RESEARCH PAPERS

‘NATIONAL PARKS, JOINT MANAGEMENT & CULTURAL TOURISM’, 2009

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Barmah-Millewa Forest-Wetlands © Dr W. Atkinson, 2005
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The research is also complimented by other materials that were used to conduct workshops, and community consultations on the concept of National Parks and Joint Management Structures, drawing on models that are currently operating within Australia. Some materials on International and Indigenous jurisdictions on land management issues have also been consulted.

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Contents


Preamble

The research papers are designed to provide ideas and models that can be adapted to the Yorta Yorta context on options for the best way forward in their vision for the future management and care of Yorta Yorta country. The papers are guided by the holistic nature of the Yorta Yorta vision for a better and more secure future for future generations and by the philosophy of land management and care that has withstood the test of time, and which now needs to be given its due place in the future management plan. The paper has evolved and has continued to develop from within the confines of the Yorta Yorta world view.
Introduction

On 30 December 2008 John Brumby announced that the Barmah Forest would become one of the first National Parks in Victoria to be Jointly Managed, with the Traditional Owners; the Yorta Yorta Nation Aboriginal Cooperative YYNAC. This research paper will examine the concepts of Joint Management and Co-Management, JM, CM and the potential benefits that they can bring to the Yorta Yorta community. It will outline some of the issues surrounding Joint and Co-Management models, and will examine the benefits of these management structures to the environment, the government and the wider community. It will conclude by arguing from a traditional holistic view that the adjoining Millewa Forest, on the New South Wales side of the Murray River, and other National Parks that are located within Yorta Yorta land and cultural heritage jurisdiction should also be given equal status as National Parks and managed accordingly.

The paper is set against the framework of the long and continued Yorta Yorta struggle for land justice, and equality and the pathway to achieving this historic goal through the concept of National Parks and Joint Management structures. It is also guided by pragmatic considerations in terms of the actual state of things as they now stand in Yorta Yorta history and what can be achieved for the future. http://yynac.madwebskills.com/

Joint Management and Co-Management

One of the primary objects of JM is that it aims to recognise the meeting point between two cultures and the goal of environmental sustainability and the return of land to Traditional Owners under JM agreements (Craig, 1992). Sustainability is used here in its practical sense to mean the ability of current generations to meet its
needs without compromising the ability of future generations to do the same, or living in such a way that does not detract from the quality of life entitlements of future generations (Flannery, 2009:3).

Traditionally National Parks were originally seen as an area to be set aside solely for the protection of nature as wilderness (Bauman and Smyth, 2007). Since the late 1970s however it has been increasingly accepted that National Parks are not areas of wilderness but are rather ‘cultural landscapes’ brought about by thousands of years of Aboriginal management which manifest themselves in the evidence of prior Indigenous occupation (Birckhead and Smith, 1992: 4). This acceptance has led to the inclusion of Indigenous people in the ownership and the management of protected areas under different management regimes. Joint Management is a legal partnership and management structure that merges the rights and interests of Traditional Owners with the rights and interests of the government land management agencies and the wider community. These interests are not always compatible and consequently the JM arrangement is often seen as a ‘trade-off or a compromise position to that of ‘Sole Management’ which is the way that the natural and cultural features of the landscape have been cared for since time immemorial (Bauman and Smyth, 2007). Joint Management in this context is a recently imported construct that is used to ensure that when land is returned to Traditional Owners under the pretext of JM, it is conditional upon the land being leased back to the Government to manage jointly with the Traditional Owners. Cooperative or Co-Management is a similar concept but the major difference between the two, as defined by VEAC in its River Red Gum Forest Investigation Report, 2008, is that the ownership of land under Co-Management stays with the Crown whereas Joint Management returns the land to the Traditional Owners under a Hand back/Lease back arrangement (VEAC, 2008: 106).

While both are similar in terms of the Boards of Management, BOM which include a majority of Indigenous interests, it is assumed that Co-Management can also be a stepping stone to Joint Management in the longer term. This is the essence of what is being discussed now between the YYNAC and the Victorian Government as they attempt to negotiate agreements on the management of those National Parks that
have been declared within their land and cultural heritage jurisdiction. These are Barmah, Gunbower, Lower Goulburn, Ovens Warby Range-Ovens River, National Parks and other crown lands within YYNAC boundaries. The question of the adjoining Millewa Forest-wetlands in New South Wales being bought back into the fold with Barmah as one holistic National Park option will be addressed shortly.

Joint Management Models in Australia

There are currently JM models operating in Australia, examples of which are those that have been established in the Northern Territory, NSW, and the ACT. There are differences however in the way they have been established. They are dependant on the local political context and on the willingness of Governments to recognise Indigenous rights and to take a more inclusive approach to land management issues (Corbett et al, 1998). Translating this analysis to the Victorian context, which paints a rather dismal picture of land justice for Traditional Owners, and by comparison with those models mentioned, there appears to be a major shift happening in the way that the State Government has dealt with Indigenous ownership of crown lands and in the inclusive management of National Parks in the past. Whether this will translate itself into the long and continued Yorta Yorta struggle for land justice is being watched very closely.

The Barmah Forest is a good case study in point. It is proposed that it will be initially Co-Managed, with the Yorta Yorta people having a majority on the National Park, BOM (VNPA, 2009). Although the details are not clear and as indicated the concept of CM is essentially Joint Management without the hand back of land. This means that the YYNAC will have a majority on the BOM, including rights to occupy and use the land, and to make decisions on the resources provided by the State for the management plan and for the management of the land and resources. Employment and training initiatives and capacity building programs are also included in this management model. Under this model however the YYNAC will not have title to land or rental payments and the National Parks Act (Vic) will need to be amended to allow for both CM and JM options. A timeline of 5 years has been proposed by VEAC for the transition to JM and for hand back lease back to happen in the future.
Joint Management and Native Title

While the National Parks being proposed do not deliver the exclusive land justice that the Yorta Yorta attempted to achieve in the YYNTC (1994-2002), the irony is that they may deliver more than what native title could have achieved through the courts, if the native title process had not been perverted in their case to accommodate the vested interests of the colonial industry. Whether National Parks can deliver the ‘real land justice’ that is being advocated by the Steering Committee that negotiated the Victorian Governments ‘Native Title Settlement Agreement’ by returning crown land as inalienable freehold title to Traditional Owners, along the Murray is a crucial issue. It must be remembered however that both these options are a far cry from the absolute title enjoyed by the Yorta Yorta Nations ancestors for the most part of their history which has been undermined by the imposition of the more recent crowns title. Finding a satisfactory pathway through these complex issues that will meet the needs and aspirations of the YYNAC now and in the future are the big challenges being confronted (Koori Mail, 12 August, 2009: 10).

Benefits of Joint Management for Indigenous People

The announcement of a Jointly Managed National Parks was celebrated by both Indigenous and non Government ogranisations, NGOs who contributed generously to the outcome of this decision following the failure of the native title process in the YYNTC (1994-2002) (FOE Melbourne, 2008; VNPA, 2008; The Wilderness Society, 2008; ANTaR Victoria, 2009; Goulburn Valley Vegetation Group). CM is expected to give the YYNAC the opportunity to exercise control over the decisions affecting their lives and their land (Craig, 1999). Currently, there is a CM Agreement which provides for an advisory joint body with a majority of Yorta Yorta people. This is one of the many advisory bodies however that advises the Minister for Sustainability and the Environment, DSE who retains ultimate decision-making authority (DSE, 2004: 2). While the Yorta Yorta people are restricted in what they can do under the
current management plan, it is assumed that the new agreement will give them more say and control over how their land is managed.

CM allows the Yorta Yorta to care for their country using their traditional ecological knowledge, and also allows them to challenge the existing ideology of non-Indigenous land managers (Baker et al, 1992). This `demonstrates the validity of traditional knowledge in the modern world (Baker et al., 1992: 71) and can help to educate non-Indigenous people about Indigenous history, culture and practices, thereby promoting greater reconciliation in the future (Craig, 1999). CM also recognises the rights of Traditional Owners to continue to use the land to hunt, gather, fish, and to continue their cultural connections with the land that was occupied and enjoyed by their ancestors since time immemorial. This is surely a positive step forward for the upkeep and the continuity of Yorta Yorta culture and identity.

CM will also allow the Yorta Yorta people to use the resources and capacity of the State without relinquishing control over the management of the land (Craig, 1999). Indeed, the Government has pledged $38 million over four years to create new protected areas and to help local communities adjust to the changes that are required to preserve and to protect these forest-wetlands for the future (Premier of Victoria, 2008). This will include the creation of new park ranger jobs and hopefully will bridge the gap in employment opportunities for Indigenous communities with very high unemployment rates (Atkinson, 2008; VEAC, 2008). Indeed, one of the current problems is that Traditional Owners are consulted frequently without being remunerated for their time or knowledge, but hopefully this will change under the new models (Lawrence and Colloff, 2008). The benefits that will be generated from the increased number of people seeking to visit the new parks from Australia and overseas and from the tourist economy generally will help to produce a much needed economic base for Traditional Owners. Other issues include opportunities to pursue cultural and economic development within the NPs like cultural enterprise programs, and the provision of live in learning and education centre’s like the Dharnya Center in the Barmah Forest which fell into disrepair from Government neglect -see Research Paper on the concept of ‘Cultural Tourism’ as part of this Research Project, 2009.
Issues with Joint Management

There are a number of issues with JM that have been documented from existing models that are operating in Australia. As outlined above, under JM Aboriginal people are required to enter a lease agreement and a management scheme rather than being able to decide what structure they want and what they want to do with the land (Lipman and Don, 1993). Some critics have therefore seen JM as continuing the relationship of domination and subordination rather than allowing Traditional Owners to utilize this process to achieve greater autonomy and self determination (Lipman and Don, 1993). Learning from the JM models operating in Gurig and Nitmiluk (Katherine Gorge) National Parks, (Northern Territory), one can see that there is a majority of Indigenous people on the BOM but the day-to-day management is ultimately controlled by a Government Commission (Smyth, 2001). Likewise, the Uluru and Kakadu models are dependant on the park management plans being approved by both houses of Federal Parliament (Smyth, 2001). The Aboriginal communities who own these parks however have expressed ‘strong satisfaction’ with their operation (De Lacy and Lawson, 1997) and a majority on the BOM in Kakadu and Uluru has meant that major changes have occurred in their land management and site protection policies (De Lacy and Lawson, 1997). It is therefore important to ensure that the CM, or eventual JM agreements, does provide Traditional Owners with real rather than symbolic, decision-making power (Birckhead and Smith, 1992: 4).

Indigenous Employment in NPs

This leads to the issue of Indigenous employment in National Parks and JM agreements and the evidence indicates that in most Aboriginal owned National Parks, Aboriginal employees are generally employed at the lower employment levels and the senior positions, are mostly dominated by non-Indigenous personnel (Smyth, 2001). Attempts are being made to improve the situation and provide greater equity for Indigenous employment with training and capacity building programs, but generally most economic benefits are currently going to non-Indigenous staff and
business enterprises. There are exceptions with the Gagadju Association, which consists of the Traditional Owners, owning and managing the largest resort in Kakadu National Park and one of the most successful tour companies (De Lacy and Lawson, 1997). The reality is however, that Joint Management has not and will not alter the chronic levels of poverty and the socio-economic gap between Indigenous and non-Indigenous people in the foreseeable future (Smyth, 2001: 86). This reality obviously needs to be taken into account in negotiation agreeable and fair and just outcomes. Indeed it is important to ensure training and educational opportunities are adequate for Indigenous people so that they can be employed in positions ranging in seniority and that opportunities exist for career advancement.

