

CLAN BASED TREATIES AND TREATY COMMISSIONS

ARE THE TREATY NEGOTIATOR AND REPRESENTATIVE BODY



Submission

“CLANS AND OUR ELDERS BELONG TO COUNTRY AND TREATY”

24 May 2017



Prime Minister of Australia Hon Malcolm Turnbull MP
Opposition Leader Bill Shorten MP
Referendum Council Members and Co-Chairs Pat Anderson AO and Mark Leibler AC
Premier of Victoria Hon Daniel Andrews MP
Victorian Opposition Leader Hon Matthew Guy MP

15 May 2017

Dear Prime Minister, Opposition Leader and Co-Chairs,

OPEN LETTER
Submission to the Prime Minister, Opposition Leader, the Referendum Council and Victorian Parliament
Clans Belong To Country

The Victorian Traditional Owner Land Justice Group (VTOLJG) has acted for and represented First Nations since its establishment in 2005. The VTOLJG is an advocacy, legislative and policy driven body that now focuses on the priori rights or first rights of Elders, Clans and Nations including related matters such as Sovereignty, land rights, reparations, political representation, economic development, and the human rights of First Peoples. Our members have attended local, regional and State Forums on Self Determination, Treaty and Recognise. There is widespread concern about government "captain picks" eroding democracy and the lack of resources for First Peoples to consider the various complex issues before our People.

The VTOLJG and its members have attended over 30 State and Commonwealth Forums and Dialogues on Self Determination, Treaty and Constitutional Reform. There is also a Local Government movement to address a Treaty led by the City of Moreland and the Wurundjeri First Nation.

Some of the Forums and Dialogues were in Canberra and Sydney but most were throughout Victoria with State Forums in Melbourne. There is an obvious interconnectedness and an absolute need to coordinate a consistent outcome for both processes. It is time that all levels of Government deal with the injustices of the past and the present and address the future legal, social and political issues. Conclusively, the new political climate favours a substantive movement to a Sovereign Treaty or Treaties and elected Treaty Commissions at the regional, State or National level.

There is no overwhelming support for minimalist reform or a tinkering with a few clauses in the Commonwealth or State Constitutions.

The VTOLJG instructed its lawyers Holding Redlich to write to the Premier of Victoria the Hon Daniel Andrews MP outlining our position on Victorian Treaty Negotiations. The letter is attached for your consideration and distribution. The letter is an Open Letter and forms a strong part of our position and this submission to the Referendum Council and to Government. Victorian Government and the Referendum Council have also been provided with the VTOLJG Treaty Booklet which primarily sets out the first rights of Clans and identifies some of the matters raised in various dialogues. This Submission builds on that Document.



The VTOLJG continues to express strong concern about government driven agendas managed through culturally inappropriate agencies and processes that undermine the Sovereignty and priori rights of Clans and Nations without any substantive gains to addressing the past 230 years of dispossession, dispersal and deculturalisation. It is imperative that the principles set out in the UN Declaration on the Rights of Indigenous Peoples and domestic human rights requirements underpin substantive engagement and outcomes including free, prior and informed consent with the appropriate level of resources allocated to the First Peoples through an elected, regionalised Clan based Treaty Commission tat includes an Elders Council.

1. The State of Victoria comprises thirty eight Sovereign First Nations with specific language, Country, lore, and culture. Within the thirty eight Nations there are 300 Clans who belong to Country affected by a Referendum. The VTOLJG also argues the case for cross border Nations and Clans who have connection to both sides of the borders.

2. The primary question for a Referendum Question is asserted as follows:

Do the Australian People approve the Australian Parliament to negotiate and approve Treaties with the First Peoples Nations and Clans?

3. The removal of potential racist or improper constitutional clauses should form a secondary referendum question based on expert legal advice providing the primary question is the substantive Treaty question. The VTOLJG presents this submission as a total package and the two questions are not generally negotiable.

4. An easy path may be to enact Treaties by Act of Parliament rather than securing the vote of 16 million voters at a cost of \$200m. The Government has some 1000+ Treaties around the Globe so why not a Treaty or Treaties with First Nations Clans.

5. Given that some States and some Local Governments are conducting Treaty Dialogues it is vital that there be effective coordination and resourcing between Governments and First Peoples. This requires that First Peoples have an organised negotiating structure with sufficient resources for a Secretariat and Experts.

6. A Treaty needs a house and this is not just a slogan but reflects on a major three year study in Victoria for a Multifunctional First Peoples Cultural and Economic Facility in the Melbourne CBD (see Slides 38 and 39). The concept would stimulate the Victorian economy, showcase the cultural heritage of the First Peoples and create major jobs and training in the design, construction and management of the Precinct on the Yarra River in the Melbourne CBD.

7. The VTOLJG has distributed the VTOLJG Treaty Booklet at the Melbourne Regional Dialogue and in many other Forums. The Booklet has also been handed to the Premier and a diverse range of First Nations Clans and non First Peoples. The VTOLJG will continue to vigorously campaign for Sovereign treaties and elected Treaty Commissions to negotiate Treaties and to represent all Clans.



8. Finally, this is not the time for weak political hearts, paternalism or betrayals . Our Nations and Clans assert the sovereign right after 230 years to a substantive settlement. Anything less is a betrayal of our Ancestors and Descendant Clans and future generations of Clan Elders, Women, Men, Youth and Children, the Stolen Generation, and Unemployed. Governments now have an opportunity to resolve the 230 year old baggage of the past or hand it down to our mutual grandchildren or walk on the next journey in an equitable partnership with First Peoples.

The Elected Delegates from Victoria and the Victorian Traditional Owner Land Justice Group concur with the Statement of Assembled Sovereign Nations at the Aboriginal Embassy in Canberra dated 23 April 2017.

Lastly, our Nations and Clans wish you all well for the Uluru Summit 24-26 May 2017 and look forward to continuing the Treaty journey with all Stakeholders.

Best Wishes and Yours Respectfully,

Elder Hazel Atkinson Wamba Wamba Baraparapa Wergaia Dja Dja Wurrung

&

Ms Lidia Thorpe Gunai Gournditchmara Tjapwurrung Monero-Ngarigu First Nations Clans

Victorian Delegates Uluru Summit 24-26 May 2017

and

Elder Co-Chair Robert Nicholls Yorta Yorta Barapa Barapa Dja Dja Wurrung Wergaia First Nations Clans

Elder Co-Chair Annette Xiberras Wurundjeri Ngurai Illum Wurrung Wamba Wamba First Nations Clans

Elder Gary Murray Dhudhuroa Yorta Yorta Barapa Barapa Wamba Wamba Wergaia Wiradjeri First Nations Clans

Elder Professor Wendy Brabham Nyeri Nyeri Wergaia Wamba Wamba Dhudhuroa First Nations Clans

Victorian Traditional Owner Land Justice Group Executive Members

COMMUNICATIONS: Email vtoljg@gmail.com

Co-Chairs Elder Robert Nicholls and Elder Annette Xiberras

Hon Chief Executive Officer Lidia Thorpe

Statement By the Assembled Sovereign First Peoples at the Sovereign Union Sovereignty Workshops at the Aboriginal Embassy, Canberra 23 April 2017

We the Sovereign Peoples gathered at the Aboriginal Embassy state the following:

- That we require independent international legal advisors to scrutinise the consequences and any possible future ramifications of what is being proposed by the Referendum Council, because there are contested sovereignties.
- The Referendum Council's campaign is not just about recognition of Aboriginal people as the first inhabitants. We understand that there is no longer any discussion about a preambular statement of recognition in the Australian constitution. We know that it is predominately about including a constitutional head of power within the constitution itself that seeks to grant power and authority to the executive government and the Parliament of Australia to pass laws for Aboriginal and Torres Strait Islander people.
- Currently Aboriginal and Torres Strait Islander race are outside the political and legal system of the colonial occupier state, as the use of the word 'race' in the constitutions race power is vague and it is unknown as to who exactly the law can apply to, furthermore, it lacks the initial consent mandate from our ancestors for us, as free and sovereign Peoples to be embedded in the foreign occupiers lawmaking document in the first place, to give it actual validity in law as being lawfully binding arrangement.
- The only constitutional head of power that gives the national parliament the power to pass laws for Aboriginal and Torres Strait Islander Peoples is section 51 (26) - the race power. This fact clearly demonstrates that the government does not have any legislative power other than the race power to pass laws for Aboriginal and Torres Strait Islander People, thus their need to have a constitutional referendum and attempt to grant to themselves the power and lawful ability to pass laws for Aboriginal and Torres Strait Islander Peoples, without having to adequately gain our full free prior and informed consent as required under international conventions and norms.
- Any continuing sovereign rights that we currently have will be wiped out if a referendum of this kind is successful. The Referendum Council's chosen facilitators (the two bob mob) cannot be permitted to participate in the voting process because they have a direct conflict of interest as paid employees. Parties with vested interest cannot deny us our purported democratic rights to be independent decision makers from the Federal Australian corporate government.

