

# YORTA YORTA OCCUPATION & 'THE SEARCH FOR COMMON GROUND'

DR WAYNE ATKINSON

Department of Political Science, University of Melbourne, Victoria 3010

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The Yorta Yorta Nation Inc. trace their origins back to the time of creation which has become immortalised as the 'eternal Dreaming'. It was during this period that traditional based rights to land, heritage, water and cultural identity were sanctified and, like the river systems, continue to flow to the Yorta Yorta Nation as inherent rights. The extensive river networks served as major focal points for community life. Archaeological evidence indicates that there have always been natural and cultural changes taking place, from which adaption and cultural continuity have been the outcomes. The arrival of Europeans, however, has amplified the extent of change, but the Yorta Yorta have adapted and continue to flourish as a vibrant living culture. The Yorta Yorta totally reject the notion that their connections have been washed away by the so-called 'tide of history' and reassert their position as the traditional occupants and owners of the lands inherited from their ancestors. Reconciling the unfinished business of land justice and reaching a position of real effective and genuine reconciliation, together with the search for common ground in the creation of the Barmah-Millewa as a National Park, are the challenges that confront all parties in the region.

*Key words:* Indigenous Australian, Yorta Yorta, Barmah, land justice.

THIS PAPER provides a contextual framework for viewing Yorta Yorta occupation and connections with the Barmah-Millewa Forests and its surrounds (the study area). In doing so I am profoundly conscious of the need to ground the knowledge of my people's connections with the ancestral lands in their world view of Indigenous land relations. Indigenous wisdom throughout the world shares a common belief system that all things are related. What happens in one area sooner or later directly or indirectly impacts on other areas. History has tended to vindicate this view. In line with this philosophy, Yorta Yorta views about their natural and cultural heritage will engage a holistic approach. Occupying this position and, at all times, being careful not to compromise the track record of Yorta Yorta land-water management and care, will be the guiding framework for my analysis. It must be emphasized here that the purpose of this paper is not to paint an idealised image of Indigenous society, rather it presents a view that is based on a track record that took its own path, and remains unique and of its own kind. That is the path I will use to examine:

the extent to which introduced activities have impacted on Yorta Yorta ancestral lands & waters; the amount of change that Yorta Yorta society has adapted to, and the ongoing connections that the Yorta Yorta have persistently maintained.

This will be an important framework for examining Yorta Yorta culture and lifestyle, for assessing the misconceptions of Indigenous identity that are often constructed, and for analysing the impact of introduced land management practices on Yorta Yorta occupation, use and enjoyment of their ancestral lands and waters. The paper begins with a clarification of the term Yorta Yorta-Bangerang, and then discusses past and present connections including a critical analysis of the prevailing misconceptions about Indigenous people.

## YORTA YORTA-BANGERANG

The people who identify as Yorta Yorta-Bangerang are the descendants of the original ancestors who occupied the Barmah-Millewa Forests (Fig. 1). The events of the last one hundred and seventy years have shaped the contemporary nature and structure of groups within the region. Previous narrower sub-groupings have evolved to encompass broader interests with greater emphasis being placed on collective identity and inter-relationships between family groups. Indeed, it is correct to say that Yorta Yorta-Bangerang are one and of the same peoples who trace their ancestral lineages (bloodlines) and cultural connections back to the ancestors who were on country at the imposition of British domination

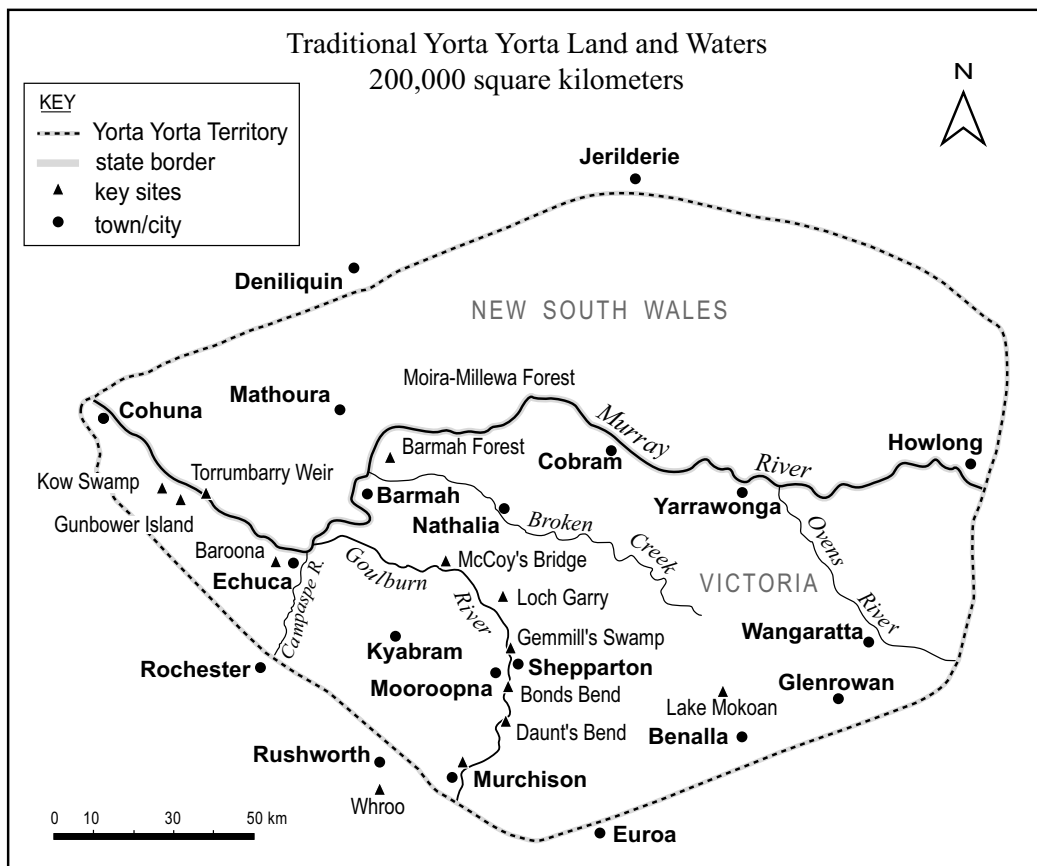


Fig. 1. Traditional Yorta Yorta territory.

and control. This is reflected in the name of the organisation set up to represent Yorta Yorta-Bangerang people in land, compensation and heritage matters – the Yorta Yorta Nations Inc. (YYNI).

The YYNI is the principal structure for dealing with land, water, compensation and cultural matters. Its structure comes from a process whereby the inherent rights of the Yorta Yorta-Bangerang nation are represented through democratically elected representatives who make up the Elders Council and the Governing Committee. These representatives are drawn from the family groups who inherit their rights and interests from the ancestors who were in occupation at invasion, and through them to the ancestors who have been in occupation since creation. A rather amazing and unique inheritance of hereditary bestowal, particularly when one considers the timeline of prior occupation, which has been put at 2,500–3,000 generations. This hereditary timeline gives rise to rights and interests in land, culture, identity and au-

tonomy that are the rock solid foundations of Australia's Indigenous history. Nothing, as it is often asserted by the original owners, will ever change that reality (discussed at Yorta Yorta Nations, Survival Weekend, Barmah Forest, January 2003).

Having discussed the collective nature of the relationship between the Yorta Yorta-Bangerang, and for the purpose of this discussion, where reference is made to their shared connections, I will use the term Yorta Yorta.

The introductory framework will be used as a guideline for supporting the current struggle of the Yorta Yorta and their supporters, for the Barmah-Millewa Forests to be declared a National Park, recognising the Yorta Yorta as the original owners under a Joint Management Arrangement (Atkinson 2004). I will now examine those issues that have overlaid the timeline of Yorta Yorta occupation and continue to play a dominant role in forest management policies and practices.