Among other things it is very important to protect the intellectual property of Traditional Owners, to train non-Indigenous rangers and tourist operators about Indigenous protocols and cultural sensitivity, and to ensure that cultural material provided for tourists is first accepted and given informed consent by the local communities. Cultural materials need to be made inclusive of the substantive Indigenous knowledge that exists within Indigenous communities (De Lacy and Lawson, 1997). This will be returned to after examining the need to broaden the concept of NPs to the Millewa Forest in New South Wales.

The Adjoining Millewa Forest

The Barmah-Millewa Forest is the same forest and ecosystem but it is separated by a State border and like many other cross border issues is divided between two state jurisdictions with whom the Yorta Yorta have had to deal, since the Murray became a political boundary in 1851 (W. Atkinson, 2008: 285-287). On the Victorian side it is called Barmah whilst on the NSW side it is called Millewa but originally it was all called Moira in Yorta Yorta language-meaning a forest-wetlands of many reeds and plenty of fish (check ref here from Yorta Yorta language book). Whilst the Victorian Government has announced JM arrangements on the Victorian side, there has been no such announcement by NSW. As indicated, JM and National Park status bring many benefits to Indigenous people, but they also bring significant benefits to the environment, the Government and the wider community, and there
has always been a strong voice for the Barmah-Millewa forest to be treated as one holistic National Park system. It is interesting to note that as we speak the NSW Government is considering proposals for equivalent National Parks and JM structures on the NSW side which can only be beneficial for the preservation of these icon sites for the future. Currently the NSW Government has ordered and independent review be conducted into the management of red gum forest on the NSW side which includes the adjoining Millewa Forest (Pastoral Times, 28 July, 2009).

The Barmah-Millewa Forest is one of Australia’s ecological jewels, and is the world’s largest river red gum forest of its kind (Lawrence and Colloff, 2008: 22). It covers over 65,000 hectares of land and contains many endangered and vulnerable plant and animal species (FOE Melbourne, 2002). It is also an important breeding ground for thousands of birds and fish and has attained recognition as a wetland of international importance under the UNESCO Ramsar Convention, 1974. It is a resting and breeding place for the migratory birds that make their annual and magnificent journeys between China and Japan and are protected under the CHAMBA and JAAMBA migratory bird’s agreements (FOE Melbourne, 2002). The impact of logging and other hard use activities however has impacted heavily on the natural and cultural values and has altered the forest structure. The drain on the river for intensive irrigation agriculture couple with the ongoing drought has changed the regularity of flooding which in turn has altered the natural cycle of regeneration (Lawrence and Colloff, 2008). The current and enduring factors of climate change and drought have severely impacted on the River Red Gums ability to survive, with estimates that up to 75 per cent of trees on some parts of the lower Murray are either dead or dying (Premier of Victoria, 2008). These are matters that are addressed in the VEAC study (2005-2008) for the Victorian side of the river and because of the holistic nature of these forest-wetlands the question of water security is the underpinning issue of the report. That is if the river reds don’t get the regular drink that they need to have they are indeed a threatened species and are struggling to survive (VEAC, 2008). One needs to be cautious in painting too much of a negative picture of the future for these majestic river reds but we also need to listen to the land and to take heed of the overwhelming evidence that supports this reality. The
establishment of NPs with proper JM management structures, policies and a vision that is inclusive of the fine track record of Indigenous knowledge are the challenges ahead.

Inclusion of Indigenous Knowledge

The importance of Indigenous traditional ecological knowledge in land management is increasingly being recognised both in Australia and Internationally. With greater awareness of the need for sustainable development (WCED, 1987), the creation of partnerships with Traditional Owners is becoming more common in conservation practices. Places such as the U.K and parts of Africa have begun to view partnerships with local people as fundamental to successful management of protected areas so that their local knowledge and understanding of the land can be incorporated into management plans (Corbett et al, 1998). This has been recognized and is happening in Australia with Indigenous ecological knowledge, including traditional fire management practices and knowledge of species, being incorporated into JM parks, such as Uluru and Kakadu (De Lacy and Lawson, 1997). Indeed, Indigenous people have knowledge accumulated over thousands of years of occupation of this continent that invites nothing less than inclusion into the forward thinking of Australia’s public policy on land, water management.

The YYNAC and the elders understand the country and hold knowledge of what was there before the European invasion. For example, Lee Joachim, and Colin Walker of the YYNAC, describes the disappearance of two fish species that helped form the large grass plains during flooding (Lawrence and Colloff, 2008). These fish were never recorded in western science journals or books (Lawrence and Colloff, 2008). Therefore `an Indigenous understanding of living with the environment needs to be heeded (Lawrence and Colloff, 2008: 24). Indigenous knowledge is already being used to a certain extent to carry out ecological burning to reduce the infestation of the Giant Rush which is threatening the Barmah-Millewa wetlands (Parks Victoria, 2008). This knowledge should be officially recognised by a JM agreement over the Barmah-Millewa Forest. It would enable the YYNAC to effectively utilise their extensive traditional knowledge to help save the river red gums. There are many
other stories like those mentioned that are retained by the Yorta Yorta in their living memory and in the oral testimony that was presented in the YYNTC (see Transcript of Evidence in which oral testimony made up the majority of the 12000 page transcript of evidence, Federal Court Archives, Victoria).

The JM process is therefore essential in that it is not only beneficial to the Indigenous people and the environment but it is also beneficial to the NSW Government and park visitors. The NSW Government has the opportunity to protect the parks biodiversity by working with the YYNAC (Smyth, 2001; Atkinson, 2008) and park visitors have the unique opportunity to engage with the Traditional Owners, to appreciate the cultural and historical significance of the park and to participate in the reconciliation process (Smyth, 2001). JM will help to divert a double edged tragedy of the loss of important ecosystems and cultural knowledge (Craig, 1992).

Conclusion

The announcement of Victoria’s first JM national park under a CM arrangement is not the same as the recognition of, Traditional Ownership of land or ‘real land justice’. Nonetheless, the Indigenous majority on the BOM allows significant Indigenous involvement in the management of the park, utilization and recognizing Indigenous knowledge and the right to continue cultural practices, and the empowerment of Traditional Owners through the benefits that will flow from employment, training and cultural tourism opportunities. There are some issues in current JM models which must be considered in negotiating the terms of the Co-Management agreement but overall the agreement appears to be beneficial providing it does not become an end within itself, but is a means towards achieving greater empowerment and the reinstatement of the Yorta Yorta as the Traditional Owners. In light of the failure of the native title system to deliver ‘one iota of land justice’ to the Yorta Yorta, it seems that the continued struggle has turned a full circle and they are again poised in their quest to find a satisfactory pathway to achieving fair and just outcomes for the future (Cooper, 1939).
Research Materials


Flannery, T. Now or Never: Why we must act now to end Climate Change and Create a Sustainable Future, Grove-Atlantic, Inc, 2009.


Victorian National Parks Association (2008) Red Gum Parks a historic decision for


Yorta Yorta Nations Aboriginal Cooperative http://yynac.madwebskills.com/


Case Law

Mabo (1992) 175 CLR 1

Members of the Yorta Yorta Aboriginal Community v Victoria (2002) 214 CLR 422

Wik Peoples v Queensland (Wik) (1996) 175 CLR 1

Legislation

Native Title Act 1993 (Cth)
Empowering Traditional Owners through Joint Management of National Parks:
What can be learned, from Kakadu & Mutawinji?

Introduction

This research Paper (No 2, 2009), will examine how the concept of Co-Management and Joint Management, CM, JM of National Parks can provide opportunities for empowering Traditional Owners, and will identify some of the difficulties that have been encountered. It will focus on Mutawintji in the Broken Hill region and Kakadu in the Northern Territory as case studies of those National Parks that provide useful models and learned experiences that can be adapted to the Yorta Yorta context.

The research paper compliments other research materials on National Parks, Joint Management and Co-Management structures and is designed to provide ideas and options for negotiations that are now taking place on the establishment of National Parks and management structures in Yorta Yorta land and cultural heritage jurisdiction - see research papers:

- No1-‘National Parks & The Yorta Yorta Struggle for Land Justice: The Barmah-Millewa case’, August, 2009, and;

- No 3-‘The concept of Cultural Tourism and its ability to generate an economic base for the YYNAC’, August, 2009.

The research forms part of the YYNAC Natural Resource Management Participatory Action Research project funded by Friends of the Earth, 2009.

Background History of JM in Australia
It is generally accepted that the formal policy and practice of Joint Management began in Australia in the 1970s with Kakadu being one of the first National Parks handed back to the Traditional Owners who then leased it back to the Northern Territory Government under a JM Agreement. This practice gained momentum and was influenced not only by Indigenous people, but also by an increasing focus on a more inclusive approach to land management and the importance of sustainability and the environment by state and federal governments. The call for Indigenous land justice at the state and Federal level was another key factor -see Definition of ‘sustainability and environment’ in Research Paper No 1, 2009; Craig, 1999; Smyth, 2001) 


There is presently around 15% of Australian land directly owned and/or managed by Indigenous people, the majority of which is in the Northern Territory encompassing Kakadu and Uluru Kata Juta National Parks, with less than 1% of this land being located in Victoria. By comparison the Victorian scenario is a legacy of neglect, and one that now seems to be in catch up mode, with the measures being taken by the Victorian Government - see the announcement of National Parks along the Murray following the VEAC study, 2008, and the Native Title Settlement Framework Agreement, 2009. It is expected that these long awaited, measures, will deliver ‘options for management and transfer of land, access to natural resources, and support for economic and cultural development opportunities’. The potential for ‘real land justice’ and the opportunity to build a ‘solid foundation for future’ Victorian land needs are other aspirations now being articulated by leaders of the land justice package that was accepted by the Victorian Government in June, 2009 (Age, 4 June, 2009; The Koori Mail, 12 August, 2009: 10; Atkinson, 2006; 

http://www.abc.net.au/worldtoday/content/2008/s2589179.htm

Joint Management Agreements

Joint Management, JM agreements vary significantly in Australia depending on the National Park involved and the 'framework agreement' that has been negotiated between the Traditional Owners and the relevant Government. Generally speaking, JM refers to a hand back, lease back agreement between the Federal or State Government and the Traditional Owners as in the cases of Mutwintji and Kakadu National Parks. In some cases however, National Parks are jointly managed by Traditional Owners and the State,
Without the hand-back lease back agreement which is often described as Co-Management, as in the case of Mungo National Park in NSW and that which is being proposed for Victoria-see Governments Response to Victorian Environment Assessment Councils, VEAC Final Recommendations, 2008.


What JM Agreements aim to achieve

JM Agreements aim to utilize local based knowledge and expertise by allowing Indigenous and non-Indigenous participants to be involved in decision-making at every level. While JM is a vastly different regime to the way the land has been managed under Sole Management and customary law principles, it has been adopted in Australia as a mechanism that is more inclusive of Indigenous interests to those management policies and practices of the recent past. The enthusiasm for this approach has been significant but there is always the risk that they will conflict with the imported western and more institutionalised government structures that are far more hierarchical and bureaucratic in nature. The reality is however, that a compromise usually takes place between the two cultures, often promoted by economic pressures such as tourism and resource development and by policies aimed at attempting to reconcile Indigenous and non-Indigenous interests in land ownership and management. While these agreements are driven by pragmatic considerations there is the problem of Indigenous people being subject to the dominant culture and having to comply with restrictions that may be difficult for them (Smyth, 2001; Craig, 1999).


