¹ This was a programme to provide food to those who needed it. The distribution of the items was both purchased and overseen by the Melbourne Ladies' Benevolent Society, who had the Lady Mayoress as a Patron. The Lord Mayor

⁴⁸² Minutes, 26th August 1929, Minutes of Meeting of City Council, VPRS 8910 P0001 item 60, Minutes 1928-1929, Minute Books of Council Meetings, PROV, p. 212.

⁴⁸³ Minutes, 2nd July 1928, Meeting to consider proposals for the formation of an Odd Job Bureau for Unemployed in the Metropolis, VPRS8863 P0001 item 3, Lord Mayor's Ceremonial Function and Fundraising Files, 1870-1974, PROV.

⁴⁸⁴ Minutes, 3rd July 1928, The Lord Mayor's Unemployment Relief Committee, VPRS8863 P0001 item 3, Lord Mayor's Ceremonial Function and Fundraising Files, 1870-1974, PROV.

⁴⁸⁵ Aunty Margaret Gardiner and Janet McGaw, 'Indigenous Placemaking in Urban Melbourne: A Dialogue Between a Wurundjeri Elder and a Non-Indigenous Architect and Academic, in Elizabeth Grant, Kelly Greenop, Albert L. Refiti and Daniel J. Glenn (eds), *The Handbook of Contemporary Indigenous Architecture*, Springer, Singapore, 2018, pp. 581-605, p. 600. Eidelson, *Melbourne Dreaming*, pp. 60-61.

⁴⁸⁶ Minutes, 19th May 1930, Minutes of Meeting of City Council, VPRS 8910 P0001 item 61, Minutes 1929-1930, Minute Books of Council Meetings, PROV, p. 123

⁴⁸⁷ Minutes, 2nd June 1930, Minutes of Meeting of City Council, VPRS 8910 P0001 item 61, Minutes 1929-1930, Minute Books of Council Meetings, PROV, pp. 126-127.

⁴⁸⁸ Minutes, 14th July 1930, Minutes of Meeting of City Council, VPRS 8910 P0001 item 61, Minutes 1929-1930, Minute Books of Council Meetings, PROV, p. 153.

⁴⁸⁹ Minutes, 13th December 1937, Minutes of Meeting of City Council, VPRS 8910 P0001 item 69, Minutes 1937-1938, Minute Books of Council Meetings, PROV, pp. 34-35. Minutes, 6th May 1929, 9th September 1929, Minutes of Meeting of City Council, VPRS 8910 P0001 item 60, Minutes 1928-1929, Minute Books of Council Meetings, PROV, pp. 122, 221. Minutes, 5th August 1935, Minutes of Meeting of City Council, VPRS 8910 P0001 item 66, Minutes 1934-35, Minute Books of Council Meetings, PROV, p. 237. Work provided for 3300', *Herald*, 14th December 1934, p. 5, accessed 22nd December 2024, <http://nla.gov.au/nla.news-article243084492>. 'Forty-hour week', *The Age*, 11th April 1939, p. 12, accessed 26th February 2024, <http://nla.gov.au/nla.news-article205990107>.

⁴⁹⁰ Minutes, 4th April 1934, Minutes of Meeting of City Council, VPRS 8910 P0001 item 65, Minutes, 1933-34, Minute Books of Council Meetings, PROV, p. 100.

⁴⁹¹ Minutes, 29th July 1929, Minutes of Meeting of City Council, VPRS 8910 P0001 item 60, Minutes 1928-1929, Minute Books of Council Meetings, PROV, pp. 186-187.

presided over their annual meetings, generally held in the Town Hall.⁴⁹² This may also be worth examining, to determine if this programme did engage with any Aboriginal people living in Melbourne. The history of the society, released in 1945 by the society, does not mention Aboriginal people in any of the organisation's past charitable work.⁴⁹³