Statement By the Assembled Sovereign First Peoples at the Sovereign Union Sovereignty Workshops at the Aboriginal Embassy, Canberra 23 April 2017

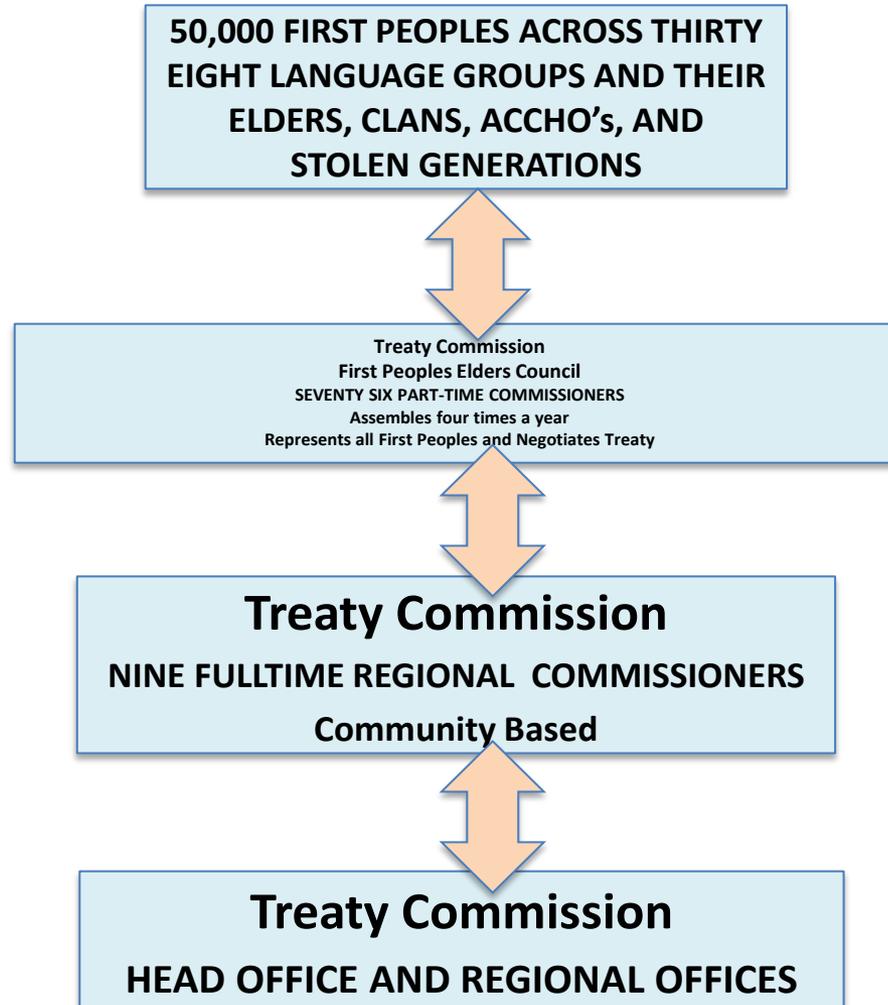
- The current national deliberative process is flawed for the following reasons;
- First Peoples generally have not been sufficiently consulted in accordance with our Law and culture. This failing is inclusive of, but not limited to, insufficient information distributed in the respective languages that are still spoken across the continent and not fully consulting all tribal and clan families.
- The refusal to respect the assertion by First Peoples that sovereignty has never been ceded, nor have we been conquered in any declared war against our people by the British.
- First Peoples throughout Australia have not been fully informed in an unbiased manner of the true nature and consequences of constitutional recognition and inclusion.
- First Peoples have been denied true democratic representation due to a flawed selection of invited delegates, as was requested by the Referendum Council, which disregarded cultural laws and custom in respect to representation and decision making powers.
- The Referendum Council has no mandate from First Peoples but rather is acting in the capacity as advocates for and on behalf of an occupying corporate government's interest.
- Some regional dialogue meetings were not open and transparent which prevented us from recording the proceedings thereby ensuring that the reports written up from these dialogues meetings were a true representation of what was said, and what was concluded by the participants in attendance.
- The consultation process is not inclusive but rather exclusive based on a statement that there is insufficient funds to consult with all First Peoples' tribes and clan families throughout Australia. With this being the case there can be no consensus mandate elicited from the people because our sovereign inherent rights have been violated, thereby negating any extraction of a national First Peoples' free, prior, and informed consent, which is being sought at the Uluru meeting
- It cannot be accepted that the issue of sovereignty is left off the agenda in this process, just as it is not acceptable that the expert panel acknowledged that the issue of sovereignty was a central theme to their enquiry, but concluded in their report that it was their opinion that it is too difficult a question to present to the Australian public.
- It is incorrect for the Referendum Council's facilitators to suggest that continuing Aboriginal sovereignty will not be impacted by any successful outcome in respect to the proposed constitutional reform.

Statement By the Assembled Sovereign First Peoples at the Sovereign Union Sovereignty Workshops at the Aboriginal Embassy, Canberra 23 April 2017

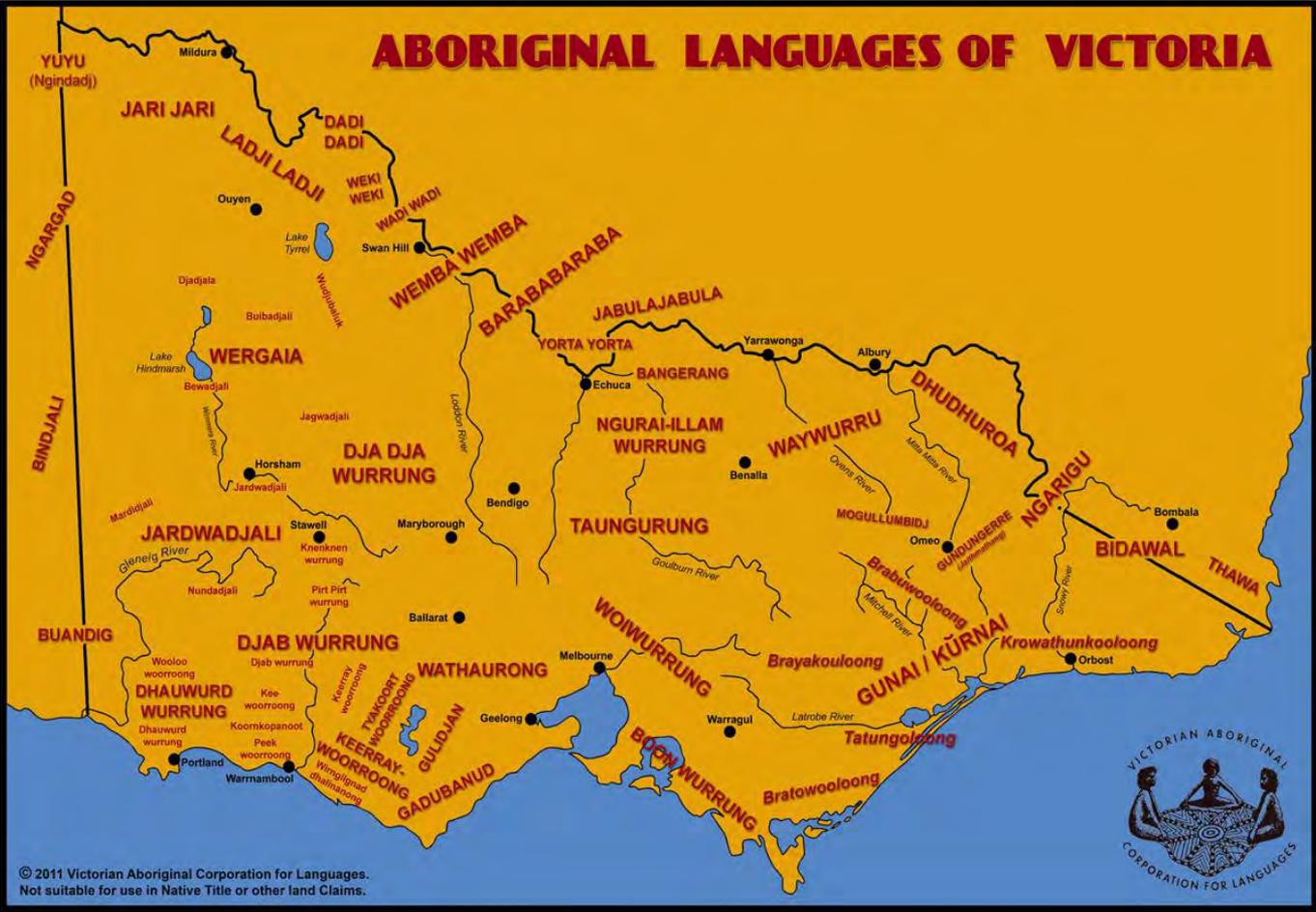
- It is not true to say that our sovereignty will not be acquiesced or ceded if a referendum is successful through the Referendum Councils national deliberative convention process.
- It must be understood that in the absence of a material legal fact being specifically stated within the constitution that the parliament of Australia's right to pass laws for Aboriginal and Torres Strait Islander Peoples will not affect the continuing sovereignty of First Nations. Then our rightful claim to our inherent sovereignty and our sovereign rights and interests will be not protected.
- *And we demand the Referendum Council and this gathering at Uluru call upon the Australian government to resource First Peoples to conduct a referendum amongst First Nations of the continent of Australia, asking the question: "Do we, the Sovereign First Nations, Tribes and Clan Families agree to be included in a British Act of Parliament known as the Australian constitution?"*
- Having read the regional Dialogues online from the Referendum Council, we acknowledge that many delegates to the Dialogues refuse to be a part of an unlawful regime that admits that they are a foreign occupying power, and rule in the name of the Crown under British Crown sovereignty.
- In summary, as Ghillar, Michael Anderson referred to the case *Advocate-General of Bengal v. Ranees Surnomoye Dossee* (48) (1863) in which Lord Kingsdown used the term "barbarous" to describe the native state of a settled colony and how English law is imported into colony:
- *Where Englishmen establish themselves in an uninhabited or barbarous country, they carry with them not only the laws, but the sovereignty of their own State; and those who live amongst them and become members of their community become also partakers of, and subject to the same laws.*
- "The key to understanding the Recognise campaign and the role of the Referendum Council, that is, the Commonwealth government and the High Court understand full well that their claim to sovereignty is based on an internationally recognised wrongdoing and their only way out is to coerce First Nations Peoples to 'become members of their community, become also partakers of, and subject to the same laws and belief.' This is their only hope of countering our Sovereignty Movement."