Keeping this background in mind we can now look at how these cultural and political dynamics play themselves out with the two case studies of Mutawinji and Kakadu National Parks. These two case studies have been chosen because of their comparative natural and cultural values, and for the advanced management structures that they have achieved over time. They are a combination of forest-wetlands, and are regions that contain significant natural/cultural values of great antiquity. Without imposing binary judgments on their
comparative values and/or decisions on which is the best, it is important that they be treated as landscapes and cultural systems that have evolved in their own (sui generis=unique and of its own kind) unique settings. In this context it can be said that the Barmah-Millewa is equally important in what it has to offer to Australia and the world that invites nothing less than equal treatment in the way that these forest-wetlands are managed and protected. The paper leaves open the contribution that other National Parks and JM models may offer to the Yorta Yorta context like Booderee National Park (ACT) and those recently established in New South Wales—see Biamanga & Gulaga National Parks (NSW), http://www.environment.gov.au/parks/booderee/


Mutawintji National Park

In September 1998 Mutawintji was declared one of the first National Parks in NSW to be returned to Aboriginal ownership under a hand back lease back agreement. The declaration of JM in itself was significantly empowering given the history behind this particular struggle. Achieving JM was the result of a sustained political struggle for land justice in NSW. Peter Thompson describes the strategies chosen by the Wimpatja people to achieve their outcomes. This involved camping out and away from town halls and formal meetings in their own space which allowed them to make their own decisions. This enabled them to collectively clarify their aspirations including ‘getting large areas of land returned by purchasing grazing properties; protecting cultural places; and gaining access to land for hunting, fishing, gathering and for visiting sites. Thompson describes this process as both liberating and decolonising, the aspirations of which have been largely met, but he recognises that the reality of these achievements need to be seen as an ongoing process (Mutawintji LALC Lease to the Minister for the Environment. Released by Steve Millington, Regional Manager, NSWPWS. Far Western Region. June 2009; pers.com, Peter & Waripa Thompson, Yorta Yorta & Wadi Wadi Workshop: Victorian Co-Management Negotiations Workshop, Swan Hill, 30-31, 2009).

One memorable event that is etched into the memory of the positive Mutawindji outcome was the blockade of the Mutawintji Historical Site in September 1983, which was part of the process of political action that was needed to achieve the desired outcomes (Mutawintji Local Aboriginal Land Council, 2008).
This incident highlighted how committed the Wimpatja Traditional Owners were and it gave them a chance to interact with visitors trying to access the site, who through this experience became more sympathetic to the land justice struggle. The Wimpatja Traditional Owners were concerned that their land was being seen as a place for tourism without respect for Traditional Owners or culturally significant art sites and sacred water holes that were highly significant to the broader Indigenous population of western NSW. A shift from managing culturally sensitive sites to managing the land in total was required to achieve successful JM outcomes. The advent of Mutawintji National Park added significant strength to the Land Rights Movement in NSW which in turn made a major contribution to the establishment of similar Indigenous land management regimes in the State. Indeed, since the success of Mutawintji there have been at least six more jointly managed National Parks and eleven more agreements negotiated by the NSW Government and Indigenous groups (pers.com, Peter & Waripa Thompson, Yorta Yorta & Wadi Wadi Workshop: Victorian Co-Management Negotiations Workshop, Swan Hill, 30-31, 2009; DECC Ministers Speech. 10 year celebration at Mutawintji. 25th August 2008).

There are some major points of difference between Mutawintji and Co Management models that consist of different Traditional Owner groups like Lake Mungo which is still working through the issue of full hand back. On the other hand Mutawintji like the Yorta Yorta is represented by one overarching group, the Wimpatja, who are involved in the JM program. This has enabled them to present a stronger and more coherent voice at the negotiation table and to operate without the potential conflict of intergroup representation. That’s not to say that the combined group model is not capable of developing a more cohesive approach in the long run, but it is a model that other groups need to consider in attempting to achieve agreeable outcomes.

On a more practical level Peter Thompson draws attention to the power dynamics of the overarching bureaucracy within the structure of the JM Board at Mutawintji, and how this is still problematic because it encourages 'mistrust', ‘stubbornness' and a tendency to closed mindedness, even with a majority of Wimpatja elders. He discusses how the structure has led to a tendency to focus Aboriginal people’s attention onto certain narrow points 'rather than on country'. The risk that people are being trained to focus on a few points or a few corridors and not to think more holistically about the
cultural values being threatened’ (pers.com, Peter & Waripa Thompson, Yorta Yorta & Wadi Wadi Workshop: Victorian Co-Management Negotiations Workshop, Swan Hill, 30-31, 2009).

Other points of contention have been the payment of rent and the slow implementation of Board decisions by the NSW government departments but apparently these are being addressed now, and the government has apologised and taken responsibility (Mutawintji LALC Lease to the Minister for the Environment).

One very positive outcome from the Wimpatja people is the 'incredible gain for conservation' as a result of the implementation of traditional land management practices since the inception of JM. During the effect of the recent drought dead vegetation has prevented erosion of National Park lands in stark contrast to neighboring pastures. Having examined some of the key dynamics of the Mutawintji model we can now look at the Kakadu scenario and then outline some final points of consideration for successful and effective JM structures that can offer ideas for Yorta Yorta consideration.

Kakadu National Park: Joint Management Agreement

Kakadu National Park, KNP was declared under the Environment Protection and Biodiversity Conservation Act (1982), and is managed under a JM agreement between the Aboriginal Traditional Owners and the Director of National Parks. As Kakadu is a Commonwealth National Park, the Director manages the park through Parks Australia, which is a branch of the Department of the Environment and Heritage.

Around fifty per cent of the land in Kakadu National Park is Aboriginal land under the Aboriginal Land Rights (Northern Territory) Act 1976, and the majority of the remaining area is currently under claim by Aboriginal people. Title to land in the park is held by Aboriginal land trusts, who have leased their land back to the Director of National Parks for the purpose of a national park for the enjoyment and benefit of all Australians.

The Traditional Owners of Kakadu agreed to a JM with the expectation that they would have greater say and control over the lands and the recognition of their needs
and aspirations. Parks Australia and the Traditional Owners of Kakadu are committed to the principle of JM of the park and the Kakadu National Park Plan of Management. Kakadu is now into its fifth management plan each of which runs for five years.

JM in Kakadu is an amalgamation of different layers of management structures. It operates under a legal framework established by the *Environment Protection and Biodiversity Conservation Act 1999*, in conjunction with the lease agreements with the Traditional Owners, and in accordance with the ongoing relationship between Parks Australia administration and staff and the Traditional owners.

The actual process of JM in the park is continuously under review and changes are implemented in accordance with the input of Traditional Owners, and in consultation with other Aboriginal People and Parks Australia. The overall aim is to ensure that the JM process learns from its operational experiences so that more effective and efficient measures can be adapted to its ongoing management plan. Indeed JM models like Kakadu highlight the need for JM models to be treated as evolving process, that offer important lessons for other JM arrangements in ensuring the ongoing flexibility and adaptability of agreeable outcomes for JM and Co-Management structures.

The Kakadu arrangement is one of the leading JM models in Australia that has much experience behind it and one that can be adapted to the Barmah-Millewa case study -see Research Paper No1 as part of this Research Project, 2009. By comparison, Kadadu is similar in that it is largely forest-wetlands that contain a wide variety of natural and cultural features on national and international significance. Looking at the extremities of their locations within the Australian context, they do compliment each other in terms of their potential for similar JM structures and in their goals of generating an economic base for Traditional Owners, providing better management practices, cultural awareness programs, and in attracting visitors from Australia and overseas to enjoy the variety of natural and cultural values that they offer.

The other key factor that underpins successful NP models and is important for their success is the human relations dynamics. It can be said that JM works more efficiently when the key partners have developed trustworthy relationships towards each other. Most
Importantly JM is about deciding things, solving problems and sharing responsibility for decisions. It is about the joint management partners feeling comfortable in the relationship and in the goals that they have set to achieve.

Kakadu is a model that highlights the pragmatic issues that may emerge in joint management that need to be dealt with. These include:

- The strength and effectiveness of the Board of Management;
- Employment and training of Aboriginal staff;
- Growth of park management bureaucracy;
- Who owns, manages and uses research done in the park;
- Management of feral animals and weeds; and
- Tourism and its impact on the preservation of natural/cultural values.

These are some of the key issues that the Yorta Yorta is now dealing with in their negotiations for a JM for the Barmah-Millewa forest-wetlands. The current Kakadu National Park Plan of Management attempts to tackle these issues and to identify a way of ensuring park management decisions are better shared by the joint management partners. Kakadu and Mutawintji are worthwhile studies that help to illuminate some of the issues arising in the Yorta Yorta context.


**Summary**

It is evident from this brief case study of those NP models chosen, that the positive outcomes for Traditional Owners are many. Formal power sharing under Co or Joint Management structures between government agencies and Traditional Owners goes some way towards empowering Indigenous people, but it needs to be re-emphasized that these models are not set in concrete and are ongoing and evolving processes. Indeed it is imperative that the process evolves over time and remains dynamic allowing Traditional Owners to gain confidence and pride in their achievements. They need to be able to make decisions with confidence knowing these will be implemented and sustainable for the future—see Research Paper No 1, 2009 for definition of sustainability.
NPs provide many opportunities to enrich the lives of Indigenous people and in turn the lives of all Australians and other visitors. Places where competing values can be negotiated, environment sustainability can be encouraged and the broader education of all people can be served are other advantages. Empowerment of Indigenous Australians through the return of land is imperative and must be encouraged if the Government is to make any significant inroads into changing the shocking imbalance of opportunity that continues to exist in this country. Joint Management and Co-Management of National Parks is one avenue to achieve this but it must not be seen in isolation, but be seen as an integral part of restoring pride and opportunity to Traditional Owners like the Yorta Yorta Nation – see other research papers on the National Parks and Management models being proposed for the Yorta Yorta Nation and on the contribution that Cultural Tourism can bring to National Parks and the benefits that can flow to Traditional Owners.

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Introduction

Tourism in Victoria and Australia has become an economic growth area, making a major contribution to the declining rural economy in many regional areas. Coupled with the experience of the drought and its impact on the rural economy over the last decade, with no sign of abating, tourism has certainly become the mainstay of the regional economy which is expected to contribute some $18 billion to the Victorian economy by 2011. There is no doubt that tourism brings the dollars into the local economy which in turn generates employment opportunities, and other positive spin offs like education and greater appreciation and awareness of local history and heritage.


It is estimated that around 5 million people visit the Victorian Murray region to enjoy tourism
activities annually who spend some $868 million dollars in the region and studies of existing Victorian National Parks such as the Grampians, Wilson's Promontory and Port Campbell highlight the economic benefits national parks bring to local economies and the state as a whole (Tourism and Transport Forum, 2004). These three parks alone have created thousands of jobs and contributed a total of $487 million to Victoria's economy.


Against this backdrop and for the purpose of this paper we can now explore the position that the Yorta Yorta community holds in the burgeoning tourism economy and the extent to which the antiquity (30-6000 years BP) of their heritage is recognised and is given due equality within the tourism industry. (W. Atkinson, 2006) http://dag.smse.com.au/Atkinson.pdf

Looking at the broader tourism picture it is fair to say that Aboriginal Tourism has been treated as an under valued asset in Victoria. The research tells us that many international visitors and domestic travelers are seeking an Indigenous experience. What many have not realized however is that this experience is readily available in Victoria and in Yorta Yorta County in the Murray-Goulburn region (Tourism Victoria Business Plan 2008-2000).