### MISCONCEPTIONS OF ABORIGINALITY

When speaking of Indigenous Australians, there is a tendency amongst the majority within Australian society to distinguish between those people of the remote and the more settled regions. These binaries are also reflected in academic and politico-legal discourses. Those living in remote Australia are seen as 'traditional' or 'real' while those living in the more settled areas are often disparagingly referred to as 'not real' Aborigines (Gray 1999; Langton 1993:11-13; Council for Aboriginal Reconciliation 1996; Atkinson 2002). This distinction is based on stereotypical notions of Aboriginality. There are, of course, differences between Indigenous cultures in different parts of Australia today, just as there were before white invasion. The Murray Island people are, in culturally significant ways, 'different from Indigenous people on mainland Australia who in turn differ from each other' (*Mabo* (No. 2) Toohey J. at 179). But the consequence of cultural diversity is something very different from the dichotomy so frequently drawn between 'real' and 'not real'. The same type of judgment is rarely applied to other cultures in the same way. No one suggests that white Australian culture is not authentic because people no longer wear 18th Century clothes and travel by horse-driven transport, or that other cultural groups within Australia do not live the 'right' kind of culture (Gray 1999).

The mindset that constructs what is authentic and what is not reflects the fact that racial hierarchies still persist as the dominant discourse. That is, the dominant culture still holds the power to impose value judgments on those who are seen as the 'other' (Said 1994:10-14; Anderson 1996). Such perceptions operate at the unconscious level much of the time, and are continuously reinforced by similar assumptions underlying much of the coverage of Indigenous issues by the media and the non-Indigenous education system. It is not a perception limited to overtly racist individuals, but is common even amongst well-educated, intelligent people who may be sympathetic towards Indigenous people. Many Indigenous people, including myself, continue to deal with these misconceptions on a regular basis (Indigenous Perceptions of the Academy 1994). The infiltration of such views into the dominant society is extremely great. Indeed it is one that continually confronts Indigenous communities such as my own. It takes immense time and commitment, not to mention the need for adequate resources, to

break down such views. It is relatively recent that Professor Stanner called for Australians to transcend this mindset towards Indigenous Australians and to move on with a 'better understanding' (Stanner 1969; Gray 1999; Harvey 1999:17-18; Bourke & Bourke 1999).

The need to avoid perpetuating Aboriginal misconceptions is supported by one of Australia's foremost Indigenous research institutions, the Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra (AIATSIS). In its analysis of research into Aboriginal and Torres Strait Islander Peoples, the Institute recognises the need for research to reflect the diversity of Indigenous societies and to avoid perpetuating the myth that most or 'real' Aborigines live in the 'Top End' of Australia (AIATSIS 1999:13-16; Foster 1999; Bourke et al. 1994:15).

Divisive notions of 'authentic' Aboriginality were used by opponents of the Yorta Yorta Native Title Claim (1994-2002) (YYNTC) to justify extinguishment arguments and to suggest that because we do not live like our ancestors did 170 years ago, all law and custom had ceased (Yorta Yorta 1996). In determining Native Title rights however, 'no distinctions of Aboriginality need be made', as the 'relevant principles are the same' (see *Mabo* (No. 2), Toohey J. at 179).

Having clarified some of the key misconceptions of Aboriginality, I will now focus on what I see as the up front factors that need to be considered in viewing Indigenous land relations. These are: Indigenous society in its proper time perspective; the notion of change in any cultural system; the existence of a living culture that continues to maintain connections with the ancestral lands; and an awareness of the extent to which imported constructs have been used to categorise, classify and to create stereotypical notions of Indigenous identity & culture (Broome 1994:121-4; Beckett 1994:1-8; Bird 1993:89; Clayton 1988:53; Keen 1988; Cowlshaw 1988; Aborigines Advancement League 1985:15-16; Langton 1981; Gilbert 1973:207).

### PERCEPTIONS OF INDIGENOUS LAND RELATIONS

There is now a consistent Indigenous and academic view that sees Aboriginal perceptions of the land in terms of social, cultural and spiritual relationships (Rose 1997:43; Bourke & Cox 1994; Dodson 1994;







Butler et al. 1973). Dates of vegetation core studies taken from Lake George (near Canberra) indicate that fire was and continues to be used by Indigenous people for land management and food production purposes from around 120,000 years ago (Singh & Kershaw 1981; Jones 1968).

## CHANGE AND ADAPTION

Archaeological evidence predating the European invasion indicates that there have been changes taking place over this period but the extent of change does not appear to have been catastrophic. The arrival of Europeans with far reaching consequences, however, has tended to amplify the extent of change that has occurred, and has tended to overlook the way Indigenous society has adapted and continues to flourish as a vibrant living culture (Broome 1994:121-24; Kohen 1995:25-34; Goston & Chong 1994; Flood 1989:142; Aborigines Advancement League 1985:1-10).

Indigenous and non-Indigenous writers have challenged such omissions. Those who tended to portray Aboriginal society in a wholly traditional sense have attempted to broaden their perceptions to include the more contemporary situation (for example, Berndt & Berndt 1977; Elkin 1974). Aboriginal Studies programs in schools and universities emphasise the need to teach traditional and contemporary culture (Bourke et al. 1994). Many historians recognise that Aboriginal resistance and survival was at the heart of the struggle to defend pre-existing rights to land and resources. Indeed some judges acknowledge that it was violence over land ownership that underwrote our history as a nation (Gray 1999; *Mabo* (No. 2), Brennan J. at 69; Cannon 1993; Reynolds 1981, 1987; Broome 1994; Howard 1982; Christie 1979).

Indigenous voices today are more likely to be heard by others. Their use of domestic and international legal processes has allowed Indigenous views to be expressed in international fora. The Working Group on Indigenous Peoples (WGIP), has developed its own charter of Indigenous rights in solidarity with other Indigenous groups, and has gained access to the United Nations Commission for the Convention on the Elimination of Racial Discrimination (CERD). The Yorta Yorta, as will be demonstrated, have adapted to many significant changes. Indeed they retain a remarkable sense of their cultural identity and connections with the claimed land and waters, and have continued to assert rights arising

from prior occupation. The reality of me speaking at a Royal Society Forum (June 2005) and having the opportunity to write on Indigenous perceptions for this publication is another way of challenging and hopefully bridging the gap that has been created (ATSIC 2000, Djerrkura 1999:1-8; WGIP 1997; Evatt 1996; Bird 1993; Fletcher 1994; United Nations 1969, 1997, 1999).

While archaeological evidence can provide important insights into prior occupation, Yorta Yorta perceptions of their connections are equally important. The Yorta Yorta trace their origins back to the time of creation, which is often conceptualised as the 'eternal Dreaming'. In Indigenous epistemology this is the time when the Indigenous world took its shape and form, and from where all other living entities including laws and territorial rights flowed. While the Dreaming is said to be eternal it is something that remains ever-present. Unlike the hard physical evidence it can't be put under a microscope and dated, but it is as valid as any other belief system of originis and creation that runs parallel with linear timelines of occupation (Stanner 1969:225-36; Reynolds 1996:4-5).

It follows that if Archaeology vindicates occupation, then it goes without saying that the Indigenous ancestors have been in occupation for millennia before the imposition of British colonial rule. It is one of the areas where a Yorta Yorta view of the world is planted in its own cultural context and, while it may differ to that of Archaeology, both schools of thought have generally confirmed and consolidated prior occupation and possession of Australia by Indigenous nations (Wettenhall 1999:6-7; Yorta Yorta Native Title Evidence 1997-98; Weberriss & Frauenfelder 1996; Stanner 1987; Bowler 1971).