The above statement by Ghillar is a true reflection of the government's attempt to gain First Nations Peoples acquiescence through deceit, which is an act of fraud against our people. The sovereignty movement's momentum continues to grow by providing our people with an understanding of our international rights as sovereign peoples and the pathway out of the poverty and oppression through self-determination, self-governance, independence, and full reparations.

The Treaty Structure



2011 Victorian Aboriginal Corporation for Languages. Ian D. Clark



Qualification

This Draft Booklet is a work in progress, a draft and done voluntarily without funding. No government assistance was provided. The VTOLJG apologises for any errors, omissions or mistakes.

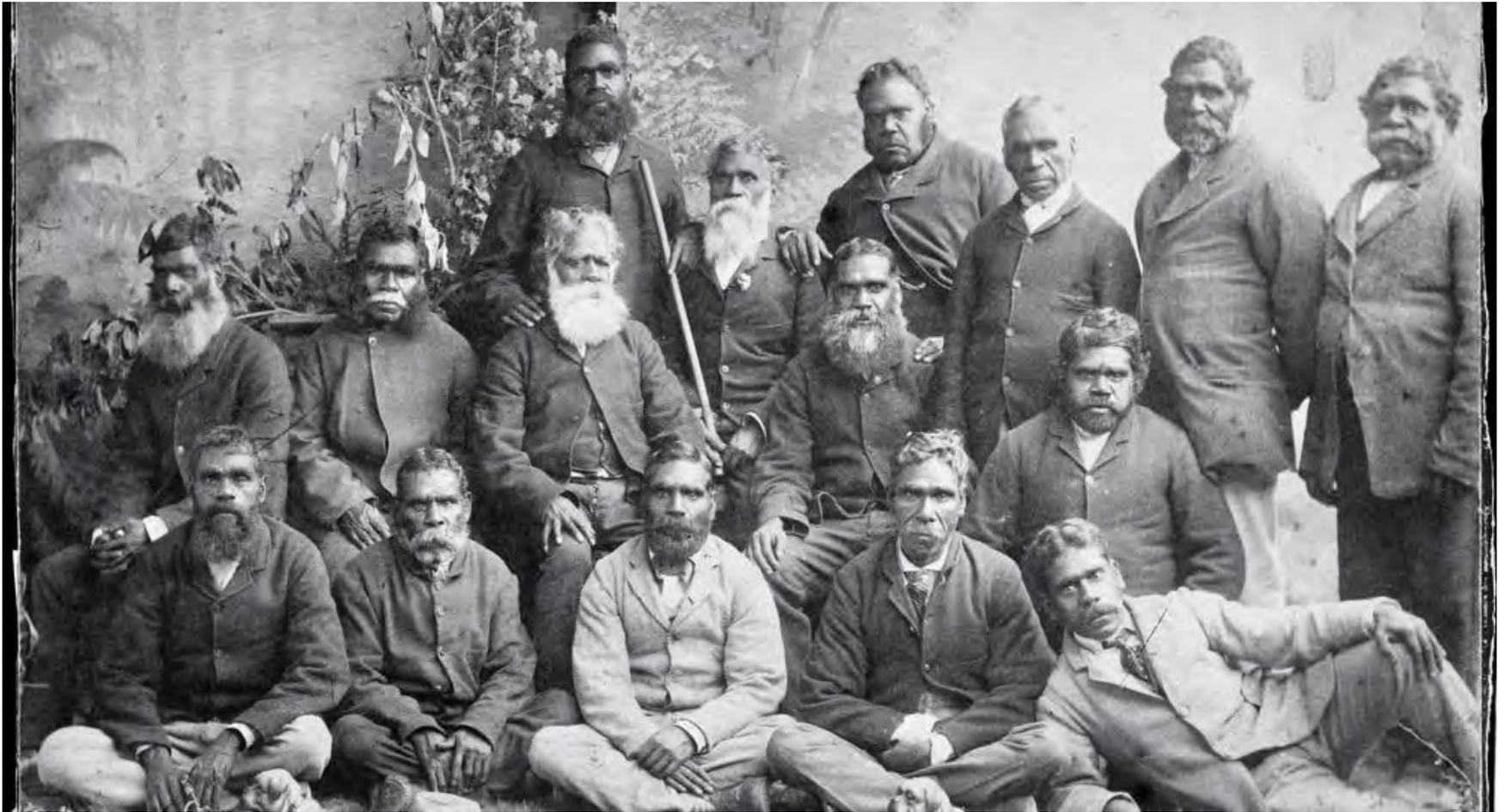
The VTOLJG acknowledges all Contributors and expresses its gratitude for access to references and information sources from many People.

The Booklet is a guide only and reinforces the need to resource a First Peoples mapping project so that all the information available over 230 years can be researched, analysed, culturally assessed, substantiated, collated and rewritten for all First Peoples to know the past, present and future.

We encourage the formation of inclusive Treaty Circles to keep the Treaty momentum going. Talk and Walk Treaty.

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c.1881 These sixteen Kulin Elders and Men walked From Coranderrk to the Colonial Parliament in the 1880's Five Times – Will You Walk the Talk for a Treaty Today?



Victorian Traditional Owner Land Justice Group (VTOLJG) -Statement

“The VTOLJG was established in 2005 and continues the struggle for First Peoples rights handed to us by our Esteemed Ancestors, Elders and Leaders. The VTOLJG is a customary lore grassroots group and not incorporated. Our website outlines our history until 2013 when NTSV unjustifiably withdrew funding. Our achievements are well documented in water, economic development, natural resource management, land justice, cultural heritage and related issues. Notwithstanding the Group has continued and is back bigger and louder.

We are not funded on an annual basis despite lodging submissions with Aboriginal Victoria and the Department of Justice in 2016. Our Network is voluntary and the VTOLJG Co-Chairs thanks all of our Officers for their commitment and input. Our networks are being restructured and revived. Our goals re-focused on Treaty aspirations.