Tourism Budget, 2008-09

As indicated tourism is a huge growth industry in Victoria that employs 159,000 people and is worth $10.9 billion to the States economy. It is expected that this growth will increase with projections being forecast that it will reach $18 billion by 2016. Tourism Victoria has identified that Indigenous tourism or cultural tourism as one of Victoria’s product strengths and one of its key objects for 2008 included implementing the Nature-based Tourism Strategy 2007-2011 (Tourism Victoria Business Plan, 2008). This strategy is to be implemented in conjunction with Parks Victoria to promote ecotourism, adventure tourism, and Indigenous tourism. Tourism based on the more recent colonial heritage is one of regional Victoria’s key assets, and the State government recognizes this. The government has spent $502 million on attracting investment to ‘provincial’ Victoria; promoting job creation; and sponsoring community development in the form of community centres, events and infrastructure. It is clear that the government supports a narrow vision of rapid, large scale development in regional Victoria, rather than an inclusive policy that allows Indigenous voices to be heard. Regrettably no funds from the above mentioned $502 million were earmarked for Indigenous projects, despite the significant Indigenous population in the Murray–Goulburn region which is estimated to be around 10-12% of the population – see Profile of Regional Population:


The 2008 Victorian budget committed $6.3 million dollars to this initiative however there appears to be little evidence that this money is likely to benefit the Yorta Yorta and their vision for Joint
Management of the National Parks that have been recently created along the Murray—see VEAC, Report, 2008. The Yorta Yorta Nations Aboriginal Corporation, YYNAC is a Registered Aboriginal Party, RAP under the Victorian Aboriginal Cultural Heritage, Act, 2006 which gives it overarching and statutory responsibility for the management and control of the heritage that falls within its jurisdiction—see Yorta Yorta Traditional Lands and Victorian Cultural Heritage Boundaries. [http://yynac.com.au/maps.php](http://yynac.com.au/maps.php);


Like other Indigenous groups in Australia the cultural heritage of the Yorta Yorta is of enormous antiquity. The key question however is, how this antiquity and the diversity of cultural assets that have evolved over the millennia, reflect themselves in tourism policy, administration and the allocation of resources?

Yorta Yorta Cultural Assets

The National Parks located in traditional Yorta Yorta lands, contain forest-wetlands of international significance and provide a habitat and breeding ground for a variety of wildlife. Barmah-Millewa also constitutes the heartland of the Yorta Yorta people’s traditional territory. [http://yynac.com.au/maps.php](http://yynac.com.au/maps.php) They have practiced continued occupation and use of these lands for thousands of years and are now seeking to have Barmah-Millewa and other crown lands within their jurisdiction, managed as National Parks under Joint Management arrangements similar to those successfully operating in Australia, for which the tourism economy is a vital resource—see Research Paper No 1, 2009; Official Launch of Occupancy and Mapping Project by YYNAC at RSL, Club, Moama, 29 August, 2009.

These forest-wetlands contain sites of profound cultural significance, including numerous middens, burials; fish trap systems, ceremonial grounds and scarred trees. They also retain knowledge and story lines of significant geological events like the ‘Cadell Fault’ that created the legendry ‘Great Flood’ some 30 000 years BP (W. Atkinson, 2008, [http://dag.smsc.com.au/Atkinson.pdf](http://dag.smsc.com.au/Atkinson.pdf). Not only does the Yorta Yorta have a long and fascinating history of pre-colonial occupation, they have a proud and rich history of their connections with Maloga (1874-1888) and Cummeragunja (1889-2009), to where their ancestors were relocated before the turn of the 19th Century. The history of Yorta Yorta occupation and their contribution to the social, economic and political fabric of surrounding townships in their region is equally compelling. The Yorta Yorta nation is fortunate to have elders that are versed in traditional ways of life and yet are willing to look to new forms and structures for continuing the old ways. In addition, the Yorta Yorta has many experienced and dedicated leaders with an intimate understanding of law, politics, academia, the media, business and the arts. They are also prolific in sport, producing some of Australia’s outstanding sportspeople, not to mention their great footballers who have contributed significantly to local and AFL football teams—see Rumbalara Football and Netball Club History: [http://www.rumba.org.au/history.html](http://www.rumba.org.au/history.html)
These numerous and impressive, story lines and natural-cultural assets form an outstanding basis upon which the concept of cultural tourism can be easily built. In particular, the Yorta Yorta are well placed to open tourists minds to the reality of Indigenous lives in regional Australia, and to the worldly history of their struggle to maintain their unique identity and rightful place within Australia’s story.

Inclusion of Yorta Yorta Story

Given the way in which heritage tourism capitalizes on the past, it becomes clearer why the concept of cultural tourism may not be so popular with government decision makers. Indigenous history, particularly the post colonial era, is certainly not one of confident strides towards a successful and prosperous nation. Indigenous history is in fact intimately linked with the dark underbelly of colonial history – violence, dispossession, exclusion and oppression. The story Indigenous people have to tell about the recent past is not a positive, nation-affirming one. Instead, it is one that forces us to question the nature and legitimacy of our settler society. It exposes a past that many would prefer kept in the closet. It seems that Government has little interest in supporting an endeavor that questions Australia’s past that challenges the historic narrative and indeed reveals its underpinnings to international visitors. It is one that requires a major paradigm shift in the thinking of public policy makers and in the way that the tourist economy is being implemented (Thewlis, 2008).

Dharnya Cultural Centre and Cultural Tourism

The YYNAC have endeavored to promote their local knowledge and cultural history through the magnificent jewel in the crown Dharnya Centre (Barmah Forest) which is a live in learning centre that provides opportunities for students and visitors to learn about Yorta Yorta cultural history from the Indigenous viewpoint. The Dharnya Centre however was recently closed (2006) because of structural damage caused by white ant infestation and a lack of duty of care on the part of Parks Victoria, the Government agency responsible for its management and upkeep. Measures are now being taken to correct the degree of neglect that has been allowed to happen and efforts are being made to get Dharnya back up and running. Whether it will be restored to its former glory and be allowed to develop to its full potential as a vibrant live in learning centre of national and international significance is being watched closely – see articles on Dharnya. [http://dag.smsc.com.au/](http://dag.smsc.com.au/)

Dharnya, as a live-in learning centre, has great potential to address a key aspect of the ideal Indigenous tourism experience – meaningful learning and sharing of knowledge – that is often not provided to interested tourists. As such, it represents a potential economic benefit to the local people, the Yorta Yorta, as well as the opportunity to have their history, identity, science and politics heard.
Dharnya and the tourism industry is an integral part of discussions now taking place on the establishment of National Parks and Joint Management options with the Yorta Yorta. The role that Dharnya and other educational facilities like the Yenbeena Education Centre, and the Yiellema property (Cultural and economic infrastructure of YYNAC), can play in promoting local culture, history, and Yorta Yorta connections with the ancestral lands are some of the key issues being discussed. The opportunity to tap into the tourist economy and to generate a substantive economic base for local groups and to close the gap between the way that the tourist budget is distributed between the colonial and Indigenous heritage are other challenges that are now being confronted.

Need for More Inclusive Approach

The need for a more inclusive and balanced approach to tourism is supported by Jason Eades, Chairperson of Aboriginal Tourism Victoria, who argues that Aboriginal tourism is a vastly undervalued aspect of Victoria’s tourism industry (Victoria’s Aboriginal Tourism Development Plan, 2006-2009. In 2004 there were over 230,000 Aboriginal tourism visitors to Victoria, accounting for 18% of the total of International visitors to the State that year. Despite identifying this niche market however, the majority of government funds for regional tourism development continue to be directed towards promoting the Colonial heritage. In the Murray Regional Tourism Development Plan 2004-2007 Update once again Aboriginal Tourism ventures were identified as an area of growth and potential development. When listing key infrastructure developments required or underway in the region, however there was a conspicuous absence of any mention of Aboriginal infrastructure like the Dharnya Centre or of groups like the Yorta Yorta. Instead the key actions identified included; the Murray Outback Riverfront Precinct in Mildura, Mildura based paddle steamer experience and the Port of Echuca working heritage river port which all contain elements of European Setter history and culture (Murray Regional Tourist Development Plan, 2007).


Empowerment of Colonial Heritage: Echuca case

In particular the Port of Echuca has attracted huge amounts of funding and support from government bodies. The 2004/5 Campaspe Council Budget allocated $250,000 towards the Port of Echuca project and the following year contributed a further $258,000 (Media Release, on Port of Echuca, 2005). Then in 2005 with the help of Tourism Victoria, the Shire of Campaspe produced an Investment Strategy Report estimating the Port Echuca project to cost around $21million. They are currently seeking around half of this funding to come from State Government. The Port also received a $7600 Community Heritage Grant in 2006. Most recently it also attracted a $150,000 funding grant from The Minister for Transport, Mr Peter Batchelor to reconnect the ‘historic’ railway link between the
Echuca Station and the Port. Already the Port of Echuca has gained at least $665,600 of government funding and if the investment strategy which was produced with the help of the Victorian Government is successful they could expect to see up to another $10.5 million heading their way.

This level of funding highlights the Victorian Government’s commitment to the more recent overlay of the colonial heritage and its focused tourism development. Such a commitment is fine but when it comes at the disregard, for the Aboriginal cultural history of Victoria it is a different story. Through their recent research and publications regarding the state of tourism in Victoria it is clear that the government is aware that Aboriginal tourism is underrepresented. The government has also repeatedly claimed that the development of Aboriginal tourism is a priority, but until it begins providing financial support for Aboriginal tourist ventures these claims will remain fine gestures with no follow up action. In its most recent budget the Victorian Government has dedicated $13million over four years to support tourism and local events in regional areas (Victorian Budget, 2008-9). Once again there has been no indication that the Yorta Yorta can expect any of these funds to be allocated for the development of cultural tourism in the region. Since writing this section I have been able to scan the current tourism publications that promote local tourism in Echuca only to find that once again Indigenous interests are excluded—see Victoria’s 2009-2010: Cultural Guide, Cultural Tourism Industry Group: Official Visitors Guide, 2009, www.visitvictoria.com/culture; Echuca-Moama-Murray Magic www.visit.victoria.com; Whats On: Echuca-Moama Winter, 2009.

Local Government Recognition of Indigenous Interests?

If the Federal and State Government outwardly appear to be sympathetic to the cultural and economic needs of Indigenous Australians, unfortunately the internal mechanisms to deliver on policies aimed at addressing these needs is lacking. If we follow this analogy a little further, the organizations that should provide the most support are the local governments of Campaspe, Moira, Shepparton, Murray, who cover most of Yorta Yorta country. In 2004 the Shire of Campaspe produced a document titled Organising for Prosperity: Campaspe Economic Development and Tourism Review. It is an 82 page guide about “delivering better economic development, tourism and marketing functions in Campaspe Shire” and it states that “roles, relationships, communications and resourcing are critical to success in economic development and tourism…” [their emphasis]. This publication is available on the council’s website http://www.echucamoama.com/, and one can assume that it was produced to be relevant and inclusive of all people within the shire and particularly that of Indigenous interest which represent around 10-12% of the constituency and one of the oldest living cultures on earth—see population stats. http://www.vaeai.org.au/education/Pdfs/region%203.pdf Despite this there is not one mention of Aboriginal tourism. There are 82 pages outlining the future for tourism within Campaspe and the words Aboriginal or Indigenous do not appear—they are written out of the equation. On the council website there is also a link to information about tourism within the region, once again there is a complete absence of any mention of Aboriginal people or tourism. The same scenario applies for the Moira Council in the eastern region of Yorta Yorta country and the adjoining Murray Shire Council,
in New South Wales who have been equally negligent in their recognition and inclusion of Indigenous interests in their tourism policies more eager to promote colonial activities, rather than support good quality tourist ventures that promote local Indigenous history and culture (Echuca Moama Tourism and Murray Shire Council map which overlaps traditional Yorta Yorta lands.