Against this background, it is often said that Indigenous Australians may possess the oldest living culture known to humankind (Bourke & Bourke 1999). In measuring the birth of western civilisation and the creation of the more recent overlays of the common law of England, one can conclude that these are relatively recent events (Watson 1998; Chisholm & Netheim 1982:10-17; *Cambridge Encyclopaedia of Archaeology* 1980:21,109). A further translation of this timeline to Indigenous title, arising from prior occupation, confirms that we are dealing with a concept of land ownership that 'transcends common law notions of property and possession' (*Mabo* (No. 2) Deane and Gaudron JJ. at 100), and is unique in its own right. The chain of inheritance stretches back to prior occupation, and rights

to land, culture, identity and economic security flow to present day Indigenous peoples not as a creature of the imported law but as inherent rights (Butlin 1983; Bartlett 1999; Reynolds 1996:14).

The interface between Anglo-Australian and Indigenous notions of land ownership needs to be evaluated. Anglo-Australian common law notions of property rights have been imposed on a vastly older Indigenous system. This exposes the absurdity of the common law's classification of original interests as being a 'burden' on the far more recently introduced non-Indigenous system (*Mabo* (No.2), Brennan J. at 37, Deane and Gaudron JJ. at 69). The derogation of original rights smacks of imported western value systems rather than the nature and antiquity of Indigenous based rights. The priorities of the Indigenous system are logically and evidently clear. An equitable contemporary system would recognise the priority of Indigenous interests and require that any subsequent titles did not interfere with, or treat them as a lesser interest (Ridgeway 1997; Pearson 1997; Dodson, M. 1997; Dodson, P. 1997; Cummings 1997; Yunupingu 1997; Reynolds 1996:14).

In analysing Yorta Yorta occupation I will now look at the changing nature of Yorta Yorta land as a basis for examining the concept of adaption and continuity. This will be important for measuring the degree of change that has occurred before and after European contact and for examining the issue of continued connections.

### *Change & adaption revisited*

To understand traditional relationships with the land and the process of change and adaption there are some common determinants. As survival depends on close interaction with the environment, a high weighting is given to natural conditions. From a holistic perspective the alteration to any one aspect can cause change within the whole system. Indeed there is an implied interdependence and in order to understand the interrelationship it is first necessary to examine the physical and cultural histories and how natural resources are distributed across the landscape (Redman 1978:7-11; Hole & Heizer 1973:440-1; Binford 1972:105-13).

Many of the changes that impacted on traditional Yorta Yorta occupation have been associated with the waterways. One of the most significant is the Cadell Fault, which occurred around 25,000 years ago. This probably began 60,000 years ago (Page et al. 1991).

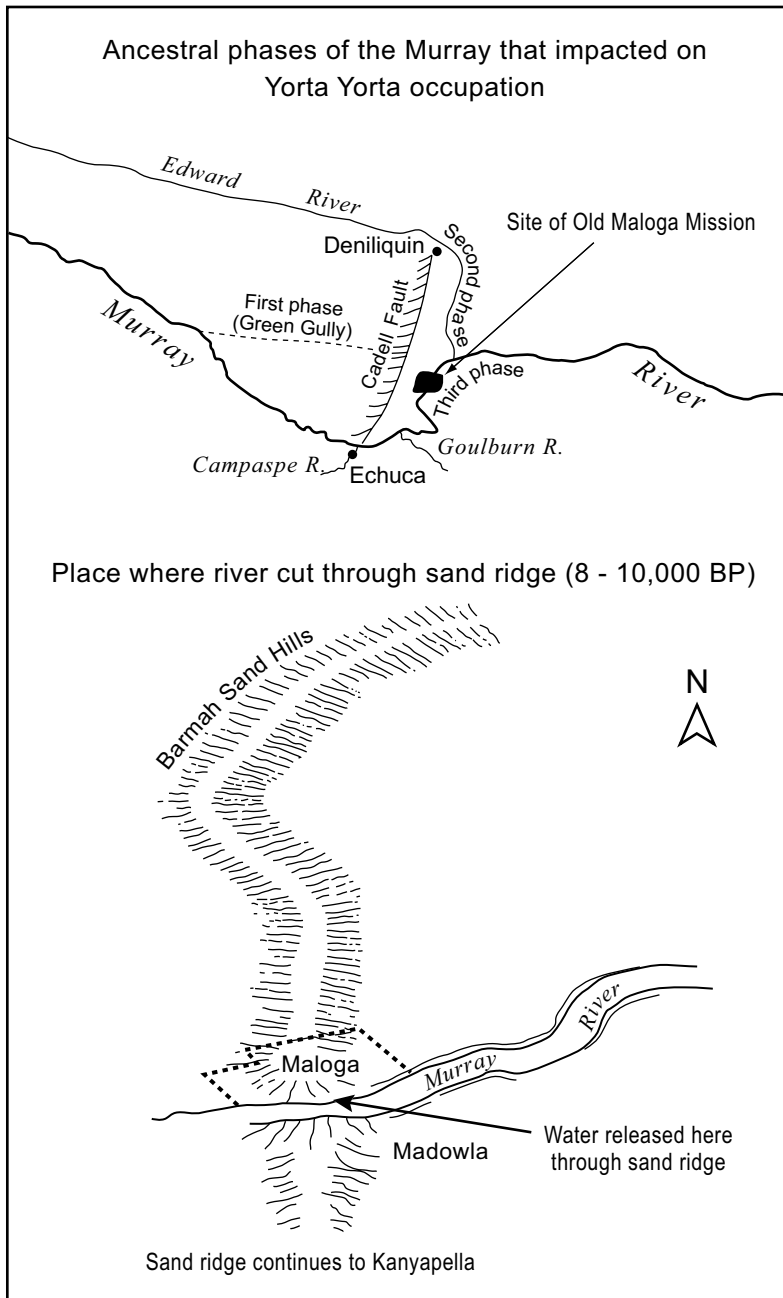
The fault may have moved again 25,000 years ago. This tilt block was thrown up between Deniliquin and Echuca, forcing the existing westward flowing river system to divert and flow north towards Deniliquin before turning west again at the end of the 12 metre high tilt block. A large lake formed at the southern end, near Echuca, and remained until about 9,000 years ago when a channel was cut to the south to allow the stream to connect with the Goulburn River system (Duncan 1982:210; Coulson 1979:134-8; Currey & Dole 1978).

### *Responding to change*

A Yorta Yorta story speaks of a 'great flood' occurring in the distant past that forced people to move from the forests up onto the sand ridges (Fig. 4). The old people watched as the water backed up until it nearly covered the tops of the trees. They were concerned about the loss of their traditional food areas and are said to have 'walked along to a point where they decided to let her go' and with their digging sticks they dug a drain through the sandhill. The force of the water cut its way through the more recent course of 8,000-10,000 years ago (Coulson 1979:134-6; Currey 1978; Currey & Dole 1978; pers. comm. with Yorta Yorta elder at site 1981).

It is of profound interest that the point of release for the flood waters is at the site of the old Maloga Mission, which was established on the edge of the sandy promontory by Daniel Matthews in 1874. It was by no coincidence that Yorta Yorta elders told Matthews that this particular site was a 'great gathering place for as long as anyone could remember' (Cato 1976:19). The location of the traditional meeting place and its connection with the relatively recent cutting of the river course remains an intriguing question. Indeed the legendary site in terms of the events witnessed and the knowledge within, tucked away on the river bend east of Echuca, is of equal icon status to the more recent overlays of colonial history. Whether the meeting place was there before or after the fault is yet to be confirmed. The event itself, however, is a good example of the changing and evolving nature of traditional land relations. Traditional conventional mechanisms of land use and control would have adapted to accommodate for change and survival. Cultural continuity was the outcome.