To start this next journey to a Treaty we need active, informed, compassionate, culturally minded Elders and their Clans. Treaty is about Elders, their Clans and People power. Clans belong to Country, Ancestors, knowledge, traditions and customs and culture. The VTOLJG strongly supports a Clan based, democratic, inclusive, regionalised Treaty and Treaty Commission that deals with the unfinished business of Country and Ancestors.

The Treaty Booklet will be a work in progress as the process accelerates but is available for your information and as a guide. The VTOLJG respectfully acknowledges and thanks the various research contributions over the last 230 years from our our own First Peoples, then the pioneers, scholars, researchers, photographers, linguists, anthropologist and historians. Language defines Country as do Ancestors, traditions and customs. Without that research we would be invisible People without language or Country.

Our Treaty Circles are also crucial to engaging and informing First Peoples and their supporters about Treaty. All surviving Clans and Supporters need to get on board and secure a modern day Treaty. The State is keen to complete the process by 2018. Travel well and with speed on the journey to a Treaty.”

Co-Chairs Elders Robert Nicholls and Annette Xiberras 2017

FIRST PEOPLES TREATY CIRCLES

Your Opportunity to Have a Say!

What is a Treaty?

A Treaty is an agreement between First Peoples and Interested Parties including Governments and NGO's.

How is a Treaty Established?

A Treaty once negotiations are completed, can be an Act of Parliament, a legally enforceable contract or inserted into a State or Commonwealth Constitution.

What is a Treaty Circle?

Treaty Circles are established by local Nations and Clans Groups and their many supporters to progress a Treaty or Treaties outcome that is beneficial to all Nations and Clans and the general community. Circles may be socially, politically or culturally focused.

Customary Lore Code Of Conduct

Treaty Circles have Customary Lore Codes of Conduct that ensure mutual respect and safe cultural environments. This may include core principles of Lore about the following:

- Respectful of customary lore and all good conduct
- Recognises Nations and Clans belonging to Country
- Inclusive of all First Peoples
- Culturally Safe Environment

Role of the Victorian Traditional Owner Land Justice Group (VTOLJG) Networks (Email vtoljg@gmail.com)

The VTOLJG Networks are able to assist groups when requested with Speakers and information about Treaty and related issues. An extensive PowerPoint and Booklet is available to all Circles on request.

Treaty Circles

What Do Treaty Circles Do?

- They function as a safe and cultural environment for Nations and Clans and their supporters to consider the Treaty or Treaties and related matters of importance.
- Treaty Circles are pro-active and act on the matters arising from important issues raised in the Circles. Circles will write to Government and to other Interested Parties to ensure the views are communicated into all Forums.

Who is the Treaty Circle for?

- The Circle is for the Nations and Clans and their network of supporters who seek to commit to a just Treaty or Treaties outcome.

When does the Circle Meet?

- The Treaty Circle can meet anywhere or any time to consider all Treaty matters. Circles may meet over lunch or after work or on weekends or prior to Government consultations.
- The Circle may have a short or long-term existence. Incarcerated could set up a Circle. Students can as could Elders, women, men, and the unemployed.

What Do You Need to Establish a Treaty Circle?

- It is a very simple but effective way of ensuring the People have an opportunity to Speak about the matters that are important to them individually and collectively.
- Commitment and organising skills
- Talking Cultural Stick
- People
- Venue
- Information
- Food
- Good access to IT and Local Data Base for circulating information
- Media Contacts

Treaty Circle

Treaty Circle – Framework and Agenda

A Treaty Circle needs to consider a number of matters in their establishment and operation:

1. What is the Nation or Language Group Name?
2. What are the Names of the local Clans?
3. What is the Traditional Boundary?
4. Who should be the Membership?
5. What is the Role of Elders? Is it a Treaty and Elders Circle?
6. What is the Terms of Reference?
7. What is the Vision?
8. What are the Objectives? Is there fundraising activities for the Treaty Campaigns?
9. What is the Strategy – Community?
10. What is the Strategy – Government and Politicians?
11. What is the Strategy – Media?
12. Have you built Media Contacts?
13. What could be the Outcomes?
14. Is there to be a Meeting Timetable?
15. What is the Timeline to complete the Outcomes?
16. Other Matters

Treaty Background

1. Sovereign First Nations Treaties have been done in Canada, USA and New Zealand. Not all have been effective but we can learn from them.
2. Australia has done nearly 1000 Treaties on a range of subjects with other global Nations.
3. First Nations have suffered grave past injustices including genocide, mass murders, loss of lands and waters (from 27m acres to 20,000 acres a dot on the Victorian map, etc), loss of cultural authority, our traditions and customs removed, loss of language, loss of art and craft, music, and destruction of our cultural heritage.
4. **Many of these injustices continue today and are linked to our dispossession, dispersal and deculturalisation eg. poor health indicators and death rates, children in out of home care (1,900 in Victoria and 16,000 nationally), Third World living conditions, poor literacy and numeracy, lack of democratic representation, substandard housing, and high imprisonment rates.**
5. A First Nations Treaty could address the historical injustices of the past and complement existing First Nations services. An inclusive and democratic Treaty Commission may be fully resourced and established to manage the Treaty's implementation.
6. A Treaty or Treaties must address and could also resolve racist constitutions and laws.
7. Any Treaty or Treaties must have enabling legislation to give it force and/or be enforceable in an appropriate legal jurisdiction.
8. The Treaty must not be just symbolic but should also be about practical outcomes and services.
9. There must be major penalties for Treaty breaches.
10. First Nations should also treaty with other domestic and international First Nations for Country, trade and cultural reasons.
11. It is time Australian Governments at all levels addressed past injustices through a meaningful Treaty or Treaties process.
12. First Nations welcome the Victorian Government's leadership in seeking to engage with First Nations about a Treaty dialogue.
13. It is crucial that there be a properly resourced negotiation process to develop the Treaty or Treaties Framework, scope the Treaty or Treaties Contents and to Implement the Treaty or Treaties.
14. It is also crucial that any Treaty or Treaties is duly consented to or authorised by each of the Clans of the First Nations. There must be free, prior, informed and resourced consent. This Consent or Authorisation process must be also fully funded.
15. There should also be an intensive high level of localized training for First Nations Negotiators and a resourced Secretariat.
16. The Treaty must be funded from a Futures Fund and other sources established for the purpose of implementing the Treaty or Treaties.

Definitions

Clans meaning an extended Family Group with Ancestor (s), knowledge, territory, language, traditions and customs, arts and crafts, and cultural heritage.

Language Group meaning the thirty five First Peoples' Nations across Victoria.

First Nation meaning each of the thirty five language groups in particular Country across Victoria

First Peoples meaning the Original Peoples who lived on and occupied Clan lands and waters. First Peoples also includes Torres Strait Islanders and Interstate Clans.

Indigenous Peoples, also known as First Peoples are descended from and identify with the Original First People.

DRIP meaning the United Nations Declaration for the Rights of Indigenous People.

Genocide meaning the **Convention on the Prevention and Punishment of the Crime of Genocide** adopted by the [United Nations General Assembly](#) on 9 December 1948 as **General Assembly Resolution 260**. The Convention entered into force on 12 January 1951.^[1] It defines [genocide](#) in legal terms.

Article 2 of the Convention defines genocide as

- ...any of the following acts committed with [intent to destroy, in whole or in part](#), a national, ethnical, racial or religious group, as such:
- (a) Killing members of the group;(b) Causing serious bodily or mental harm to members of the group;(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;(d) Imposing measures intended to prevent births within the group;(e) Forcibly transferring children of the group to another group.

Definitions

Good Faith UN DRIP Article 19 meaning States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Self Determination UN DRIP Article 3 meaning Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Treaty meaning a legally enforceable agreement or agreements in an agreed jurisdiction that addresses our past dispossession, dispersal and deculturalisation, loss of language and genocide.

Representation UN DRIP Article 18 meaning Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.

What is Sovereignty ?

What is Sovereignty ?