Please Note that on completion of this research paper, reports have been made that the Moira Shire Council voted against acknowledging a significant cultural protocol accepted by a majority of other local governments in Victoria. Their refusal to recognize the traditional Indigenous owners of country, adds further weight to the arguments of inequality and exclusion presented in this paper – see Moira Shire Councils decision in Shepparton News and the Riverine Herald for week of 21-30 September, 2009.

The case study of Cultural Tourism and the Yorta Yorta, highlight in rather glaring terms the way in which Indigenous and colonial tourism is treated by government bodies. Indeed it can be said that while the long awaited apology to Indigenous Australians for past injustices by the Australian Government in February, 2008 promised to deliver “A future where all Australians, whatever their origins, are truly equal partners, with equal opportunities and with an equal stake in shaping the next chapter in the history of this great country” there is still a long way to go before Indigenous Australians enjoy the same degree of equality in the way that resources are allocated to the colonial and Indigenous heritage. It is also important to note that since the delivery of the apology, the current ‘Indigenous Disadvantage Report’ of Reconciliation Australia, 2009 found that across virtually all indicators there are still wide gaps between Indigenous and other Australians’ (Formal Apology made by Prime Minister Kevin Rudd, 13 February, 2008; Age, 9, October, 2009).


The right to practice and to enjoy culture on an equal footing to that enjoyed by other cultures is a fundamental human right enshrined, in the following instruments:

- Universal Human Rights Declarations that have been adopted by the Australian government – see articles 3, 4, 11, 26 of UN Declaration of Rights of Indigenous Peoples, UNDRIP which entrench rights to land, resources, culture and to self determination.

- The Victorian Charter of Human Rights and Responsibilities Act 2006 (Vic), VCHRR and its commitment to ‘Reconciliation’.
Section 19 of the VCHR, 2006, states that Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community to: ‘maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs’ (W. Atkinson, 2008).

Summary

This paper argues that the current approach by the Victorian Government towards the Yorta Yorta Nations and their fundamental right to practice, teach and to promote their culture, on the same level as that of the more recent colonial heritage constitutes the practice of inequality and exclusion. Treating Indigenous cultural heritage in the story of Australia’s human history as a lesser interest to that of the more recent colonial heritage, in the way that resources are allocated, through its tourism budget is an example of the practice of inequality in resource distribution.

The paper acknowledges that to date, Indigenous tourism has had to take a back seat in the resourcing and promotion of Victoria’s human history. This process has had the effect of stultifying Indigenous voices and histories which in turn has deprived Indigenous peoples of being at least equal partners in the tourism sector. It argues that the current process reflects the fact that Indigenous-controlled tourism enterprises have largely been locked out of government and/or professional support. By reversing this trend however and in the hands of the Yorta Yorta, who are capable and experienced in dealing with legal structures and business methods, the concept of cultural tourism has the chance to become a meaningful vehicle for closing the tourism gap that has been exposed.
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www.echucamoama.com
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Introduction:

The Victorian Governments response to the River Red Gum Forests recommendations (VEAC) (July 2008), for ‘National Parks and Joint management agreements’, along the Murray is a welcome attempt to incorporate thousands of years of Indigenous ownership, and care for country into the future management plan. It offers a pathway to fair and just outcomes through the negotiation of acceptable agreements between the Yorta Yorta and the State. The terms and conditions of such agreements however are unclear and the ‘Indigenous land justice reforms negotiated between traditional owners and the State are yet to be fully implemented (Age, 6 January, 2009). To properly evaluate these developments and to analyse what can be delivered to the Yorta Yorta Nations Aboriginal Corporation, YYNAC, it is first necessary to examine, the concept of National Parks and Joint Management, and then discuss how the Victorian Governments Response can work in practice for the Yorta Yorta as the traditional owners.

1. Holistic View:

The framework of this paper is guided by the Yorta Yorta world view and their vision for future land management outcomes. It is grounded in the Indigenous view of seeing all of the land and its encompassing features as one holistic entity. When we speak of Forests in the Yorta Yorta context it is equally important to talk of the forest-wetlands that are the life source of Yorta Yorta, cultural identity and existence. Indeed it is true to say that the Yorta Yorta are ‘river people’ and the river is the embodiment of the Great Spirit ancestor Biami who is believed to have created Dhungulla (Murray River) and endowed it with all of its natural/cultural splendor. The holistic relationship between land water and cultural heritage which manifests itself in the evidence of prior Indigenous occupation is the guiding vision that is being used to negotiate future land management agreements.
2. Joint Management Agreements:

Despite a significant variation between different agreements, ‘Joint Management Agreements’ will be taken to refer to, arrangements where the management of a national park is shared between government representatives and traditional owners, under a hand back leaseback arrangement that empowers traditional owners to have ownership and control over their land and a majority say on the management structures. The annual payment of rent for the lease of the land and the allocation of Government resources for the administration and management of National Parks are other essential components of successful Joint Management structures. One also needs to acknowledge that in planning future Joint Management arrangements, policy makers need to be aware that although Kakadu, and other National Parks offer acceptable management models they are evolving processes that can be improved upon (Lawrence, 1996-97: 97).

In the search for appropriate models to adapt to the geographical location of the Yorta Yorta, one needs to keep in mind that there is no generic model or blueprint for successful Joint Management. Each agreement needs to be negotiated within the context of the needs and aspirations of each local community. This is very much the case of the Yorta Yorta and the search for an appropriate model that can be adapted to local aspirations. Indeed the search is one that is driven by the desire to ensure that whatever is adapted to local needs and aspirations, it will be the best for present and future generations, while allowing for the nature of Joint Management agreements to improve over time.

3. Land Justice and Native Title:

The fundamental principle of land justice is not to be confused with Native Title which the Aboriginal Social Justice Commissioner describes as ‘sitting at ‘the bottom of the hierarchy of property rights’ (Age, January, 2-3, 2009). Native Title refers to certain restricted rights that can be granted to the traditional owners of land under the Native Title process, whereas ‘land justice’ is a much broader concept in which
the traditional owners exercise control over their land through a grant of inalienable freehold title. While this may be at the top of the hierarchy of Australian property law, to that of the full and exclusive title enjoyed by Indigenous Australians under customary law, it is still subject to the crown's ultimate title and control over resources in the National interest. It is however considered to be the best title that Indigenous people can acquire within the Australian politico-legal context.

4. Benefits of Joint Management:

The joint management of national parks is arguably a clever method of balancing the land interests of the Yorta Yorta Nations and the State. Joint management arrangements involve making adjustments to National Parks legislation to accommodate Indigenous ownership, management and cultural practices, including ceremonies and hunting. This in turn provides empowerment to Traditional Owners and a source of income, as the State leases the land back for a National Park. Joint Management is also advantageous for the care of the National Park, as it allows for formalized input from the traditional owners. The benefits of having the input of the traditional owner’s knowledge and skills are essential for the management of National parks. Other benefits of joint management include the provision of jobs for members of the local community in all levels of park management and education and in the technical and on the ground support.

There also needs to be opportunities for traditional owners to teach park visitors about their rich culture and history. Not only will this provide a sustainable income through tourism for the region, it will also promote better cross cultural understanding. The reconstruction of the Dharnya Centre and the utilisation of other education facilities like the Yorta Yorta Training Centre in Barmah for cultural education, live in learning, and training, are benefits that will flow to all users of the National Park.

5. Tourism Industry and Indigenous Heritage

Studies into the way that the tourism industry allocates its resources to the colonial
and Indigenous heritage however has revealed major shortcomings. Tourism is a huge growth industry in Victoria that employs 159,000 people and is predicted to be worth $18 billion by 2016. It is also an important economic base for the Murray Goulburn region where up to 5 million people visit on a regular basis. It is estimated that overnight and day trip visitors to the region spent $868 million dollars in the region in 2005, the second highest regional total recorded in Victoria. Studies of existing Victorian national parks such as the Grampians, Wilson’s Promontory and Port Campbell highlight the economic benefits national parks bring to local economies and the state as a whole. These three parks alone have created thousands of jobs and contributed a total of $487 million to Victoria’s economy (Victorian National Parks, 2007).


While the tourist economy is empowering the colonial heritage, Yorta Yorta history and cultural antiquity in the region has had to take a back seat. A more equitable share of the bourgeoning tourist economy will not only help to generate an economic base for traditional owners but it will also help to close the existing socio-economic gap. A more equitable distribution of the tourist dollar will compliment the funds required for successful National Park and Joint Management operations (W. Atkinson, 2009).

6. Formal Recognition of Yorta Yorta Nations

The advantages of a joint management arrangement for the YYNAC are numerous, because they can reassume a role that their ancestors successfully played in caring for country under ‘Sole Management’ which is the predecessor to the more recent concept of Joint Management. It also enables the Yorta Yorta to practice their culture, and to have a say in the best way to improve the health of the forest-wetlands and to provide opportunities for younger generations to strengthen their identity and connections. As joint management provides for traditional owners with formal recognition of their rights to the land, this is definitely a step in the right direction for the Yorta Yorta. The failure of the Native Title to deliver land justice under the ‘flawed native title system’ is a key factor in the Yorta Yorta choosing to pursue their due entitlements through the political process and the VEAC, River Red Gum
**Forests Investigation 2005-2009 (Age, 7 Jan, 09).**

This valiant struggle has been a central part of the campaign to achieve some land justice for the Yorta Yorta through the formal recognition and ownership of land under a hand back leaseback arrangement and the granting of inalienable freehold title as recommended in the River Red Gums Forests Investigation Final Report (July 2008) - see Recommendation 23 of the River Red Gums Report, 2008).

7. Finding a Pathway through Existing Proposals:

This recommendation is further supported in the Governments Response to the Indigenous recommendations, March, 2009: 8-12, but the outcome of this recommendation is dependant on the recent ‘Settlement Framework Agreement’, package accepted by Cabinet in June, 2009 which provides options for the ‘ownership and joint management of Crown Land’ (Atkinson & Brett, 2008: 38-39).

With some degree of optimism, it is said that the land justice reform package accepted by cabinet is an historic step forward’ for Aboriginal land justice and self determination in Victoria. Hopefully such renewed optimism will provide a mechanism for the Yorta Yorta to negotiate directly with the State Government on a Framework Agreement that will deliver a settlement of the full range of rights and interests being negotiated with the State. These rights and interests include:

- ownership and joint management of Crown Land
- annual rental payment for lease back of Indigenous lands.
- provision of resources for management of Crown Lands.
- access to natural resources.
- control of Aboriginal cultural heritage.
- economic development.
- rights to participate in decisions about activities on Crown land, and the organisational structures that will be needed for each traditional owner group to exercise their own self determination.
- right of each of Traditional Owners to negotiate directly with government.
The right of traditional owners to negotiate directly with the State Government outside of existing structures was given unequivocal support by the Chairperson of the land justice framework package, Professor Mick Dodson when he emphasized that the framework was not about the:

‘state, not the Land Justice Group, not native title services. This framework clearly and plainly puts the question of engagement and consent with the local people’ (The World Today - Thursday, 4 June, 2009 12:18:00).

http://www.abc.net.au/worldtoday/content/2008/s2589179.htm

8. Victorian Governments Response:

As indicated, the Government Response to the River Red Gum Forests Final Report, December 2008, makes some significant upfront acknowledgments of ‘Victoria’s Traditional Owners’ and their ‘inherent connections’ to land including the ‘past injustices’ and ‘inequalities’ that have ‘limited’ their enjoyment to the same degree of equality as other Australians-see p1. These upfront acknowledgements are fine sentiments but they need to translate themselves into substance particularly in relation to; the exclusion of Aboriginal people from public land management and the; continuing limitations experienced in achieving greater equality through the return of traditional lands under appropriate Joint Management agreements.