As indicated in the map (Fig. 1) there are many features of the study area that remain of significant



*Fig. 4.* Cadell Fault and story of the Great Flood (as told to Wayne Atkinson by Yorta Yorta elders). Yorta Yorta elders speak of a great flood that happened in the distant past. The story tells of the water backing up until it nearly covered the tops of the old gum trees in the forest, and how it forced Yorta Yorta people to go up onto the sand ridge on the edge of the forest. The elders became concerned as they watched the water rising and decided to release the water with their digging sticks, which they used to dig a drain through the sandhill and allow the water to cut its more recent course at the site of the old Maloga. (Changes to phases: 1: 30,000 yrs; 2: 20,000 yrs; 3: 10,000 yrs BP)



*Fig. 5.* View of Barmah Forest from top of sand ridge.



*Fig. 6.* Sand ridge towards Murray River.

icon status to the Yorta Yorta. The rivers, lakes, billabongs, sand ridges and ochre deposits are features of the area from earlier times. Given that Indigenous subsistence depended very much on utilising the resources of the suitable bodies of water and living zones, many adjustments like those described would have been common to Yorta Yorta occupation (Bowler 1971; Currey & Dole 1978).

Yorta Yorta subsistence patterns can be gleaned from an analysis of the resources available. Studies of similar environments in the region at the Willandra Lake system (Lake Mungo) to the north and at Kow Swamp in the west of the claim area provide insight into what the riverine environment was capable of producing. Bonhomme (1992) gives a good account of resources in the study area.

#### NATURE AND DIVERSITY OF YORTA YORTA LAND

##### *Water*

Change has been a central and continuing feature of the Murray Valley for most of its existence. During

the last 9,000-10,000 years (Holocene), with the exception of some climatic fluctuations, general living conditions have remained relatively stable. The recent work by Ian Rutherford and Christine Kenyon, on Holocene climatic fluctuations reinforces the theme of adaption and continuity (Rutherford and Kenyon, Kenyon, this issue). That is in response to climatic fluctuations and other land changes that have occurred; Indigenous people adapted and survived most admirably, and the majority have remained in occupation of the region.

Studies of vegetation zones indicate that there were some marginal areas but the compensating factor for the Murray Valley region is the river systems. Like other inland regions, the water bodies have been extremely important for Indigenous subsistence (Bowler 1971). The major rivers flowing into the study area trace their sources to the highlands of the southeast where they are regularly replenished by annual rainfall and snow melts (Butler et al. 1973).

Although stream courses have changed, the river systems are likely to have served as major focal points throughout the time the area was occupied. The range of living zones utilised by the Yorta Yorta



Fig. 7. Lyn Onus art site: Jimmy's Billabong.



Fig. 8. Barmah Forest lagoon.

have been identified (Penney 1979:10-33). These are the river; the river edge with its tall river red gums; the wetlands, including swamps, billabongs, streams and anabranches; grassy plains interspersed with patches of scrubland; and the drier mallee region (Butler et al. 1973; Mulvaney 1975:137-8).

#### *Food Sources*

The living zones produced a variety of food sources, including fish, waterbirds, yabbies, mussels, turtles, possums, kangaroos, emus, cumbungi reeds, water lily, dandelions, angled pig face, sow thistle and lerp (Pardoe 1988:203). These environments are described by archaeologists as 'broad based economies'. They are capable of providing a broad range and abundance of foods on a regular basis (Goodall 1996:12). When describing the varied and abundant food supply, Yorta Yorta people often equate the study area with the concept of a 'smorgasbord', meaning 'food and natural resources were there laid on and you didn't have to go too far to fulfil your everyday needs' (Age 7 Nov. 1998; Yorta Yorta 1998).

#### *Living Patterns*

As the food quest was largely determined by the seasonal availability of food, it is natural for groups to follow its cyclical nature. The warm months on the rivers were the most productive while the few colder months and when the river was in flood encouraged dispersal, in smaller groups, to areas away from the main water bodies (Beveridge 1889:27; Kirk 1981:73-5; Kneebone 1992). The Yorta Yorta used these living zones to satisfy their dietary needs at different times of the year.

Movement across these zones, though, was not simply for economic reasons. The seasonal arrival of food coincided with cultural activities. Many of the larger gatherings were organised in conjunction with the arrival of food and some of the ceremonies were held to perpetuate particular food species. The totemic restrictions on some foods also helped to protect certain foods from being over-exploited (Hagen 1997:60-9).

The general abundance of food would have reduced the amount of time required in the food quest, which in turn would have created much more time for leisure activities. Anthropologist, Marshall Sahlins, describes this type of lifestyle as one that supports his condition of the 'original affluent societies' (Sahlins 1974). Such groups typically invested about four to five hours a day in the food quest. This



Fig. 9. Algabonyah Plain (Moir Forest).

allowed more time for the maintenance of cultural connections with the land and waters (Curr 1965:46; Sahlins 1974). Economic historian, Tony Dingle, notes that 'two to four hours of intermittent effort' was all that was required to provide sufficient food for the day. Furthermore 'the food quest was not usually considered either arduous or unpleasant. Indeed we are looking at an economy which was enjoying a thirty to thirty-five hour working week at a time when European labourers worked almost twice as long in order to sustain themselves' (Dingle 1988:30). Elsewhere, he suggests that it is probable that in 1788 'Aborigines enjoyed a somewhat greater life expectancy than the British who were poised to invade Australia in 1788' (ABS 2000; *Age* 18 April 2000; Dingle 1988:33).

Looking at the impact of such changes on Yorta Yorta society one can better appreciate the desires to emulate the old ways. Many, myself included, prefer to follow aspects of our own culture rather than the undesirable elements of western culture that are making inroads into the well-being of many Indigenous communities (ABS 1999).

In recent years, Indigenous groups have chosen to return to their traditional homelands. Many Yorta Yorta have returned to Cummeragunja to reaffirm their cultural connections and many have returned to

the residential centres within the claim area. This involves both a desire to get away from the undesirable aspects of mainstream life and the need to get back in touch with family and country. The movement does not suggest abandonment or severance of cultural ties but fulfilment of the need to maintain cultural connections and identity. Indeed, the ABS 1996 Survey revealed that the Yorta Yorta had maintained significant physical and cultural connections with the claim area (ABS 1996; Coombs 1994:24-31; McKendrick 1999).

Since the nadir of the assimilation policies of the 1940s, the Cummeragunja population has steadily increased. Declining economic opportunities in the mainstream labour market, racism, and the sense of being at home with one's own mob have contributed to a population increase of over 200. The movement back may well be connected with the underlying socio-economic factors, highlighted in the *Aboriginal Deaths in Custody* Royal Commission Report (1991) and *Bringing Them Home* Report of The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families (1997). The reports on Aboriginal Health and Welfare matters by the ABS (1997) and on Aboriginal employment (Taylor and Altman 1997) further highlight the degree of inequality experienced by



Indigenous people (McKendrick 1999; Editorial, *Age* 12 Aug. 1999; Coombs, 1994:24-31).

The evidence of Yorta Yorta occupation exemplifies the rich and diverse nature of the study area. The importance of the wetlands and the holistic nature of land, water, vegetation and wildlife are exemplified. The Yorta Yorta took advantage of the stability and abundance of resources from which evolved a relatively large and resilient nation of people (Laurandos 1997:233-5).

#### *Traditional Land Management Practices*

Changes in traditional Yorta Yorta land management practices and technological strategies need to be highlighted (Flood 1989:48-50). These varied from simply managing existing resources to manipulating the environment to secure more sustainable returns. Dingle points to the Murray Valley as 'a resource-rich area where there were moves towards complex resource management' (Dingle 1988:48). The constructing of elaborate fish trap systems is an example of how the Yorta Yorta were able to increase returns and minimise individual effort. The use of fire was another important land management and food production tool (Yorta Yorta 1999:19-28; Kneebone 1992; Craib 1992; Bonhomme 1990; Atkinson & Berryman 1983; Penney 1979:10-22).