Under current international law, sovereignty is defined as follows:

1. Sovereignty in the sense of contemporary public international law denotes the basic international legal status of a state that is not subject, within its territorial jurisdiction, to the governmental, executive, legislative, or judicial jurisdiction of a foreign state or to foreign law other than public international law(1). It is also defined as the '[u]ltimate authority, held by a person or institution, against which there is no appeal'.
 2. In other words, Sovereignty is the ultimate power, authority and/or jurisdiction over a people and a territory (2).
- No other person, group, tribe or state can tell a sovereign entity what to do with its land and/or people. A sovereign entity can decide and administer its own laws, can determine the use of its land and can do pretty much as it pleases, free of external influence (within the limitations of international law). Sovereignty vs Land Rights & Native Title Sovereignty is a broader concept than land rights. Land rights are rights awarded by a sovereign entity to some of its members. In other words, you can obtain land rights, but the ultimate authority rests in the hand of the sovereign power. What you can do with that land is limited by the decisions of the sovereign power.
 - Native Title is just one form of title over the land, it does not give ultimate authority, it does not give sovereignty. You may have Native Title, but you are not free to determine your own laws or how to use your land as you wish. Sovereignty vs Self Determination Self-determination is a more imprecise word for sovereignty. Sometimes, it is used as an alternative, while other times it is used to describe a form of 'limited sovereignty' under the sovereign power of someone else. In international law, sovereignty is a more precise term than self-determination. The concept of sovereignty as it is used in international law today, and as it is used by Australia to justify its authority over the land, derives from the idea of the 'sovereign', the monarch, of medieval Europe. However, today the term is used to identify the ultimate power of a state, regardless of whether there is a monarch or not.

References

- 1 H Steinberger, 'Sovereignty', in Max Planck Institute for Comparative Public Law and International Law, Encyclopedia for Public International Law, vol 10 (North Holland, 1987) 414.
- 2 World Encyclopaedia (Oxford University Press, 2008) 'sovereign.'

Who has Sovereignty?

Who has Sovereignty ?

- At the moment, Nation-states have sovereignty. For example France, Germany and Australia are 'sovereign entities', no one can tell them what to do internally (apart from some international law mechanisms).
- Sovereign 'entities' vs sovereign 'persons' Individual persons DO NOT have sovereignty (unless they are absolute rulers like the Pharaoh, but this is not the case anymore anywhere on the planet). They are under the sovereignty of another entity (as mentioned above, of a Nation-state). So, for example, an Australian person is under the sovereign power of Australia. The term 'sovereign person' is thus a mistaken term and should be avoided.

How is sovereignty recognised?

- Sovereignty is recognised reciprocally. In other words, sovereign entities recognise each other's sovereignty. Currently, in international law Nation-states are members of the United Nations and recognise each other as sovereign entities. France, Germany and Australia, for example, recognise each other's sovereignty, while they do not recognise the sovereignty of other groups within their lands.

How is Sovereignty Acquired?

Therefore, the recognition of sovereignty is related and interdependent, and it is connected to the international arena.

Sovereign 'claims'

The correct term to define who 'has' sovereignty is to say that one group or Nation asserts or claims sovereignty.

Another correct way of expressing the idea is to say that sovereignty is vested in some figure or group. This means that this figure or group exercises sovereignty.

How is sovereignty acquired ?

In international law, there are very precise ways through which sovereignty is 'acquired' (or, in other words, sovereignty is taken). The three main ones (although there are some minor ones) are:

1. Conquest: a territory must be conquered, after a war and subsequent treaty of surrender OR complete destruction of the enemy, by a sovereign entity.
2. Cession: a sovereign entity cedes, through a treaty, part or all of its power to another sovereign entity.
3. Settlement: if a territory is COMPLETELY uninhabited, then the first sovereign entity to settle there acquires that territory.

Competing Claims to Sovereignty?

Competing claims to sovereignty – who decides?

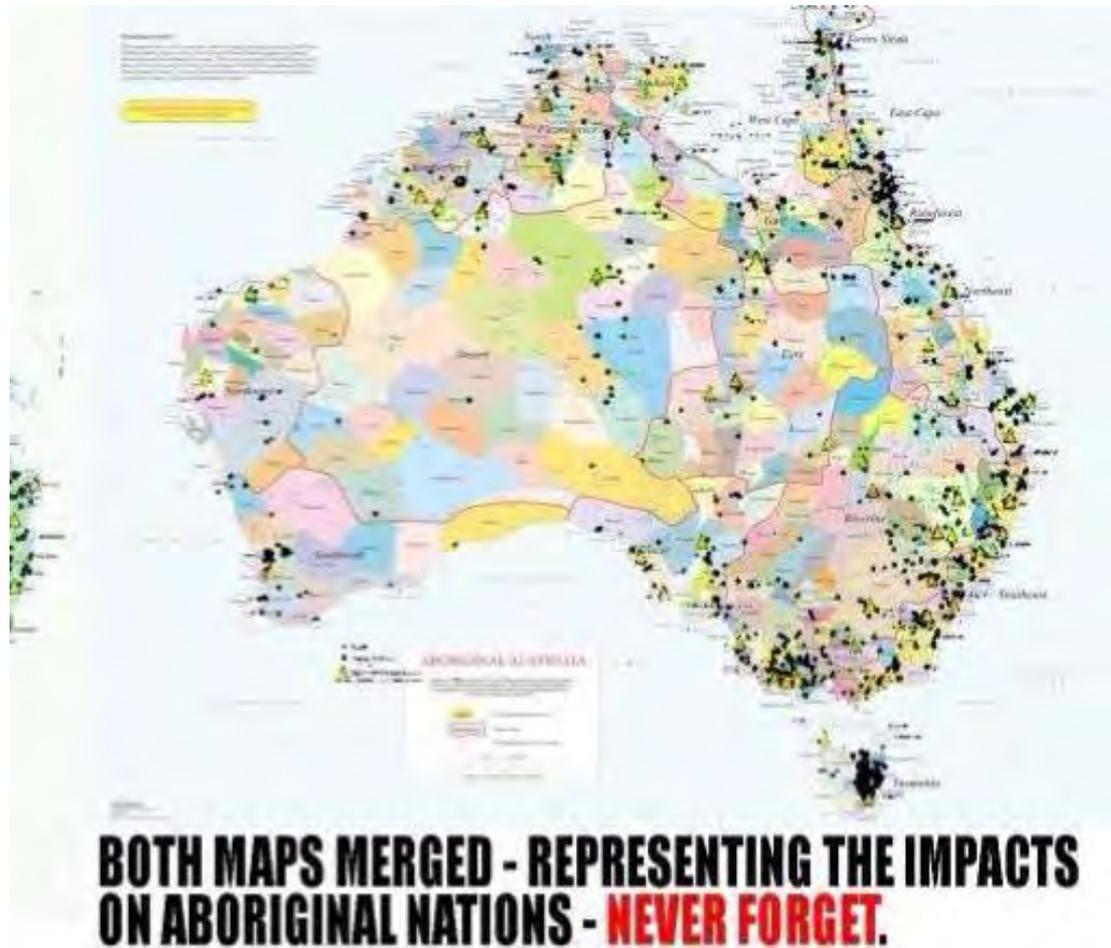
If there are two sovereign entities that claim sovereignty and their claims compete with each other (maybe because they are over the same territory), the matter can be resolved through:

- A Treaty
- A War (common solution in Europe until World War 2 – not accepted by international community anymore)
- A decision made by the International Court of Justice (this is the main method employed today) 'Municipal' or 'domestic' courts (courts that are internal to a sovereign entity, including the High Court of Australia) cannot 'adjudicate' (that is, make a decision) on sovereignty.

Only international courts (the International Court of Justice) can. This is why the High Court in *Mabo (No 2)* stated that sovereignty is 'not justiciable' in a municipal court.

In other words, the High Court does not have the authority to make a judgement (of any kind) on the issue of sovereignty

Massacre and Language Map is a Guide Only



Massacres in Victoria

(Source Wikipedia)

1830s

1833-34. [Convincing Ground massacre](#) of [Gunditjmara](#): On the shore near [Portland, Victoria](#) was one of the largest recorded [massacres](#) in Victoria. Whalers and the local Kilcarer clan of the Gunditjmara people disputed rights to a beached whale carcass.^[46] Reports vary with from 60 to 200 Aborigines killed, including women and children. An 1842 report on the incident notes that the Gunditjmara people believed that only two members of the Kilcarer clan survived.

1838. On 11 April, by the Broken River at [Benalla](#). A party of some 18 men, in the employ of George and William Faithful, were searching out new land to the south of [Wangaratta](#) for their livestock. According to Judith Bassett, some 20 [Aborigines](#) attacked, according to one recent account possibly as a reprisal for the killing of several Aboriginal people at [Ovens](#) earlier by the same stockmen and at least one [Koori](#) and eight [Europeans](#) died.^[50] It was long known locally as the [Faithfull Massacre](#) though Chris Clark argues that 'there is no reason to view this incident as anything other than a battle which the Aborigines won'. Local reprisals ensued resulting in the deaths of up to 100 Aboriginal people. It also seems they were [camping](#) on a ground reserved for hunting or ceremonies.