From the 1920s the Council began to be involved in baby and child welfare. Councillors represented the Council on the Baby Health Centres' Association (BHCA). The Council and the BHCA jointly advocated for funding and support from the Victorian State Government for Baby Health Centres.⁴⁹⁴ Sister Vera Scantlebury had been the Medical Officer of the City Baby Health Centres, but on her resignation in October 1926 Dr Kate Campbell became the Medical Officer.⁴⁹⁵ Councillor Sir George Cuscaden was especially involved in the BHCA, presiding over it for many years.⁴⁹⁶ These health centres were viewed as important in reducing childhood mortality.⁴⁹⁷ There has been no capacity for researching these centres and the care they provided in this project. The role of the Council and the BHCA would benefit from further research as would the relationship between the Council and Aboriginal people in relation to child welfare, especially given the fraught situation for many Aboriginal families who had children forcibly removed through engagements with health care providers.

During this period the Council extended its health and welfare services. Council Vaccination programmes continued and were expanded as new medicines became available. The Council also supported elderly residents by delivering coal and firewood and providing a meals on wheels service.⁴⁹⁸ Research may reveal if Aboriginal people were able to apply for or be part of these services.

There appeared limited engagement with Aboriginal children as part of Council services also. During the 1960s the AWB was using services such as Council Infant Welfare Centres and the Infant Welfare Sisters to engage with Aboriginal people across the state of Victoria. This included providing 'supplementary foods and vitamins to Aboriginal mothers and children' and 'encourag[ing] Aboriginal mothers to take children regularly to Infant Welfare Centres, and where this is impossible that the local Infant Welfare Sister make home visits'.⁴⁹⁹ There is evidence they did this through the Save the Children Fund in Shepparton and other rural sites, but research is needed to determine if this also occurred in the Melbourne Council Infant Welfare Centres. Perusing Council and AWB minutes did not reveal such engagement.

The Council was proactive in encouraging early learning. As part of this it provided a Council Kindergarten scholarship. This supported young women who wished to be Kindergarten teachers during their study. In return, they were required to work in a Council kindergarten for three years after graduation.⁵⁰⁰ Such support would have benefited many, but it also required that the young women had a guarantor and paid back the money if they broke the terms of the agreement. In 1966 Susan Oshlack requested permission to relinquish her scholarship and her father, as her guarantor, was required to pay the Council \$170.⁵⁰¹ These requirements would have made it difficult for those whose families had limited access to money, including Aboriginal people. It is an example of a policy intended to help people which instead limited who would have applied for the scholarship because of the potentially costly consequences. There was an instance in 1969 where two women whose names were forwarded to the Council were refused the scholarship on a resolution by Councillor Bottomley and seconded by Councillor Roy

⁴⁹² 'Melbourne Ladies' Benevolent Society', *The Age*, 4th September 1926, p. 19, accessed 8th February 2024, <http://nla.gov.au/nla.news-article202536743>.

⁴⁹³ Melbourne Ladies' Benevolent Society, *Women who helped Pioneers*, The Melbourne Ladies' Benevolent Society, Truth, Melbourne, 1945.

⁴⁹⁴ 'Baby Health Centres Association', *Argus*, 8th September 1926, p. 26, accessed 13th February 2024, <http://nla.gov.au/nla.news-article3807576>.

⁴⁹⁵ 'City Council', *The Age*, 6th October 1926, p. 11, accessed 13th February 2024, <http://nla.gov.au/nla.news-article202197135>.

⁴⁹⁶ 'Baby Health Centres' Association', *Argus*, 8th December 1926, p. 16, accessed 13th February 2024, <http://nla.gov.au/nla.news-article3825508>.

⁴⁹⁷ 'City Council', *Argus*, 21st July 1925, p. 7, accessed 13th February 2024, <http://nla.gov.au/nla.news-article2143532>.

⁴⁹⁸ For example, see: Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1965, City of Melbourne Proceedings, 1965-1966, SLV, Appendices, pp. ii-iii, 10, 11, 15, 24-25. Philip Gilbert, *Report of the Medical Officer of Health*, 31st December 1968, City of Melbourne Proceedings, 1968-1969, SLV, Appendices, pp. 3, 4, 6, 16, 17.