#### *Use of Fire*

Indigenous people used a system of land management which involved seasonal movement within their lands and a practice known as 'fire-stick farming'. Edward Curr noted the use of the 'fire-stick' as a food production & land management practice in the Barmah-Millewa area in 1841. Curr explains 'Living principally on wild roots & animals' he [Aborigines] 'tilled his land & cultivated his pastures with fire', the frequency of which he estimated was 'once in every five years' (Curr 1965:88).

Fire was used by the Yorta Yorta for hunting and regeneration purposes, for clearing tracks through reed beds, and as a strategy for dissuading Europeans from venturing into the land (Curr, 1965:88; Hawdon, 1852:33; Sturt, 1899:138, 143). Traditional burning is still being used in Kakadu National Park (Northern Territory) and Gariwerd (Grampians) National Park, Victoria. The reintroduction of fire or controlled burning as a land man-

agement strategy is one of the rights being asserted by the Yorta Yorta (Koori Ranger, Barmah Forest, pers. comm. 21 Sept. 1998; Young et al. 1991:165-8). The immense value of such Indigenous strategies is becoming increasingly recognised amongst non-Indigenous experts and authorities responsible for land management. The larger raging bush fires often witnessed today are attributed to the absence of controlled burning, and understorey build-up, which is now being managed by fuel reduction burning. 'Poor fire management' as to efficient and controlled burning, however, has proved to be a problem in land management strategies, particularly in relation to the way fire is being used in state national parks (*Sydney Morning Herald* 9 July 2005).

#### ABORIGINAL SITES AS EVIDENCE OF OCCUPATION

While the study area has undergone rapid changes since white settlement, much of the evidence or manifestations of prior Indigenous occupation remains. This evidence, together with Yorta Yorta knowledge, becomes crucial for ascertaining pre-existing rights to land and resources and for cultural heritage protection. Given the antiquity of Yorta Yorta occupation and the extent to which it manifests itself in the nature and distribution of sites within the study area, it would be reasonable to submit that the study area is or at least can be seen as a cultural site within its own making (Redman 1978:7-11; Binford 1972:105-13; Hole & Heizer 1973:440-1; Oncountry Learning 2005).

Archaeological work in the claim area has been restricted to sample surveys, the re-burial of skeletal remains and the analysis of cultural objects (artefacts, stone tools, etc). Most of the cultural heritage work by the Yorta Yorta has focused on site management and protection. The impact of grazing, trail

Site type	New South Wales count	Victoria count	Total count
Scarred tree	118	881	999
Mound	141	212	353
Open scatter	14	79	93
Middens	19	17	36
Burial	20	24	44
Totals	312	1213	1525

*Table 1.* Yorta Yorta site types recorded at 1999 (from Management Plan for Yorta Yorta Heritage, Yorta Yorta Nations Inc., 1999, pp. 38-40).

bikes, and four-wheel drives on sites is a major concern (Bonhomme 1992; Craib 1992; Atkinson & Berryman 1983). The more recent archaeological work conducted by Bonhomme (1992) and Craib (1997) provides a good sample of site density and distribution, within a relatively limited area. Over 1818 sites have been recorded, most of which are located in Barmah Forest (82%) and the other 333 (18%) are in the Millewa Forest, New South Wales (Craib 1997:32; Bonhomme, 1992:67). The distribution and types of sites recorded is indicated in Table 1.

While archaeology can ascertain site density in a particular area, it can also make inferences on broader site distribution and the extent of site loss, through the imposition of introduced changes and through the deposition of flood soils over the millennia.

### *Material Evidence*

The material objects, which are expressions of traditional lifestyle and culture, do not, of course, include the many organic materials used by the Yorta Yorta. Most of the wooden spears, clubs and boomerangs,

the fibre bags and nets, the shell knives, scrapers and hooks, the possum skin cloaks, the bark and grass huts and the myriad of single camp fires dotted around water margins have not survived erosive factors such as wind, fire, flood and bacterial decomposition (Atkinson & Berryman 1983). Archaeological research has been able to locate and date other artefacts and make inferences about their various functions and uses. The 15,000-year-old Kow Swamp excavation (Kirk 1981:24; Mulvaney 1975) has revealed various burial practices, together with the use of stone artefacts, shells and marsupial teeth as grave items. While burial practices have been adjusted to cater for changes in Yorta Yorta society, some traditional customs are still practised. Most Yorta Yorta prefer to be buried in the ancestral lands; some have personal belongings buried with them and many still use smoke as a cleansing process in mortuary ceremonies. Some states have recognised Indigenous people's rights to be buried in their own land so that their spirits are free to join their people (Age 1 Nov. 1999; Atkinson 2000 chapters 7-8; pers. observation of funeral practices at Cummeragunja).

A bark canoe cut from the river red gums with stone axe heads is a traditional artefact of great significance to the Yorta Yorta. Canoes were used in



Fig. 10. Site protection, Barmah Forest.

great numbers for travel, foraging and fishing platforms from which to spear and hook fish. They were used for transporting pastoralists and their stock across watercourses and for carrying goods to and from pastoral stations. The larger ones are believed to have been used to mount attacks on stations around the Moira wetlands during the resistance campaign. The age-old craft of extracting bark for various uses including canoes is a cultural practice that continues in adapted forms. Cultural activities like these are promoted by the Dharnya Centre and the Bangerang Cultural Centre Co-Operative, Shepparton (Yorta Yorta 1997; Beveridge 1889:19, 63-91; Curr 1965:84-91; Stone 1911; Brough-Smyth 1878, vol. 1: 215, vol. 2: 298; Stanbridge 1861).

The hard evidence (sites and objects) confirms that the Yorta Yorta people have maintained an interest and connection with the land and waters from long before Europeans arrived to the present. They still speak of this connection as an inherent right. Yorta Yorta perceptions of their heritage overlap with much of the archaeological data (Atkinson 1981; Morgan 1952).



*Fig. 11.* Canoe tree, Barmah-Millewa Forest.



*Fig. 12.* Fish trap system (Moira Forest) and natural water courses used for fish storage.

### YORTA YORTA COMMUNITY TODAY

The Yorta Yorta declare that they have never relinquished their sovereign rights to territories occupied by their ancestors. Given the interference of those events described by *Mabo* as 'unjust and discriminatory', the Yorta Yorta have continued to live on the ancestral lands and to exercise their inherent rights to use resources, and to continue cultural practices (*Mabo* (No. 2) 1992 Brennan J. at 29, 40-3; Aboriginal and Torres Strait Islander Social Justice Commissioner 1995:94-6; Yorta Yorta 1984, 1994, 1995, 1996, 1999).

The current Yorta Yorta population is estimated to be 5,000-6,000 (Hagen 1997; Alford 2002; Rumbalara Aboriginal Community 2001). Figures from the 1996 ABS survey indicate that the majority of Yorta Yorta people, still physically occupy the ancestral lands and that the Yorta Yorta population continue to regard the area as their traditional homelands. Other reports that correlate the legacy of land loss with current health concerns support continued Yorta Yorta connections (Alford 1999; McKendrick 1999; ABS 1996; Department of Conservation & Environment 1992).

The majority of Yorta Yorta live in the townships of Echuca, Moama, Shepparton, Mooroopna, Cummeragunja, Barmah, Nathalia, Finley, Cobram, Kyabram, Wangaratta and Mathoura, and other smaller centres within the lands. Some live nearby at Albury, Wodonga, Deniliquin, Kerang, Barham and Swan Hill. Others have moved to the cities to pursue educational and economic interests, most of whom still visit the area regularly to maintain social and cultural links (ABS 1996; Hagen 1997:6-8; Yorta Yorta 1999:10; Atkinson 2000, chapters 8-9).

The Yorta Yorta have set up organisations to service the needs of their people in housing, health, education, employment, land, sport and heritage matters. These organisations provide mechanisms through which the Yorta Yorta have been able to deal with governments on both sides of the Murray and to maintain the social and cultural fabric of their society.