Massacres in Victoria

- **1838.** Additional killings of these people occurred at Wangaratta on the Ovens River, at Murchison (led by the native police under Dana and in the company of the young [Edward Curr](#), who could not bring himself to discuss what he witnessed there other than to say he took issue with the official reports). Other incidents were recorded by Mitchelton and Toolamba. This "hunting ground" would have been a ceremonial ground probably called a 'Kangaroo ground'. Hunting grounds were all over so not something that would instigate an attack. The colonial government decided to "open up" the lands south of Yass after the Faithful Massacre and bring them under British rule. This was as much to try and protect the Aboriginal people from reprisals as to open up new lands for the colonists. The Aboriginal people were (supposedly) protected under British law.
- **1839.** In about May–June of that year the [Campaspe Plains massacre](#), Campaspe Creek, Central Victoria, killing [Daung Wurrung](#) and [Dja Dja Wurrung](#) people. In May 1839, Daung Wurrung killed two shepherds in reprisal for the murder of three Daung the previous month. An armed party of settlers led by station owner Charles Hutton killed up to 40 Daung at a campsite near Campaspe Creek. The following month, Hutton led an armed party of police who killed six Dja Dja Wurrung at another camp. All six had been shot in the back while fleeing. The Assistant Protector of Aborigines for the region, described the massacre as "a deliberately planned illegal reprisal."
- **1839.** In about the middle of the year, the [Murdering Gully massacre](#) near Camperdown, Victoria was carried out by Frederick Taylor and others in retaliation for some sheep being killed on his station by two unidentified Aborigines. The *Tarnbeere Gundidj* clan of the [Djargurd Wurrung](#) people, around 35-40 people, was wiped out. Public censure led to Taylor's River being renamed Mount Emu Creek and, fearing prosecution for the massacre, in late 1839 or early 1840 Taylor fled to [India](#). Of particular note for this massacre is the extent of oral history, first hand accounts of the incident, the detail in settler diaries, records of Wesleyan missionaries, and Aboriginal Protectorate records.

Massacres in Victoria

1840s

- **1840-50.** The [Gippsland massacres](#) in which 250-1000 Indigenous Australians were indiscriminately killed.
- **1840.** On 8 March. The Whyte brothers massacred, according to various estimates, from 20 to 51 Jardwadjala men, women, and children on the Konongwootong run near [Hamilton, Victoria](#). Aboriginal tradition puts the death toll as high as 80.
- **1843.** The [Warrigal Creek](#) massacre, amounting to 100-150 Aboriginal people.
- **1846.** George Smythe's surveying party shot in cold blood from 7 to 9 Aboriginal people, all but one, women and children, at [Cape Otway](#).
- **1849.** Massacre of Aboriginal people along the Barwon River.

Priori Rights Are the First Rights of Clans

Priori Rights - A right must be recognised *inter alia* as a priori right (before the fact) and not a posteriori right (after the fact) given the unique status of the Clans they must have rights before any other stakeholder.

These primary rights are attached to a Clans' sovereign cultural rights, interests, knowledge, customs, duty and obligations to Country and People.

These priori rights precede all other rights. A failure to recognise these first rights is the first principle to genocide.

Free, Prior and Informed Consent

SUMMARY OF FREE, PRIOR AND INFORMED CONSENT EXTRACT FROM HREOC ATSI SOCIAL JUSTICE COMMISSIONER 2005 REPORT

Obligations to ensure effective participation exist in nearly all the main human rights treaties. These obligations have been synthesised into the principle of free, prior and informed consent of indigenous peoples. The international law basis for the principle of free, prior and informed consent is set out in a legal commentary prepared for the Working Group on Indigenous Populations. This commentary is available at: http://www.un.org/esa/socdev/unpfii/documents/FPIC_2005_Com%20on%20Human%20Rights.pdf

The key elements of free, prior and informed consent are summarised below and have been set out in a report from the UN Permanent Forum on Indigenous Issues in May 2005. This report is available at: http://www.un.org/esa/socdev/unpfii/4session/4doc_secr.htm

Key elements of free, prior and informed consent;

1. *What?*

Free – should imply no coercion, intimidation or manipulation;

Prior – should imply consent has been sought sufficiently in advance of any authorisation or commencement of activities and respect time requirements of indigenous consultation/consensus processes;

Informed – should imply that information is provided that covers (at least) the following aspects:

- a. The nature, size, pace, reversibility and scope of any proposed project or activity;
- b. The reason(s) or purpose of the project and/or activity;
- c. The duration of the above;
- d. The locality of areas that will be affected;
- e. A preliminary assessment of the likely economic, social, cultural and environmental impacts, including potential risks and fair and equitable benefit sharing in a context that respects the precautionary principle;
- f. Personnel likely to be involved in the execution of the proposed project (including indigenous peoples, private sector staff, research institutions, government employees and others)
- g. Procedures that the project may entail.

Free, Prior and Informed Consent

Permanent Forum on Indigenous Issues (PFII), Key elements of the principle of free, prior and *informed consent*, PFII, New York, 2005.

ATAISJC Native Title Report 2005 Extract188 Consent

Consultation and participation are crucial components of a consent process.

1. Consultation should be undertaken in good faith. The parties should establish a dialogue allowing them to find appropriate solutions in an atmosphere of mutual respect in good faith, and full and equitable participation. Consultation requires time and an effective system for communicating among interest holders. Indigenous peoples should be able to participate through their own freely chosen representatives and customary or other institutions. The inclusion of a gender perspective and the participation of indigenous women are essential, as well as participation of children and youth as appropriate. This process may include the option of withholding consent. Consent to any agreement should be interpreted as indigenous peoples have reasonably understood it.

2. *When?*

Free, prior and informed consent (FPIC) should be sought sufficiently in advance of commencement or authorization of activities, taking into account Indigenous peoples' own decision-making processes, in phases of assessment, planning, implementation, monitoring, evaluation and closure of a project.

3. *Who?*

Indigenous peoples should specify which representative institutions are entitled to express consent on behalf of the affected peoples or communities. In FPIC processes, indigenous peoples, UN Agencies and governments should ensure a gender balance and take into account the views of children and youth as relevant.

4. *How?*

Information should be accurate and in a form that is accessible and understandable, including in a language that the indigenous peoples will fully understand. The format in which information is distributed should take into account the oral traditions of indigenous peoples and their languages.

Free, Prior and Informed Consent

5. *Procedures/Mechanisms*

Mechanisms and procedures should be established to verify FPIC as described above, including mechanisms of oversight and redress, such as the creation of national mechanisms.

As a core principle of FPIC, all sides of a FPIC process must have equal opportunity to debate any proposed agreement/ development/project.

“Equal opportunity” should be understood to mean equal access to financial, human and material resources in order for communities to fully and meaningfully debate in indigenous language(s) as appropriate, or through any other agreed means on any agreement or project that will have or may have an impact, whether positive or negative, on their development as distinct peoples or an impact on their rights to their territories and/or natural resources.

FPIC could be strengthened by establishing procedures to challenge and to independently review these processes. Determination that the elements of FPIC have not been respected may lead to the revocation of consent given.

United Nations Declaration on the Rights of Indigenous People (DRIP)

The Declaration on the Rights of Indigenous Peoples (the Declaration) affirms the minimum standards for the survival, dignity, security and well-being of Indigenous peoples worldwide and enshrines Indigenous peoples' right to be different.

The Declaration was adopted by the General Assembly of the United Nations in September 2007. This was the culmination of more than 20 years of negotiation between the Indigenous peoples and governments of the world. The Australian Government announced its support for the Declaration in 2009.

Article 3

Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.
2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.
3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

United Nations Declaration on the Rights of Indigenous People (DRIP)

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.
2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.
2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.
3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of Treaties, Agreements and Other Constructive Arrangements concluded with States or their successors and to have States honour and respect such Treaties, Agreements and other Constructive Arrangements.
2. Nothing in this Declaration may be interpreted as to diminish or eliminate the rights of Indigenous Peoples contained in Treaties, Agreements and Constructive Arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to have access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Victorian Constitution 1975 Section 1A

CONSTITUTION ACT 1975 - SECT 1A

Recognition of Aboriginal people

- (1) The [Parliament](#) acknowledges that the events described in the preamble to this Act occurred without proper consultation, recognition or involvement of the Aboriginal people of Victoria.