⁴⁹⁹ Minutes, 6th March 1964, Series B314 item 10, Aboriginal Welfare Board Minutes, 11th January 1962 – 11th December 1964, NAA.

⁵⁰⁰ Minutes, 2nd February 1966, Minutes of Meeting of City Council, 1965-1966, City of Melbourne Council Proceedings, SLV, p. 104. Minutes, 3rd February 1969, Minutes of Meeting of City Council, 1968-1969, City of Melbourne Council Proceedings, SLV, p. 103.

⁵⁰¹ Minutes, 23rd May 1966, Minutes of Meeting of City Council, 1965-1966, City of Melbourne Council Proceedings, SLV, p. 197.

Morgan. Two other women were selected instead.⁵⁰² There is no recorded reason for this, although one of the surnames of the women, Harrison, is a name well known within the Victorian Aboriginal community. The other woman's surname was Georgiou.⁵⁰³

Council place naming on Wurundjeri Country and Bunurong Boon Wurrung Country

The Council named places on Wurundjeri Country and Bunurong Boon Wurrung Country. Research into the process of naming and the people for whom places were named, especially their roles in the colonial and broader imperial project, would be of benefit to help understand the Council's role in these naming processes and for moving forward with truth-telling.

Sometimes the people after whom places were named had direct roles in colonisation, such as John Pascoe Fawcner, for whom Fawcner Park was named.⁵⁰⁴ Others had roles in the broader imperial project, such as Baron Birdwood, who served with Lord Kitchener during the Boer War, having knowledge of and potentially participating in Kitchener's burning of farms and use of concentration camps in South Africa.⁵⁰⁵ In selecting names, the Council often acted in response to residents or local organisations, including those overseeing the space to be named. For example, the Shrine Trustees requested the naming of Birdwood Avenue after Baron Birdwood and local residents requested the renaming of the portion of Sydney Road in the City of Melbourne's boundary to Royal Parade.⁵⁰⁶

On 23 April 2024, Council's Future Melbourne Committee adopted a new Place and Road Naming Policy which gives priority to Traditional Owner language names.

⁵⁰² Minutes, 3rd February 1969, Minutes of Meeting of City Council, 1968-1969, City of Melbourne Council Proceedings, SLV, p. 103.

⁵⁰³ Minutes, 3rd February 1969, Minutes of Meeting of City Council, 1968-1969, City of Melbourne Council Proceedings, SLV, p. 103.

⁵⁰⁴ Minutes, 28th May 1862, Meeting of the Health Committee, VPRS 4039 P0000 1 47E, Minutes of Special Committees 15th September 1859-10th March 1869, PROV. 'Eastern Kulin gathering place - Fawcner Park', *Mapping Aboriginal Melbourne*, City of Melbourne, accessed 15th March 2024, <https://aboriginal-map.melbourne.vic.gov.au/91>.

⁵⁰⁵ Minutes, 9th August 1939, Minutes of Meeting of City Council, VPRS 8910 P0001 70 Minutes 1938-1939, City of Melbourne meeting minutes, PROV, p. 247. A. J. Hill, 'Birdwood, William Riddell (Baron Birdwood) (1865–1951)', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, accessed 14th March 2024, <https://adb.anu.edu.au/biography/birdwood-william-riddell-baron-birdwood-5240/text8823>. Hector Ribeiro (2020), 'Did the confinement of Boer civilians in concentration camps by the British Army during the Anglo-Boer War (1899-1902) constitute an act of genocide?', *Nationalities Affairs*, vol. 52, pp. 1-12. Field Marshal Lord Carver, 'The Boer War', *The RUSI Journal*, vol. 144, no. 6, pp. 78-82, p. 78.

⁵⁰⁶ Minutes, 9th August 1939, Minutes of Meeting of City Council, VPRS 8910 P0001 70 Minutes 1938-1939, City of Melbourne meeting minutes, PROV, p. 247. Minutes, 28th October 1878, Minutes of Meeting of City Council, VPRS 8091 P0001 No 28, Minutes March 1877- October 1878, City of Melbourne meeting minutes, PROV, p. 693.

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