Conclusions

The Victorian Governments response to the key Indigenous recommendations goes part the way to addressing land justice, and inequality. They can go much further however by using the mandate that it has been given by traditional owners to make the return of crown lands to the Yorta Yorta under Joint Management agreements a priority in its current legislative program. Recognition of ownership and handback/leaseback would be ‘fair and just’ measures that would help to remedy past and present injustices and the inequality gap that still exists. Matching the rhetoric with the political actions required to deliver real outcomes for the YYNAC and avoiding constructing other ‘limitations’ on the enjoyment of fundamental
human rights are the challenges that the Victorian Government needs to match with its Framework Agreement package and its formal response to the VEAC recommendations-see Victorian Governments response to VEAC recommendations: R21, R22, R23, R24, R25, R27, R29 (b) & (c) and R30, 2008.
Research Materials


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‘The need for a cross-border Barmah-Millewa National Park & Joint Management with the Yorta Yorta’

Barmah-Millewa is the heartland of traditional Yorta Yorta territory-see location on map. It is a unique natural-cultural forest-wetlands that is located in the Murray-Goulburn region, covering both sides of the Murray, called Dhunugulla by the traditional owners-the Yorta Yorta Nation.

Archaeological evidence predating the more recent European history puts Yorta Yorta occupation at around 60000 years before present (BP). Evidence of prior occupation and Yorta Yorta lifestyle is ever-present in the landscape and along the waterways, which manifests itself in the diversity of sites that have been recorded. This is reflected in the number (2000) of sites recorded through the process of random site surveys, all of which are equally distributed on both sides of the river in the Barmah-Millewa forest wetlands (Yorta Yorta Nations Site Survey Project, 1999). Given that there has been no full and systematic site surveys conducted in the Barmah-Millewa, the random surveys do give us some predictive models of what is likely to exist in the broader region, verifying the enormous antiquity of Indigenous occupation use and enjoyment of these forest-wetlands (Atkinson, 2005).

With this brief sketch of Yorta Yorta connections with the study area, it brings home the importance of the region to the traditional owners, and to the broader community in terms of the natural and cultural assets that have evolved over the millennia. Much change however has been bought to bear
on the delicate balance between these forest wetlands and the original occupants since European
settlement, but the Yorta Yorta people have steadfastly refused to relinquish their inherent rights and
have continued to maintain their connections with the ancestral lands. Indeed their survival against
the brutality of colonisation, and other changes that have adversely impacted on their existence, has
been most admirable (Atkinson, 2000).

Joint Management Agreements, JMA’s

In order to protect the rich cultural diversity of the region as well as the threatened
cypress red gums, and dependant wildlife species, a Joint-Management Agreement,
JMA between traditional owners and the Victorian and New South Wales
Government has been proposed. This has now become a reality through the
Victorian Governments declaration of National Parks for Barmah, Gunbower,
Lower Goulburn and Ovens Rivers and the New South Wales Governments
recommendations for a ‘trans-border iconic National Park’ for the Millewa group
forests -see Yorta Yorta submissions to VEAC, 2007 and NRC, 2009; Riverine
Herald, 23, Dec, 2009; Victorian Parks and Crown Land Legislation Amendment (River
Red Gums) Act 2009, which commenced on 1 January, 2010).

An iconic Barmah-Millewa National Park of national and international significance under a JMA will
greatly enhance the future social and economic profile of the border region. It would also ensure
adequate protection, funding and maintenance to guarantee a sustainable future for this culturally
and environmentally diverse area. The proposed agreement follows the example of various other
successful JMA’s such as Mutawintji (NSW) and Kakadu National Parks, (NT) which are managed
under hand-back/lease-back agreements that recognise the Traditional Owners connections to
country. Indeed the purpose of this paper is to argue in favor of the combined justice/conservation
agenda of the Barmah-Millewa joint management National Park proposal and for hand back lease
back under a JMA with the traditional owners that mirror the achievements gained in other
successful National Park-Joint Management models in Australia and New South Wales.

Defining Protected Areas under International Criteria

The World Conservation Union defines a protected area as: ‘an area of land and/or
sea dedicated to the protection and maintenance of biological diversity, and of
natural associated cultural diversity” (Oncountry Learning Materials for University
of Melbourne Students, 2008).

For a number of reasons, the Barmah-Millewa forest deserves to be recognised as
such. Most of the 70 000 hectare area on both the Victorian (Barmah) and NSW (Millewa, including Moira, Gulpa and Weiri) side is dominated by River Red Gums (Eucalyptus Camuldulensis) making it the largest River Red Gum forest of its kind in the world. Old-growth Red Gums store large amounts of carbon safely out of the atmosphere. To reduce climate change, the protection of forests and bush land is therefore essential. Furthermore, in part due to the high density of River Red Gums, the Barmah-Millewa forest functions as a flood mitigation system that filters salts, sediments and nutrients from the Murray water, and plays an important role in improving downstream water quality. Unfortunately, however, less than 1.5 % of the remaining Riverine Red Gum forests in Victoria are currently reserved for conservation rendering the current National Park proposal one of particular urgency. Other significant native plant life includes box woodland, Moira-grass, bushlands and natural wetlands-riparian zone vegetation (Oncountry Learning Materials for University of Melbourne Students, 2008).

Additionally, the Barmah-Millewa forest is a habitat for 51% of all threatened species in Northern Victoria and southern NSW including migratory birds and native fish. The forest is therefore listed under various nationally and internationally recognised conservation agreements such as the Ramsar Convention, The Register of the National Estate and the Directory of Important Wetlands in Australia’. Despite this, a lack of recognition by the state government of the importance of the forest to the biodiversity of the region has meant that the forest is currently being threatened by water regulation, lack of environmental flows, cattle grazing, timber harvesting and poor management’(Oncountry Learning Materials for University of Melbourne Students, 2008).

Benefits of National Parks

Barmah-Millewa would be the first National Park in Victoria to be jointly managed by the Traditional Owners and the government and would provide numerous economic benefits to both the surrounding Indigenous and non-Indigenous community as well as the state’s economy as has been the case in other areas where such an arrangement has been successfully established such as Kakadu, Uluru, Mutawintji and Booderee, Jervis bay. For example, a 1998 study reported that with an annual spending of 33 million, Queensland’s National Parks returned an estimated 1.2 billion to the state. Similar results can be expected in Victoria since in 1999-2000 alone 13.2 million visited Victoria’s National and State Parks. Furthermore, Tourism Victoria reports that Victoria receives more income
from tourism than combined value of agriculture and mining. For those within the Indigenous community unemployed due to discrimination and general lack of access to economic opportunities, the establishment of a jointly managed National Park would provide more reliable employment opportunities” (Atkinson, 2009). This in turn positions the Indigenous community on a more equal footing with non-Indigenous residents thus undermining some entrenched divisions maintained through general socio-economic inequality. It would also contribute towards closing the gap on Indigenous inequality—a major premise of the Prime Ministers formal apology to Indigenous Australians, 2008 which according to the most recent indicators is not closing but widening (Formal Apology made by Prime Minister Kevin Rudd, 13 February, 2008; Age, 9, October, 2009; Indigenous Disadvantage Report’ of Reconciliation Australia, 2009, and the Productivity Commission Report, 2009).


The recent Natural Resource Commissions (NSW) report highlights the current crisis that has been created for these iconic forest-wetlands and makes some substantive recommendations on the best way forward for better future management strategies. The major investigations of this government agency and its counterpart in Victoria VEAC, have found that changes to current management arrangements are absolutely necessary and a failure to implement changes renders disastrous and irreversible consequences that have already begun to unfold (NRC, Final Report, 2009). Other evidence on past water regulation practices have also pointed to the fact that the current regulation of the Murray River and its tributaries has resulted in significant changes to replenishment flows for the Barmah-Millewa Forest. Frank Tuckwell, former manager of the across Murray estuary comments, ‘they flood our wetlands in summer when they should be dry, because irrigators want water in summer. Then in winter when they should be wet they are dry because they are holding the dams to release in summer”. As a result, large parts of the forest are suffering long term draught while other areas are waterlogged resulting in the degeneration of the forest and changes to the vegetation” (The Age, 7 June, 1998).

In a leaked government draft proposal, obtained by the Age, it was revealed that the number of stressed, sick or dying red gums has increased immensely and that without action, the river’s lower flood plains may soon be full of dying trees. According to the report, more than 75% of Red Gum and Black Box trees beside the Murray River from Gunbower to Mannum were in this state compared to 51% two years ago. On top of this, in 2007, the Victorian government acknowledged that for
the last decade it has been over-logging Red Gum forests by up to 60% above the sustainable yield. The problem extends to NSW where three times more is logged than in Victoria’. Under current logging policies in NSW and Victoria, irreplaceable ecosystems are under threat and ‘the logging industry itself is being deprived of a future’ comments Red Gum Campaign Coordinator Jonathan La Nauze.

Cattle grazing has been recognised as a contributor to the problem as it is responsible for the spread of noxious, woody and environmental weeds that severely restrict the re-establishment of threatened species”. Additionally, internationally protected Ramsar wetlands are being continually degraded through the ongoing stock access”. Cattle also undermine the capacity of native animals to access food sources as they are forced to compete for limited food. In regards to the preservation of the cultural significance of the environment, it is problematic that few Indigenous species are tolerant of influences such as sustained trampling and grazing by domestic stock. The situation, as it stands is a direct result of a failure to implement ‘radical changes’ since many vulnerable, rare and threatened species have become rare or threatened because of clearing and grazing” (Joint Management Structures & Yorta Yorta/Barmah-Millewa Campaign for National Park 2004)

Summary

As a National Park, the cultural and environmental assets of the Barmah-Millewa Forest will be most effectively maintained. The paper demonstrates that a re-evaluation of current arrangements is necessary to secure a sustainable future for the region. Additionally, the economic potential of the forest could be far better utilised under a JMA than through the current exploitation of resources by vested interests within the region. Issues pertaining to land in Australia must also be considered in light of the application of fair and just outcomes in terms of land justice for Indigenous Australians. This issue therefore is one of land justice for the Yorta Yorta as well as conservation. Negotiations between the Yorta Yorta Nations and the state governments on both sides of the river and the need for a cooperative approach between federal and state governments in reaching agreeable outcomes, is vital for a successful JM and cross border arrangement to be established.

Examples of similar JM models in Australia highlight the potential success of such agreements and what forces need to be mobilised to affect desirable outcomes. A
good case in point is the Mutawintji National Park and Lease Agreement which is the result of a 15-year struggle by the Woriginal people of the Broken Hill area. On 5th September 1998 the Mutawintji National Park as well as 76000 hectares of land was returned to the Traditional Owners. Under the agreement for the ownership and management of the National Park, the Traditional Owners won hunting, fishing and food gathering rights, as well as an assurance that the majority of jobs would go to Aboriginal people. This example highlights not only the necessity of an unrelenting uphill battle to secure success but also the highly worthwhile outcomes.

At the end of writing this paper we have just seen some remarkable achievements unfold in the campaign for the Barmah-Millewa as one iconic National Park. With the handing down of the final New South Wales Natural Resource Commission NRC report the, Chairperson of the NRC, Mr. John Williams has recommended that the ‘Millewa Forest should be jointly managed with Victoria to create a trans border iconic national park’(Riverine Herald, 23 December, 2009).

Like the VEAC study of the Murray River Red Gums it also found that water was the key underpinning issue of the Barmah-Millewa forest-wetlands, making some dire predictions for their future, if the regular drink that these river reds survival is dependent on is not restored (NRC Report, 2009).

As we enter the first decade of the 21st Century this is obviously welcome news to all those who campaigned so hard for the Barmah-Millewa and for the Yorta Yorta whose ancestors first petitioned for land justice and the recognition of their inherent rights in the late 19th Century—see Chronology of Yorta Yorta Claims for Land Justice, 1860-2009). Now the real work begins in making sure that Governments honor these decisions and that there is a paradigm shift in future management policies and practices, from one of exclusion to that of full inclusion of Indigenous rights and interests.