Many of the Yorta Yorta were instrumental in the fight for civil and political rights leading up to the 1967 Referendum. They established the first Aboriginal organisations in Melbourne and Sydney in the early 1930s. Some of the early leaders were active in highlighting similar injustices in other parts of Australia in the 1950s and in assisting those



Fig. 13. Occupation site: mounds on each side of natural lagoon system.

Victorian communities that gained some land justice in the 1970s and 1980s (*Aboriginal Land Act 1970* (Vic); Aborigines Advancement League 1985: 55-84; Horner 1974:68-80; Barwick 1972; Broome 1994:80-4; Atkinson 1996; Goodall 1996:230-58).

#### TIDE OF HISTORY REJECTED

Yorta Yorta people reject the notion that their connections have been washed away by what is described in euphemistic phrases like the 'tide of history' and reassert their position as the traditional occupants and owners of the lands inherited from their ancestors. The history of race relations and conflict over land ownership expose the 'tide of history' as no more than fanciful language, dressed up in disguise, which was used to cover over the underlying and causative effects of the struggle for land justice. The application of the tide idea in the YYNTC as a barrier to land justice perverted the course of justice in the Yorta Yorta case. It is often likened with the analogy of rubbing salt into the deep wounds of Yorta Yorta society. Reconciling the unfinished business of land justice and reaching a position of real effective and genuine reconciliation are the challenges that confront all parties in the study region.

The Yorta Yorta asserts that those rights that arise from prior occupation have continued. Scientific analysis of past activities is able to substantiate that the land was occupied and possessed by Indigenous people. From this evidence we can see that Yorta Yorta culture was not frozen in time and place but was continually adapting to cater for the changing circumstances of the time.

Overlay the antiquity of Indigenous occupation use and enjoyment of the ancestral lands with the more recent events and any normal, rational thinking person would agree that they are indeed relatively recent events. However, overlay the impact of the last two centuries or more, in terms of their dominance and control over Indigenous existence and land management practices, and one can arrive at a position where the notion of the 'search for common ground' is a fundamental reality for Yorta Yorta survival and cultural continuity.

#### REFERENCES

- ABORIGINAL AND TORRES STRAIT ISLANDER COMMISSION (ATSIC), 2000. Report to the United Nations Human Rights Commission on the Convention for the Elimination of Racial Discrimination, 56th Session, 19 March.
- ABORIGINAL AND TORRES STRAIT ISLANDER SOCIAL JUSTICE COMMISSIONER, 1995. Report on Native Title, 94-6.
- ABORIGINES ADVANCEMENT LEAGUE, 1985. *Victims or Victors?* Hyland House, Melbourne.
- ANDERSON, L., 1996. Aboriginal well-being. In *Health in Australia: Sociological concepts and issues*, C. Grbich, ed., Prentice Hall Australia.
- ALFORD, K., 1999. White-washing away native title rights: the Yorta Yorta land claim and the 'tide of history'. *Arena Journal*, no. 13: 67-83.
- ALFORD, K., 2002. Shepparton regional Indigenous community employment & development strategies.
- ATKINSON, W.R., 1981. A Picture from the other side: An oral history of the relationship between Cummeragunja and Coranderrk Reserves. Manuscript, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- ATKINSON, W.R., 1996. The Yorta Yorta struggle for justice continues. In *Majah: Indigenous Peoples and the Law*, G. Bird, G. Martin & J. Nielson, eds, The Federation Press, Sydney, 281.
- ATKINSON, W.R., 2000. Not one iota: The Yorta Yorta struggle for land justice. PhD Thesis, Department of Law & Legal Studies, LaTrobe University, Victoria.
- ATKINSON, W.R., 2002. Mediating the mindset of opposition: Yorta Yorta mediation process 1995. *Indigenous Law Bulletin* 5(6): 19-23.
- ATKINSON, W.R., 2004. Barmah-Millewa: Some thoughts for future directions. *Park Watch* no. 216: 17-18.
- ATKINSON, W.R. & BERRYMAN, A., 1983. *Aboriginal associations with the Murray Valley*, The Victorian Land Conservation Council, Melbourne.
- AUSTRALIAN BUREAU OF STATISTICS, 1996. National Aboriginal and Torres Strait Islander Survey.

- AUSTRALIAN BUREAU OF STATISTICS, 1997. Report on the health and welfare of Australia's Aboriginal and Torres Strait Islander Peoples. Commonwealth of Australia, AGPS, Canberra.
- AUSTRALIAN BUREAU OF STATISTICS, 1999. Report on Aboriginal and Torres Strait Islander welfare and health for statistics and causes of health problems: Environmental factors. Commonwealth of Australia, AGPS, Canberra.
- AUSTRALIAN BUREAU OF STATISTICS, 2000. Report on Indigenous life expectancy. Commonwealth of Australia, AGPS, Canberra.
- AUSTRALIAN INSTITUTE OF ABORIGINAL AND TORRES STRAIT ISLANDER STUDIES, 1999. Report on research of interest to Aboriginal and Torres Strait Islander Peoples. Australian Research Council, Canberra.
- BARWICK, D., 1972. Coranderk and Cummeragunja: Pioneers and policy. In *Opportunity and response: Case studies in economic development*, T.S Epstein & D.H. Penny, eds, Hurst, London, 11-68.
- BARTLETT, R., 1999. Native title in Australia: Denial, recognition and dispossession. In *Indigenous peoples' rights: In Australia, Canada & New Zealand*, P. Havemann, ed., Oxford University Press, Auckland, New Zealand, 408-427.
- BEATTIE, J., 1964. Other cultures: Aims methods and achievements. In *Social Anthropology*, J. Routledge & P. Kegan, eds, Cambridge University Press, 241-64.
- BECKETT, J.R. (ed), 1994. *Past and present: The construction of Aboriginality*. Aboriginal Studies Press, Canberra.
- BERNDT, R.M. & BERNDT, C.H., 1977. *The World of the First Australians*, 2nd edn. Ure Smith, Sydney.
- BEVERIDGE, P., 1889. *The Aborigines of Victoria and the Riverina*. M.L. Hutchinson, Melbourne.
- BINFORD, L.R., 1972. *An Archaeological perspective*. Seminar Press, New York.
- BIRD, G., 1993. *The process of law in Australia: Intercultural perspectives*, 2nd edn. Butterworths.
- BONHOMME, T., 1990. Report on archaeological survey of the Barmah Forest for the Yorta Yorta Clans. Unpublished report for the Yorta Yorta Clans Inc., Barmah.
- BONHOMME, T., 1992. An archaeological survey of the Barmah Forest. Department of Conservation and Environment, Melbourne.
- BOURKE, C. & BOURKE, E., 1999. Can an Indigenous Australian University be part of reconciliation? In *Reconciliation: Voices from the Academy*, L. Manderson, ed., Academy of the Social Sciences in Australia, Canberra, 53-65.
- BOURKE, C., BOURKE, E. & EDWARDS, W., 1994. *Aboriginal Australia*. University of Queensland Press.
- BOURKE, C. & COX, H., 1994. Two laws: One land. In *Aboriginal Australia*, C. Bourke, E. Bourke & W. Edwards, eds, University of Queensland Press, 49-64.
- BOWLER, J.M., 1971. Pleistocene salinities and climatic change: Evidence from lakes and lunettes in south-eastern Australia. In *Aboriginal Man and environment in Australia*, D.J. Mulvaney & J. Golson, eds, ANU Press, Canberra, 47-65.
- BROOME, R., 1994. *Aboriginal Australians*, 2nd edn. Allen and Unwin, Sydney.
- BROUGH-SMYTH, R., 1878. *The Aborigines of Victoria*. Victorian Government Printer, Melbourne.
- BUTLER, B.E. & others, 1973. A geomorphic map of the riverine plain of south east Australia. ANU Press, Canberra.
- BUTLIN, N.G., 1983. *Our original aggression. Aboriginal populations of southeastern Australia, 1788-1850*. George Allen & Unwin, Sydney.
- BUTT, P., 1996. *Land Law*, 3rd edn. The Law Book Company, Sydney.
- CAMBRIDGE ENCYCLOPEDIA OF ARCHEOLOGY, 1980.
- CANNON, M., 1993. *Black Land White Land*. Minerva, Melbourne.
- CATO, N., 1976. *Mister Maloga*. University of Queensland Press.
- CHISHOLM, R. & NETTHEIM, G., 1992. *Understanding Law*, 4th edn. Butterworths, Sydney.
- CHRISTIE, M.F., 1979. *Aborigines in Colonial Victoria 1835-86*. Sydney University Press.
- CLAYTON, I., 1988. Wiradjuri identity. *Journal of the Australian Institute of Aboriginal and Torres Strait Islander Studies*, no. 1.
- COOMBS, H.C., 1994. *Aboriginal Autonomy*. Cambridge University Press.
- COULSON, H., 1979. *Echuca & Moama: Murray River Neighbours*. Sunnyland Press, Victoria.