- (2) The [Parliament](#) recognises that Victoria's Aboriginal people, as the original custodians of the land on which the Colony of Victoria was established—
 - (a) have a unique status as the descendants of Australia's first people; and
 - (b) have a spiritual, social, cultural and economic relationship with their traditional lands and waters within Victoria; and
 - (c) have made a unique and irreplaceable contribution to the identity and well-being of Victoria.

- (3) The [Parliament](#) does not intend by this section—
 - (a) to create in any person any legal right or give rise to any civil cause of action; or
 - (b) to affect in any way the interpretation of this Act or of any other law in force in Victoria.

Charter of Human Rights and Responsibilities Act 2006 (Vic)

Section 19 and 20

19. Cultural rights

(1) All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language.

(2) Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community—

(a) to enjoy their identity and culture; and

(b) to maintain and use their language; and

(c) to maintain their kinship ties; and

(d) 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.

20. Property rights

A person must not be deprived of his or her property other than in accordance with law.

Legislation Impacting Victorian First Peoples Clans

- Aboriginal Heritage Act 2006 (Vic)
- Traditional Owner Settlement Act 2010 (Vic)
- Aboriginal Land Rights Act 1984 (NSW) applicable to New South Wales cross border Nations Clans
- Native Title Act 1993 (Cth)
- State and/or Commonwealth Incorporation Laws for Associations, Cooperatives, Companies and Corporations

Basic Concerns

The VTOLG has a number of concerns that have not been resolved about the current State and Commonwealth processes including:

1. That there is a need to scope and resource an independent elected **Victorian First Nations Treaty Body and a Treaty Framework** setting out the processes agreed to by the Parties and the allocation of resources to prosecute the next steps, maybe through an independent Treaty Commission.
2. That there is a need to confirm, resource and map an agreed list of **First Nations Victoria's Nations, Ancestors and Descendant Clans** for negotiation and authorisation purposes.
3. That there is a need to scope and resource a **Victorian First Nations Treaty Resolution Strategy** setting out the vision, guiding principles, aims and objectives, funding, the parameters and related matters.
4. That there is a need to scope and resource a **Victorian First Nations Negotiation Plan** setting out planning and development matters, milestones, outcomes and timelines, and reporting back processes.
5. That there is a need to scope and resource the **Victorian First Nations Negotiating Team Rules of Engagement** setting out its' composition, powers, funding, reporting back and operational matters.
6. That there is a need to scope and resource the contents of a **Draft First Nations Treaty or Treaties**, that set out all agreements negotiated, implementation, and related matters.
7. That there is a need to scope and resource a **First Nations Clan Based Authorisation and Consent Process** setting out who is able to authorise Treaty Signatories and who has the power to give consent to a Final Treaty Document. This must be Clan based and resourced for all Clans to determine their position.
8. That there is a need to scope and resource a positive **First Nations Information Dissemination Strategy** to promote and showcase the Treaty aims.
9. That it is also crucial that matters agreed to get acted on as soon as possible before the Treaty is signed off. For example, agreement about scoping and resourcing **First Nations Land Rights legislation** be enacted commencing Phase Two and that a **Treaty Commission and Secretariat** could be resourced and put in place to prosecute the Treaty final processes and negotiations for authorisation.
10. That all outstanding matters related to the **Stolen Generations** be resolved and expedited by the State as a matter of urgency.

TREATY COMMISSION PRINCIPLES

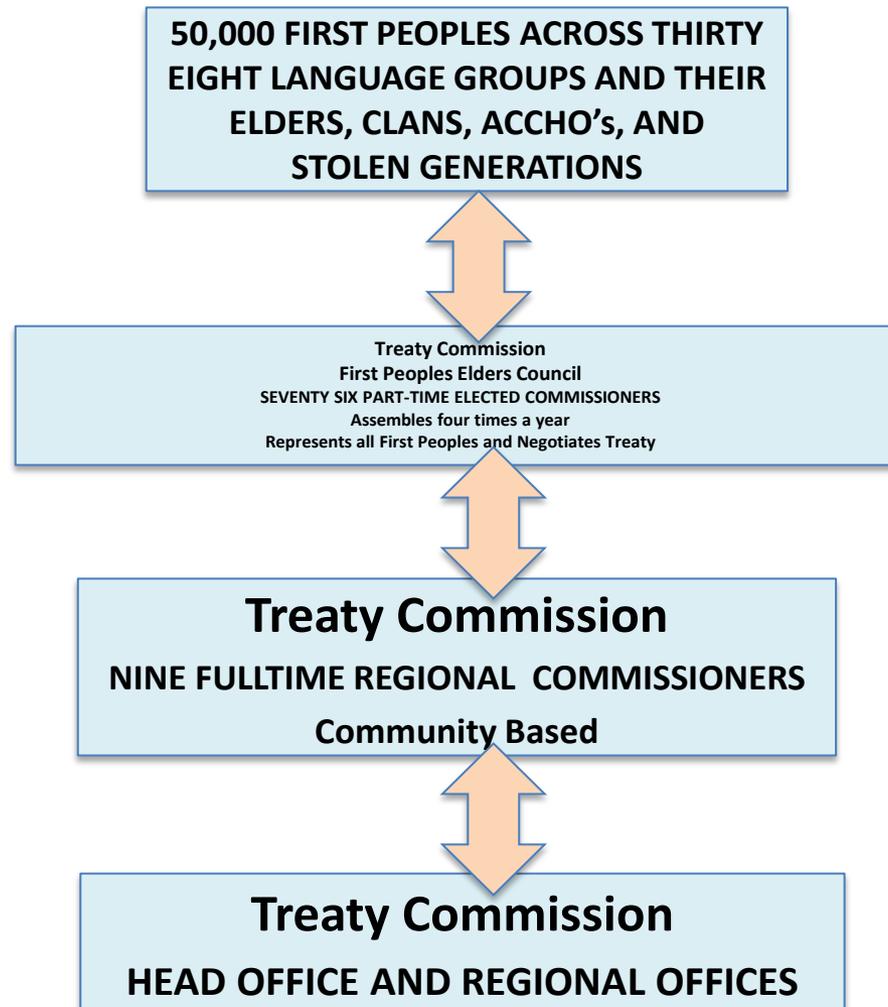
1. Inclusive of All First Clans and Peoples
2. Gender balanced
3. Established under Free, Prior and Informed Consent Principles
4. Resourced effectively
5. Democratically elected
6. Clan Focused
7. Regionalised
8. That any Treaty process is achieved through good faith negotiations and respect.
9. That any Treaty process and outcome is Clan based and authorised.
10. That Treaties be done with all other interstate First Nations off country in Victoria.
11. That Treaties be done between First Nations and with relevant First Nations Organisations.
12. That agreed matters where possible be acted on immediately without waiting for the final Treaty outcome.

TREATY COMMISSION FUNCTIONS

The principal functions of the Treaty Commission are to:

1. Complete all Treaty or Treaties negotiations
2. Act for and represent all First Peoples without fear or favour
3. Raise the quality of life of all First Peoples
4. Educate First Peoples and the Community about Treaty and First peoples issues
5. Advocate and provide policy and strategic advice to all levels of Government
6. Support Aboriginal Community Controlled Organisations
7. Manage all Government Grants and Revenues
8. Ensure compliance, transparency and accountability

TREATY COMMISSION IS THE INCLUSIVE REPRESENTATIVE BODY AND NEGOTIATES THE TREATIES



WHAT'S IN A TREATY OR TREATIES?

A Treaty is like a Book with Chapters

Contents of a Possible First Nations and Governments Treaty

A Treaty addresses in a meaningful way self determination and all matters impacting First Nations and communities including matters related to past injustices, representation and constitutional reforms at federal, state and local government level.

A Treaty would be authorised by and signed off by all major Victorian First Nations Clans. This would entail confirming all documented Ancestors and their known Descendant Clans as the signatories - an estimated 200 Descendant Clans based on Clan, government and non government research.