We will be watching closely as the newly created cross border iconic National Parks take their shape and form.

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11 January 2010

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Research Materials


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NSW Forest Products Association <www. nswfpa. asn. au>


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The Australian Deer Association <www.austdeer.com.au>

The Sporting Shooters Association of Australia <www.ssaa.org.au>

The Victorian Association of Forest Industries <www.tca.org.au>

The Victorian Farmers Federation <www.vff.org.au>

Timbers Communities Australia <www.tca.org.au>

Yorta Yorta Claims for Land Justice, 1860-2009

Riverine Herald Newspaper, 23 December, 2009<http://www.rivheraldchuca.net/>


The Age, 7 June, 1998.
Chronology of the Yorta Yorta Struggle for Land Justice 1860–2009

A *prima facie* case for prioritising Yorta Yorta Nations in the Governments Land Justice Agenda.

Introduction

The following chronology is drawn from the oral and documentary evidence of Yorta Yorta attempts to claim land justice, compensation, and inherent rights (1860-2009). It demonstrates that the assertion of inherent rights and interests to the ownership of land, water, heritage and the control of resources has always been at the heart of the Yorta Yorta Nations struggle.

The purpose of the chronology is to provide a *prima facie* case (and substantive documentary evidence for the settlement of the long outstanding issue of land justice and, for the recognition of existing rights and interests that need to be given high priority in the current Victorian State Governments ‘National Park/Joint Management’ proposals, and the ‘Native Title Settlement Framework’. The National Parks crown lands and the Settlement Framework are important and welcome Government policy initiatives that offer mechanisms that can provide the long awaited land justice and other rights and interests that the Yorta Yorta community have attempted to achieve over the last century and a half (*prima facie*=*latin and legal term for arising at first sight based on first impression a good case and reason for: Oxford Dictionary*).

In addition to the chronology of claims presented, one also needs to acknowledge the role that many Yorta Yorta leaders played in support of other groups who have achieved land justice and fundamental rights in Victoria and Australia. The contribution of William Cooper, Sir Doug Nichols, and other Yorta Yorta leaders of the Aborigines Advancement League, (formerly Australian Aborigines League, Victoria, 1934-57) and their support for fundamental human rights and land justice for Lake Tyers, 1970s, Framlingham and Lake Condah, 1980s is also duly recognised.

The chronology of the *prima facie* case is set out in the following order.
1) A timeline of recorded attempts made by Yorta Yorta people and their representatives to claim land and/or compensation from 1860-2009.

2) Details of claims made that describe the nature of the claim, the way the claim was made, the response to the claim, and the reasons, where given, for its unsuccess.

1. Chronology of Claims

1.1. Yorta Yorta Claim for Compensation for interference to Traditional Fishing Rights 1860.

1.2. Petition to NSW Governor for Land 1881.

1.3. Land Rented or Purchased in the Names of Aborigines as Dummy Selectors 1885.

1.4. Attempts by Matthews to Secure Land from Victorian Authorities 1881–87.

1.5. Application to Victorian Board for Land to Establish a Fishing Reserve at the Barmah Lakes 1887.

1.6. Petition to NSW Governor for Land 19 July 1887.

1.7. Matthews' Final Attempts to get Land 1889–92.

1.8. Applications for Additional Cummera Land 1890 onwards.


1.10. Petition to King George V for Human Rights including Land 1935.

1.11. Efforts to get back Land 1959.


1.19  National Parks and Joint Management, 2008-9


2. Details of Claims

2.1 Claims for Compensation: 1860

In 1860, the Yorta Yorta asserted their rights by seeking compensation for interference to their natural fishing areas by paddle steamers. They made their intentions known to a Government representative of the Protection Board who reported:

Since the Murray has been navigated by steamers, the natives have found it scarcely possible to catch fish, heretofore their chief means of support. A native of the Moira (Yorta Yorta), who rode up the Murray with me, informed me of the intention of himself and five other Aborigines to proceed as a deputation to His Excellency the Governor to request him to impose a tax of 10 pounds on each steamer passing up and down the Murray, to be expended in supplying food to the natives in lieu [sic] of that which had been driven away (Victorian Aborigines Protection Board, *Annual Report*, 1861:19).

No further reference is made of these requests or whether the government acted upon them. It does show, however, that the Yorta Yorta were clear about their Indigenous rights and independently made plans to seek compensation for the effects of the European intrusion.

2.2 Petition to NSW Governor for Land: 1881

On the 5 July 1881, a petition signed by 42 Maloga people was presented to the NSW Governor. The demands were for:

- a sufficient area of land to cultivate and raise stock; that we may form homes for our families [and in] a few years support ourselves by our own industry.
They asked this as compensation, because all the land within our tribal boundaries has been taken possession of by the Government and white settlers (Barwick, 1972:47; Cato, 1976, Appendix. 10).

The petition was refused at that time, however in 1883, almost two years later, a reserve of 1800 acres was gazetted adjoining the Matthews' property. This was the site that later became Cummeragunja when Maloga was closed and relocated on the new reserve in 1888–89 (Cato, 1976:12, 131, Appendix. 14 for location and details). Note: This was the particular claim that Olney J. construed as the acquisition of Native Title rights by the Yorta Yorta in *Yorta Yorta v State of Victoria and Ors* (1998).

2.3 Land Purchased in the Names of Aborigines as Dummy Selectors 1885

**Dummying**

The term 'dummying' was a method used by squatters after the introduction of legislation that threw open land for selection. It meant that when someone who was ineligible (eg, a squatter who already had land) to buy land employed or asked somebody else to apply for land on their behalf. When the applicant was granted the land they could then transfer it over to the person who was ineligible.

John Atkinson (son on Granny Kitty) rented some land from Moira Station. This land was to the northeast towards Barmah where he erected a bark hut for his wife and children, and cultivated some acres of wheat. Matthews noted in his diaries that he suspected Johnny was dummying this land for Moira Station.

Johnny Atkinson's farm venture was only short-lived and he later returned to Maloga. No further reference is made to his farming venture, but it is known that during this period land was being selected in the names of Aborigines by European landowners. John O'Shannasy of Moira Station is recorded as selecting and paying the deposit for land in 'the name of two Aborigines', as dummy selectors. No doubt one of these were Johnny Atkinson (Buxton, 1968:158).
Many squatters in the Murray Region exploited this system as a way of retaining prime areas of river frontage land (personal communication, History Department, La Trobe University).

2.4 Further Attempts by Matthews to Secure Land from Victorian Authorities: 1881–87

During this period, Matthews pleaded for assistance from the Victorian Board for land. He applied for land to set up a small reserve across the river from the Maloga site to enable him to set up workshops because any industry located at Maloga was subject to double customs duties at the Moama Bridge for import of raw materials, and export of goods when they were manufactured at Maloga. The Victorian Authorities again refused to grant any land to Matthews for the same reasons as mentioned (Barwick, 1972:47).

Prior to the closure of Maloga in 1887, Matthews noted in his diaries that the Maloga people 'talked incessantly' of their desire to 'own' blocks of land. They wanted their own piece of land to work for themselves and pass on to their children – not a selling title but a grant in perpetuity. The administrators initially encouraged these ambitions, particularly when they wanted people to move to the new reserve after Maloga was closed. The Maloga people were led to believe that they would be granted land when they moved to the new Cummeragunja site. Furthermore, they were blackmailed into moving to the new site by being threatened to have their opportunity to own land taken away if they didn't (Cato, 1976:160).

2.5 Application to Victorian Board for Land to Establish a Fishing Reserve at the Barmah Lakes: 7 July 1887.

Matthews applied to the Victorian Board for a fishing reserve for the Yorta Yorta at Moira Lakes, which is their traditional fishing grounds. The application was refused by the Board who could not:

see its way clear to carrying out your suggestion of forming or assisting to form a fishing station at Lake Moira (Cato, 1976:169).
Matthews was well aware of the potential of establishing a fishing reserve at the Barmah Lakes and developing fishing as a commercial enterprise. From 1855, Rice's Murray River Fishing Company had made huge profits by exploiting the skills of Aboriginal fishermen, which they 'payed for in grog' in return for their labour (Cato, 1976:54).

2.6 Matthews' final Attempts to Get Land: 1892–99

After Matthews lost control of the Maloga Mission and was sacked as supervisor, he rented land on the Victorian side opposite Maloga where he set up a refuge for Aboriginal children. This place was called Beulah House, and again because of its location on the Victorian side and its potential undermining of Victorian Aboriginal policy, Matthews' venture was closed in 1899.

2.7 Petition to NSW Governor for Land: 19 July 1887

On this day Jack Cooper, son of Granny Kitty, and brother of Bob, William and Ada read an address of welcome to Lord Carrington at the Moama Railway Station on one of his visiting stops with a vice-regal party. Cooper presented a petition to His Excellency asking that one hundred acres of land be granted to such Aboriginal men who were capable of farming, in order to support themselves and their families (Cato, 1976:231).

The petition was not granted, but from 1896–1907 some land was granted as farm blocks for individuals. These were about forty acres each, according to oral history evidence, and they were cleared, sown and harvested by Yorta Yorta people. For example: 'six small blocks were allotted in 1895 and another seven during 1896, and by 1898 twenty were being cultivated and cleared' (Barwick, 1972:42–3; Atkinson, 1981a).

2.7.1 Blocks taken back by Board
In 1907, just eleven years after the farm blocks were granted, the pioneer farmers received a most disheartening blow from the NSW Board. The Board decided to revoke the twenty individual holdings and informed the holders that they did not have title, as they had always been led to believe, but merely 'permissive occupancy' (Barwick, 1972:53).

The Board's reasons were that the land was being misused, as they had leased some of their blocks to outsiders for grazing during the years 1903-07, and thus had sown less crops. In fact, the decision to lease some of their land for stock use was an intelligent response to a fearsome drought that killed two-thirds of the State's livestock, forced hundreds of Europeans off their land and was finally broken, not by rain, but by floods (Barwick, 1972:53–4). At least the Aboriginal farmers gained some return for their land by leasing the remaining grass and thus were able to carry on. This was indeed an act of good farm management, but the Board did not agree, which was a blatant contradiction to their management program in 1914–18. During this period, when faced with similar adverse conditions the Board agreed that agistment fees and leases would provide a useful supplement to the Cummeragunja Station's income (Barwick, 1972:57).

The underlying reason that the Board revoked the farm blocks was that it wanted to make Cummeragunja self-supporting by making the able-bodied and successful Aborigines support the whole community. The irony of it all was that those Aborigines who had adopted the European work ethic were rewarded by being forced back into a cooperative effort (Broome, 1994:81).

2.8 Applications for Additional Cummera Land: 1890–1900s

The original reserve of 1800 acres was inadequate for pastoral and agricultural development, as there was only four hundred acres of sand hill above flood level and suitable for cultivation. The remainder was heavily timbered and subject to flooding.

2.8.1 Additional Grants
Pressure from local settlers defeated the Board's 1885 and 1887 applications for extensions, but three additional grants were made between 1890 and 1900: 90 acres, 510 acres and 320 acres. Soon after 1900 an additional 254 acres was granted, which combined to make the total size of 2,965 acres (Barwick, 1972:50).