- COUNCIL FOR ABORIGINAL RECONCILIATION, 1996. Valuing Cultures. From *Justice and Equity CD ROM*, Council for Aboriginal Reconciliation, Canberra.
- COWLISHAW, G., 1988. The materials for identity construction. In *Past and Present*, J. Beckett, ed., Aboriginal Studies Press, Canberra, 87-107.
- CRAIB, J., 1992. Archaeological survey in the Moira-State Forests. National Parks & Wildlife Service, Sydney.
- CRAIB, J., 1997. Management Plan for Yorta Yorta Cultural Environmental Heritage. National Estate Grants Project, Canberra.
- Cummings, B., 1997. Talking history. In *Our land is our life*, G. Yunupingu, ed., University of Queensland Press, 188-194.
- Curr, E.M., 1965. *Recollections of squatting in Victoria, then called the Port Phillip District, from 1841-1851*. Melbourne University Press (First published in 1883).
- CURREY, D.T. 1978. Geomorphology of the Barmah-Millewa Forests environment. In *The hydrogeology of the Riverine plain of south east Australia*, R.R. Storrier & I.D. Kelly, eds, Australian Society of Soil Science, Riverina Branch, Wagga Wagga, N.S.W.
- CURREY, D.T. & DOLE, D.J., 1978. River Murray flood flow patterns and geomorphic tracts. *Proceedings of the Royal Society of Victoria* 90: 67-77.
- DEPARTMENT OF CONSERVATION & ENVIRONMENT, 1992. *Barmah Management Plan: Barmah State Park, Barmah State Forest*. DCE, Melbourne.
- DINGLE, T., 1988. *Aboriginal Economy*. Penguin Books.
- DJERRKURA, G., 1999. Indigenous Peoples, Constitutions and Treaties: A Dialogue on Indigenous Rights in the Commonwealth. Institute of Commonwealth Studies, paper presented to Conference from ATSIC, London, 23 July (see ATSIC website).
- DODSON, M., 1994. Cultural Rights and Educational Responsibilities. The Frank Archibald Memorial Lecture Series, University of New England, Armidale, NSW.
- DODSON, M., 1997. Land rights and social justice. In *Our Land is Our Life*, G. Yunupingu, ed., University of Queensland Press, 39-51.
- DODSON, P., 1997. Reconciliation in Crisis. In *Our Land is Our Life*, G. Yunupingu, ed., University of Queensland Press, 137-149.
- DODSON, P., 1999. Until the Chains are Broken, 4th Annual Vincent Lingiari Memorial Lecture, Northern Territory University, Darwin.
- DONAHUE, M., KAUPER, I. & MARTIN, A., 1983. *Cases and Materials on Property*, 2nd edn. West Publishing, St Paul, Minnesota.
- DUNCAN, J.S. (ed.), 1982. *Atlas of Victoria*. Victorian Government Printing Office, Melbourne.
- ELKIN, A.P., 1974. *The Australian Aborigines*. Angus and Robertson, Melbourne.
- EVATT, E., 1996. Review of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, commissioned by the Minister for Aboriginal and Torres Strait Islander Affairs. Commonwealth Government Printer, Canberra.
- FLETCHER, C. (ed.), 1994. *Aboriginal self determination in Australia*. Aboriginal Studies Press, Canberra.
- FLOOD, J., 1989. *Archaeology of the Dreamtime*. Collins Australia, Sydney.
- FOSTER, R., 1999. Turning back the tide: The use of history in the Native Title process. *Indigenous Law Bulletin* 4(22).
- GILBERT, K.J., 1973. *Because A White Man'll Never Do It*. Angus and Robertson, Sydney.
- GOODALL, H., 1996. *Invasion to Embassy, Land in Aboriginal Politics in New South Wales, 1770-1972*. Allen and Unwin in association with Black Books, St Leonards, NSW.
- GOSTON, O. & CHONG, A., 1994. Living wisdom: Aborigines and the environment. In *Aboriginal Australia*, C. Bourke, E. Bourke & W. Edwards, eds, University of Queensland Press, 123-139.
- GRAY, G., 1999. The past is never finished. In *Reconciliation: Voices from the Academy*, L. Manderson, ed., Academy of the Social Sciences in Australia, Canberra, 15-29.
- HARVEY, K., 1999. *Stories from Elders*. Victorian Aboriginal Community Elders Care Centre, Melbourne (unpublished).
- HAGEN, R., 1997. Report to the Yorta Yorta Clans Group on Yorta Yorta Associations with the Claim Area (unpublished).
- HAWDON, J., 1852. *The journal of a journey from New South Wales to Adelaide, performed in 1838*. Georgian House, Melbourne.