2.8.2 List of Areas of Land Granted

1. 1881 800 acres
2. 1890 90 acres
3. 1899 510 acres
4. 1900 320 acres
5. 1900 onwards 245 acres

Total 2,965 acres

In view of this amount of land granted on a 'temporary basis' for Aboriginal use, one needs to consider it in the context of the original land occupied by the Yorta Yorta (see Figure 1). The map indicates that the amount of land the Yorta Yorta gained was infinitesimal in relation to their traditional lands that were forcibly taken. Moreover, because Aboriginal occupation of Australia was never legally recognised by the British and later Australian Governments, Aborigines had no secure tenure to their reserves nor did they receive any compensation for the dispossession of their tribal land. In Canada, New Zealand, Papua New Guinea and North America, settlements were made with the Indigenous people that recognised prior occupation and title to land. Different groups were granted perpetual tenure of specific portions of their traditional lands as compensation for the relinquishing title to their lands (Barwick, 1972:14).

In this context it is even more disturbing when one considers that nearly all the 2,965 acres of Cummera land was leased to European farmers from 1921. Most of these were only short term, but pressure had been building up since the 1890s for leases, and in 1934 the Board gave a European neighbour a ten-year cultivation and timber lease of 2,000 acres for only 416 pounds a year. Leases of almost the entire reserve to
Europeans were continued through the 1940s and 1950s (Barwick, 1972:14–15, 56–7).

2.9 Formation of Aboriginal Political Movement

During the 1930s, Cummeragunja people were instrumental in forming the first Aboriginal Protest Organisations in the capital cities. These were the Aborigines Progressive Association established in Sydney in 1933 and the Australian Aborigines League in Melbourne in 1933.

These Organisations were the springboards from which other organisations gained their inspiration and indeed, from which the National Movement can trace its origins. Their main concerns were for the abolition of the Protection Board and its restrictive laws, better conditions for Aborigines living on reserves and equal citizenship rights. The call for land rights was also a major part of their charter which they recommended – 'that a special policy of land settlement for Aborigines should be put into operation, whereby Aborigines who desire to settle land should be given the same encouragement as that given to Immigrants and Soldier Settlers, with expert tuition in agriculture, and financial assistance to enable them to become ultimately self-supporting (Horner, 1974: 69–70).

2.10 Petition to King George V: 1935

In 1935 William Cooper drafted a Petition signed by 2,000 Kooris asking for representation by Aborigines in Parliament, a unified and National Department of Aboriginal Affairs, and an advisory panel in each State consisting of European experts and Aborigines (Horner, 1974:47). Cooper also sent a letter to the NSW Premier's Department asking for the development of Aboriginal lands in NSW, suggesting that Cummera could be an ideal experiment that other reserves could follow (Annual Report of the Australian Aborigines League, 1936:6).
These proposals and the petition won considerable publicity and public support, which impelled Commonwealth authorities to convene a Conference of State Ministers in April 1937 to discuss the adoption of a new policy of assimilation (Barwick, 1972:62).

2. 10.1 Deputation to Prime Minister: 1938

On the 26 January 1938, Cummera people led the first Aboriginal deputation to Canberra to advise the incumbent Prime Minister on the need for Commonwealth intervention to improve Aboriginal Welfare in all States by establishing what they called a Ministry of Aboriginal Affairs (Barwick, 1972:67–8). The deputation gained little result and people left discouraged (Horner, 1974:16–63).

2.10.2 Loss of Land: 1953–59

In 1935, the Board requested the Lands Department to revoke the reserve of all but 200 acres, on the ground that the land was no longer needed for Aborigines. The revocation, however, was not made immediately, but four years later in 1959, 1,535 acres had been revoked and subsequently leased by the Lands Department to a farmer who had used it since 1934. The remaining land, 1,427 acres, including the 200 to be retained as an Aboriginal reserve, was being farmed by other Europeans under Permissive Occupancies granted by the Lands Department to under leases granted by the Board. An Aboriginal resident describes the loss of land by saying: 'Because the land up to our doorstep was leased, residents had to work elsewhere as farm labourers' (Barwick, 1972:64).

2.11 Efforts to Get Land Back: 1959

In 1959, Cummera residents with the support of the Aborigines Advancement League began to investigate the possibility of cooperative farming, and petitioned for the use of the land still reserved. One lease of 200 acres ended on the 31 December 1959 but farming on this land was virtually impossible because it was overtaken with burrs.
2.12 Further Deputations for Land

Residents continued to send letters and deputations to the NSW authorities asking for the use of more of the land that their forebears had cleared. The Board's response, however, was that the persistence of separate Aboriginal communities was inconsistent with the policy of assimilation, and adhered to its plans for revocations and the dispersal of residents (Barwick, 1972:64).

The remainder of the reserve was leased until 1964 despite Crown Law opinion at the time that leases had 'always been illegal,' for the Board had never had authority to hand over reserves to persons who were not Aborigines. Reserves, as previously mentioned, were Crown Lands reserved from 'lease or sale' for 'Aboriginal purposes' (Barwick, 1972:64).

2.13 Campaign for Return of Cummera Land: 1966

After forty-five years of complaints and seven years of direct negotiations with the Board, the descendants of the pioneer farmers finally won permission to begin farming Cummera once again (Barwick, 1972:64).

2.13.1 Conditions of 1966 Agreement

The agreement signed in 1966 made them merely 'tenants at will' of the Board, who could cancel their tenure on a month's notice and retain all fixed properties and assets (Barwick, 1972: 64.).

2.13.2 Recommencement of Farming: 1968

In February 1970 the NSW Ministry of Aboriginal Affairs, which was established in 1968, granted a loan to the fifth generation descendants of the pioneers to develop their farming on the remaining land at Cummera.
2.14 Land Rights Deputation to Canberra: 1972

In 1972, descendants of the Yorta Yorta joined another deputation to Canberra to protest against the 16 January 1972 declarations of the Commonwealth policy by the Prime Minister, which still denied recognition of Aboriginal title and traditional land rights.

The press and public paid little attention and the Minister responsible for Aboriginal Affairs later told Parliament:

*Freehold in the Australian legal system represents a holding from the Crown tantamount to exclusive ownership of the land, entailing a right to take out and dispose of the land, as the title holder wishes. This notion, we believe, is alien to Aboriginal thought and custom* (Australian, 24 February 1972).

2.15 Claim for Barmah Forest: 1975

Between 1972 and 1983 there have been other important claims made by Yorta Yorta people for land and compensation. These were for the Barmah Forest in 1975 and Cummera lands. The Aborigines Advancement League, the National Council of Aboriginal and Islander Women and the Victorian Council of Aboriginal Culture supported them. Yorta Yorta people were instrumental in setting up these organisations (Margaret Wirripunda, 1985). The claim for the Barmah Forest was again lodged in 1984 without success.

2.16 Return of some Cummera Lands: 1983

Cummera people lobbied for the return of the former reserve lands that were leased to Europeans in the 1930s. As indicated in Chapter 4, they lobbied State and federal Governments and were successful in gaining the return of some of the reserve lands in the 1970s and in 1983 (approximately 1,200 acres) under the *Aboriginal Land Rights Act 1983* (NSW) (see Chapter 4).
2.17 Yorta Yorta Tribal Council: 1983

In April 1983, Yorta Yorta members held a meeting in the Barmah Forest to discuss the Victorian Land Conservation Council's Report on the Murray Valley region, with the aim of forming a Council, which would be the representative body for land, compensation and cultural issues relating to Yorta Yorta people and their tribal lands.

The Yorta Yorta Tribal Council was formally established from this important meeting and given a mandate to represent Yorta Yorta people in those matters, particularly the Barmah, Millewa and Moira Forests, which are the heartland of Yorta Yorta ancestral lands.

The emergence of the Council was a very important historical event for the Yorta Yorta people, because it marked one hundred years since their ancestors were first granted a piece of land in response to their petition to the NSW Government in 1881. In April 1883, they were granted 1800 acres of their traditional land on a temporary basis for their future use. This was the original piece of land on which Cummera was established (see claim No. 2 in Chronology). The forty-two people who signed the petition were the founding ancestors of Maloga and Cummera. Present day descendants trace their genealogical links directly back to these ancestors.

In this context, the Council was symbolic in that it marked a century since their ancestors first petitioned for land rights and it emerged from the forest, which is still today seen as a significant part of Yorta Yorta lands. It is the keeping place of Yorta Yorta cultural heritage and the resting place of Yorta Yorta people's spirits.

2.18 Yorta Yorta v State of Victoria and Ors (1994–2002)

The Clans Group superseded the Tribal Council in 1989 and carried on with the work of the Tribal Council.

In March 1993 the Clans were advised of their rights to claim land and compensation as the Traditional owners and occupants of lands within their tribal territories. The
advice came from the legal council employed by the Victorian Aboriginal Legal Service to consult with Aboriginal communities in Victoria in relation to the *Mabo* High Court Judgment in June 1992.

The Clans Group and its members agreed to lodge a Native Title claim for lands within their traditional territories and for compensation, which was found not to exist by the Justice Olney of the Federal Court, in 1998 and subsequently dismissed on appeal to the High Court in 2002. Around that time the Clans Group was modified to reflect the broader rights and interests of Yorta Yorta people by the Yorta Yorta Nations Aboriginal Corporation in 1999 which is the current organisation that represents the broader rights and interests of the Yorta Yorta.

Following the failure of the Native Title Claim the State of Victoria and Yorta Yorta Nations Aboriginal Corporation signed off on Co-operative Land management agreement. The agreement does not return lands to the Yorta Yorta but gives advisory status to the Yorta Yorta through a Joint Body management structure that consists of a majority of Yorta Yorta representatives.

2.19 National Parks and Joint Management, 2008-9

Negotiations are currently being held between YYNAC, and the State Government on proposals for National Parks and land ownership and management proposals for those crown lands that exist within the territorial jurisdiction of the Yorta Yorta on both sides of the Murray.

2.20 Victorian Native Title Settlement Framework Agreement, 2009

With the announcement of the Framework Agreement in June, 2009 the YYNAC are considering options of advancing their rights and interests through this new policy initiative that will provide an option for Victorian Traditional Owners to achieve land justice and other rights and interests, which include: the creation of a new regime for Traditional Owners to Jointly Manage National Parks and other Crown Land in Victoria. The proposals also include ‘Aboriginal ownership of and management of land in perpetuity, compensation, statutory rights, funding for cultural heritage and
employment and commercial activities’ -see Core Principles, Native Title Services Victoria Ltd, Fact Sheet, 2009).

The YYNAC continues to represent Yorta Yorta interests within their traditional lands and waters. Today the YYNAC carries forward the holistic approach of their forebears in dealing with matters relating to all aspects of the traditional territories and cross border issues. The YYNAC are now in the process of negotiating their rights and interests for land, heritage, water, compensation and the establishment of Joint Management agreements for crown lands that fall within its jurisdiction.

Summary

The foregoing events illustrate that for a century and a half, the Yorta Yorta people's struggle for land, compensation and for fundamental human rights has always been at the heart of their struggle. The history clearly demonstrates that the Yorta Yorta had explicitly petitioned for land as 'compensation' for their stolen tribal territories in order to gain self-determination and economic security. From these requests they expected 'secure tenure' but received only 'permissive occupancy' and advisory status for the management of lands controlled by the Protection Board, the Lands Department and the Crown (Note: The Current Cooperative Management Agreement has only advisory status on land management issues).

With no fair and just outcomes in the long and continuous struggle the Yorta Yorta have remained amazingly resilient and patient people. They went through the native title process in good faith only to be disappointed again by the way that the native title law was interpreted and applied in their case. Since the failure of Native Title to deliver land justice the Yorta Yorta have turned a full circle and are again seeking a fair and just settlement of their long and outstanding grievances. The establishment of a \textit{pima facie} case for the treatment of their ongoing case for ‘unfinished business’ as a high priority in the Governments current land justice agenda calls for immediate attention and discussion with YYNAC.

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