- HOLE, F. & HEIZER, R.F., 1973. *An Introduction to Prehistoric Archaeology*, 3rd edn. Holt Rinehart and Winston, New York.
- HORNER, J., 1974. *Vote Ferguson for Aboriginal Freedom: A biography*. Australia and New Zealand Book Company, Sydney.
- HOWARD, M.C., (ed.) 1982. *Aboriginal Power in Australian Society*. University of Queensland Press.
- INDIGENOUS PERCEPTIONS OF THE ACADEMY, 1994. Conference for Indigenous Students from Australia and Overseas, University of Melbourne.
- JONES, R., 1968. Firestick farming. *Australian Natural History* 16: 224-228.
- KEEN, I., 1988. Aboriginality: Resistance and persistence. *Journal of the Australian Institute of Aboriginal and Torres Strait Islander Studies*, no. 1.
- KIRK, R.L., 1981. *Aboriginal Man Adapting*. Oxford University Press, New York.
- KNEEBONE, E., 1992. Interpreting Traditional Culture as Land Management. In *Aboriginal involvement in Parks and Protection Areas*, J. Birkhead, T. DeLacy, & L. Smith, eds, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra, 228.
- KOHEN, J., 1995. *Aboriginal environmental impacts*. University of New South Wales Press.
- LANGTON, M., 1981. Urbanising Aborigines: The social scientists' great deception. *Social Alternatives* 2(2): 16-22.
- LANGTON, M., 1993. *Well, I heard it on the radio and I saw it on the television*. Australian Film Commission, North Sydney, NSW.
- LAURANDOS, H., 1997. *Continent of hunters-gatherers*. Cambridge University Press.
- LOCKE, J., 1983. Two treatises on civil government. In *Cases and materials on property*, 2nd edn, M. Donahue, I Kauper & A. Martin, eds, West Publishing, St. Paul, Minnesota, Book 2.
- McKENDRICK, J., 1999. Research into Indigenous health related issues in the claim area (unpublished).
- MORGAN, R., 1952. Reminiscences of Cummeragunja. Privately printed, in State Library of Victoria.
- MULVANEY, D.J., 1975. *The Prehistory of Australia*. Penguin Books, Melbourne.
- NATIONAL INQUIRY INTO THE SEPARATION OF ABORIGINAL AND TORRES STRAIT ISLANDER CHILDREN FROM THEIR FAMILIES, 1997. Bringing Them Home Report. Commonwealth of Australia.
- ONCOUNTRY LEARNING, 2005. Indigenous Studies course, that teaches Yorta Yorta occupation and relationship with the area by site visits with Yorta Yorta people. University of Melbourne.
- PAGE, K.J., NANSON, G.C. & PRICE, D.M., 1991. Thermoluminescence chronology of late Quaternary deposition on the riverine plain of south-eastern Australia. *Australian Geographer* 22(1): 14-23.
- PARDOE, C., 1988. *Prehistoric Aboriginal Cemeteries of the River Murray*. Institute of Aboriginal and Torres Strait Islander Studies, Canberra.
- PEARSON, N., 1997. The concept of Native Title in common law. In *Our Land is Our Life*, G. Yunupingu, ed., University of Queensland Press, 150-162.
- PENNEY, J., 1979. The death of Queen Aggie: Culture contact in the Mid Murray region. BA Honours thesis, Department of History, La Trobe University, Melbourne.
- REDMAN, C.L., 1978. *The rise of civilisation from early farmers to urban society in the ancient Near East*. Freeman and Co, San Francisco.
- REYNOLDS, H., 1981. *The Other Side of the Frontier*. James Cook University, Townsville.
- REYNOLDS, H., 1987. *The Law of the Land*. Penguin Books, Ringwood, Victoria.
- REYNOLDS, H., 1996. *Aboriginal sovereignty: reflections on race, state and nation*. Allen & Unwin, St. Leonards, N.S.W.
- RIDGEWAY, A., 1997. Rights of the first dispossessed: The New South Wales situation. In *Our Land is Our Life*, G. Yunupingu, ed., University of Queensland Press, 63-79.
- ROBINSON, G.A., 1791-1866. *The journals of George Augustus Robinson, chief protector, Port Phillip Aboriginal Protectorate*, ed. I.D. Clark, vol. 6. Heritage Matters, Melbourne, 2000.
- ROSE, D.B., 1997. Book review of 'Neither justice nor reason', by Marc Gumbert. In *Journal of Pacific Studies* 11(1).
- ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY, 1991. National Report, AGPS, Canberra.



- SAHLINS, M., 1974. *Stone Age Economics*, Tavistock, London.
- SAID, E.W., 1994. *Culture and Imperialism*. Vintage, London.
- SINGH, G. & KERSHAW, A.P., 1981. Quaternary vegetation and fire history in australia. In *Fire and the Australian Biota*, A.M. Gill, R.A. Groves & I.R. Noble, eds, Australian Academy of Science, Canberra, 23-54.
- STANBRIDGE, W.A., 1861. Some particulars of the general characteristics of astronomy and mythology of the tribes in the central part of Victoria, southern Australia. *Transactions of the Ethnological Society at London* 1:293.
- STANNER, W.E.H., 1969. *After the Dreaming: Black and White Australians—an Anthropologist's View*. Australian Broadcasting Commission, Sydney.
- STANNER, W.E.H., 1987. The Dreaming. In *Traditional Aboriginal society*, W.H. Edwards, ed., Macmillan, 225-236.
- STONE, A., 1911. The Aborigines of Lake Boga, Victoria. *Proceedings of the Royal Society of Victoria* 23: 433-468.
- STURT, N.G., 1899. *Life of Charles Sturt*. Smith Elder, London.
- TAYLOR, J. & ALTMAN, J.C., 1997. *The job ahead: Aboriginal employment*. Centre for Aboriginal Economic Policy Research, Australian National University.
- THORNE, A., RAINER, G., MORTIMER, G., SPOONER, N.A., SIMPSON, J.J., MCCULLOCH, M., TAYLOR, L. & CURNOE, D., 1999. Australia's oldest human remains: Age of the Lake Mungo 3 skeleton. *Journal of Human Evolution* 36(6): 591-612.
- THORNE, A.G. & MACUMBER, P.G., 1972. Discoveries of Late Pleistocene Man at Kow Swamp, Australia. Reprint from *Nature* 238, no. 5363.
- UNITED NATIONS 1969. U.N. Convention on the Elimination of Racial Discrimination, Article 4(a) concerning incitement to Racial Hatred.
- UNITED NATIONS 1997. U.N. Human Rights Commission Working Group on Indigenous People, Charter of Indigenous Rights.
- UNITED NATIONS, 1999. U.N. Committee for the Elimination of Racial Discrimination, Position on the Native Title Act.
- WATSON, I., 1998. Naked peoples: Rules and regulations. *Law Text Culture* 4(1):1.
- WEBERRISS, R. & FRAUENFELDER, P., 1996. *Land: Conflicting perspectives*. Unpublished manuscript, State Library of Victoria.
- WETTENHALL, G., 1999. The People of Gariwerd: The Grampians' Aboriginal Heritage. Aboriginal Affairs, Victoria.
- WORKING GROUP ON INDIGENOUS PEOPLE (WGIP) 1997. Charter of Indigenous rights. The Center for World Indigenous Studies.
- YORTA YORTA, 1984. Yorta Yorta land and compensation submission to the Victorian and Federal Governments. Yorta Yorta Tribal Council, Barmah.
- YORTA YORTA, 1994. Yorta Yorta Statement of Claims and Contentions 1994-95.
- YORTA YORTA, 1995. Yorta Yorta Policy Document on Yorta Yorta Claimed Lands and Waters 1995. In Appendix 2 of 'Not one iota', W.R. Atkinson thesis, La Trobe University, 2000.
- YORTA YORTA, 1996. Yorta Yorta submissions to the Federal Court on Native Title, Exhibit A17 1996-1998.
- YORTA YORTA, 1997. Yorta Yorta Evidence to Federal Court 1997, chapter 8: Manufacture of cultural implements and artefacts.
- YORTA YORTA, 1998. Yorta Yorta oral evidence: Elizabeth Hoffman transcript 1997-98.
- YORTA YORTA, 1999. Yorta Yorta Land Management Plan 1999, completed for the National Estate Grants Committee Project, Canberra, 2003.
- YOUNG, E., ROSS, H., JOHNSON, R. & KESTEVEN, J., 1991. *Caring for Country: Aborigines and Land Management*. Australian National Parks and Wildlife Services, Commonwealth of Australia, Canberra.
- YUNUPINGU, G., 1997. From bark petition to Native Title. In *Our land is our life: Land rights: past, present and future*, G. Yunupingu, ed., University of Queensland Press, 1-17.

#### Cases

- Coe v Commonwealth* [1979] 53 ALR 403.
- Johnson v McIntosh* [1823] 8 Wheat 543.
- Milirrpum v Nabalco Pty Ltd* [1971] 17 FLR 141.
- Mabo v Queensland* [1988] 166 CLR 186.
- Mabo v Queensland* [1992] HCA CLR 178.

- Mabo v. State of Queensland* (No. 2) [1992] 107 HCA ALR 1.
- Mary Yarmirr & Ors v The Northern Territory of Australia & Ors* [1999] 771 FCA 112.
- Mason v Tritton*, [1994] 84 LGERA 292; (1994) 34 NSWLR 572.
- Wik Peoples and Thayorre Peoples v Queensland* [1996] 141 ALR 129.
- Mabo* (No. 2) 1992 Brennan J. at 29, 40-3; Toohey J. at 146-8, 179, 243; Brennan J. at 43-5; Deane & Gaudron JJ. at 64.