TREATY CONTENTS

1. Establishes a Truth and Reconciliation Inquiry and Maps First Nations Clans Victoria
2. Addresses Sovereignty for First Nations Clans
3. Recognises Past Injustices and Impacts on the Clans and Nations
4. Recognition of all Thirty Five First Nations and their Clans Authority and Lore
5. Recognition of and Respect for Country, Traditions and Customs
6. Reparations for past injustices, dispossession, deculturalisation and dispersal
7. Futures Fund to address our quality of life and socio-economic impacts
8. Dedicated State Parliament Seats
9. Dedicated Local Government Seats
10. Establishment of a Democratically Elected Regional Based Treaty Commission
11. Treaty Commission Secretariat to be established
12. Design and Construction of the Multifunctional First Peoples Treaty Building
13. Land Rights and Land Acquisition Legislation and Funding

WHAT'S IN A TREATY OR TREATIES

14. Fresh Water and Sea Water Rights
15. Minerals
16. Stolen Generations and Reparations
17. Children
18. Youth
19. Women
20. Men
21. Elders
22. Cultural heritage
23. Language
24. Economic Development
25. Education
26. Community Services
27. Planning and Development
28. Local Government Treaties
29. Health
30. Art, Performing Arts and Theatre
31. Reform of Racist Laws and Constitutions
32. Justice
33. Treaty Review and Evaluation Procedures
34. Dispute Resolution, Breaches, Penalties and Enforcement

WHAT'S IN A TREATY OR TREATIES

- 35. Removal of Illicit Drugs from Country
- 36. Governance Support Unit - Corruption, Nepotism and Cronyism
- 37. Review of the Treaty and Commission
- 38. Other Matters
- 39. Maps
- 40. List of First Nations
- 41. List of Clans and Identification
- 42. Schedules
- 43. List of Authorised Clan Signatories

LEGAL BASIS FOR A TREATY

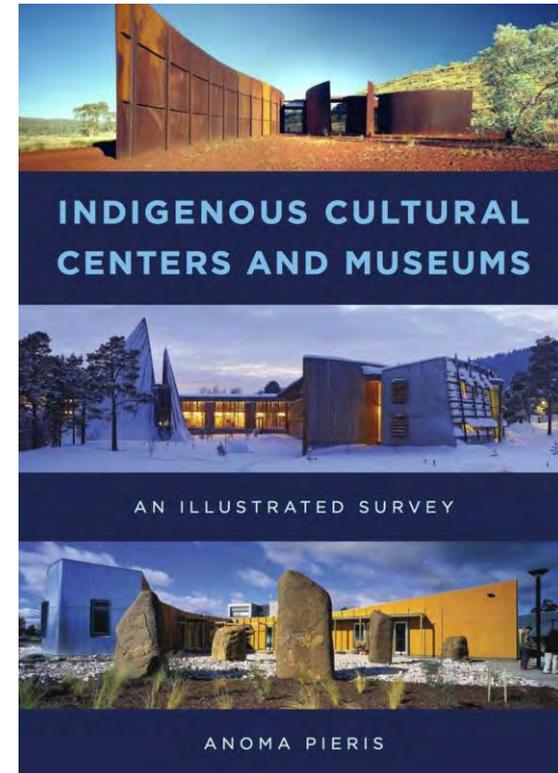
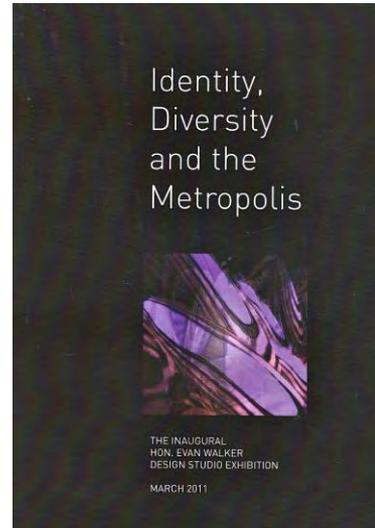
Any Treaty or Treaties must be done in good faith and be legally enforceable with major legal and economic penalties for breaches to the Treaty or Treaties.

1. Question of a Sovereign Treaty
2. Act of Victorian Parliament
3. Act of Commonwealth Parliament
4. Contract - legally enforceable in International or Domestic jurisdiction
1. Combination of above

Treaty Needs a Building?

1. A Treaty implies a Treaty Commission which implies a building an Embassy maybe.
2. Where do You See First Peoples in the CBD or even in your town?
3. It is proposed that a First Peoples Multifunctional Cultural and Economic Facility be built in the CBD.
4. A three year research study has been done with the City of Melbourne and The University of Melbourne.
5. It is our economic and cultural stimulus and would showcase our culture and People.
6. It would include an inclusive First Peoples University.
1. It would be the Gateway to On Country Satellites.

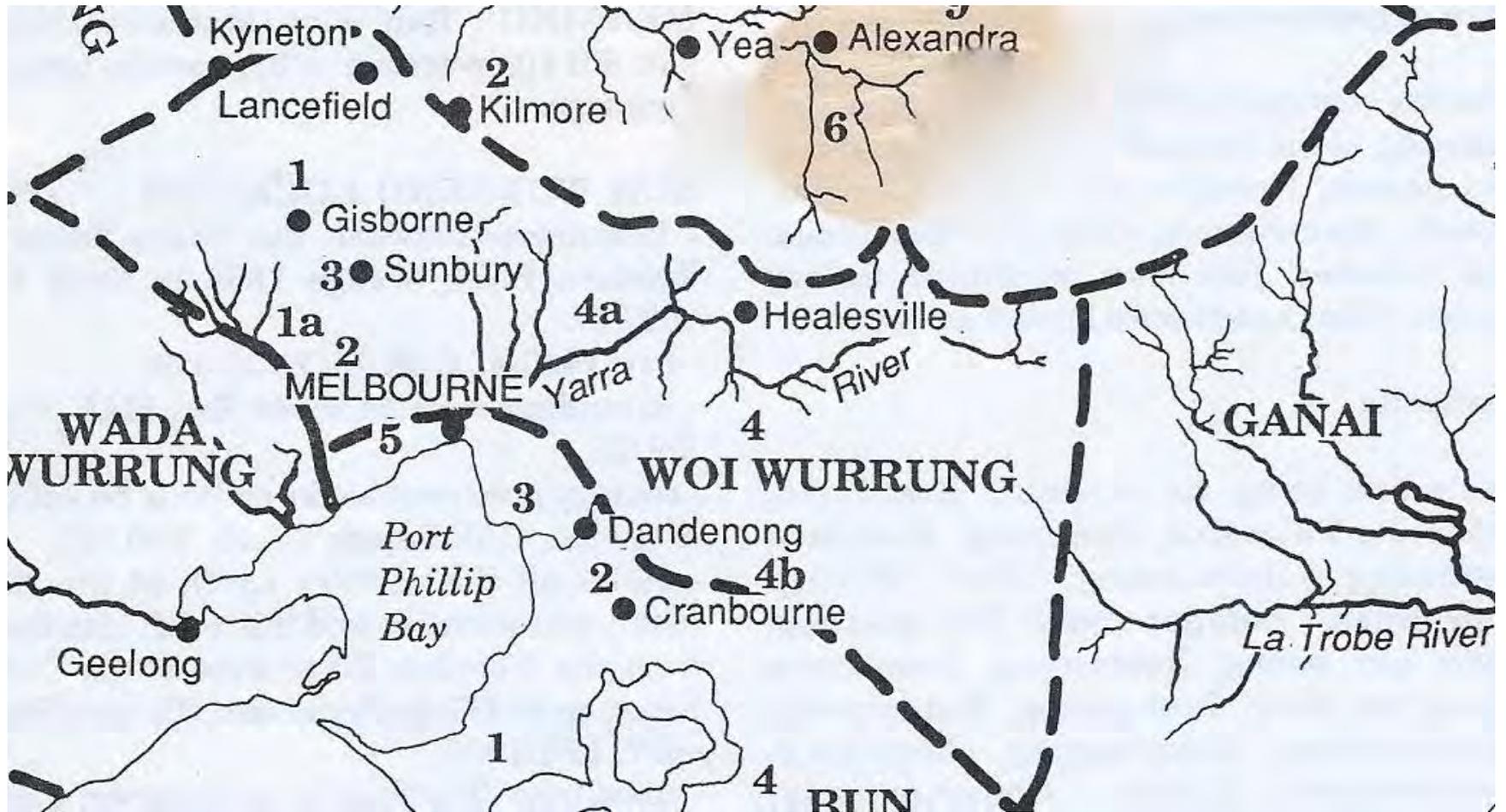
Victorian Treaties need an Embassy? So do other States and Territories



Clans Belong to Country

- Clans belong to Country, Ancestors and Language, traditions and customs, arts and crafts, cultural heritage.
- Clans have suffered 230 years of genocide, theft of our Lands and Waters, loss of language, massacres, rape and pillage, desecration of their religion and sacred sites.
- Clans need to be mapped and identified with their Country, Ancestors and Descendants.

Woi-wurrung Wurundjeri



Woi-wurrung *Wurundjeri* Clans and Ancestors

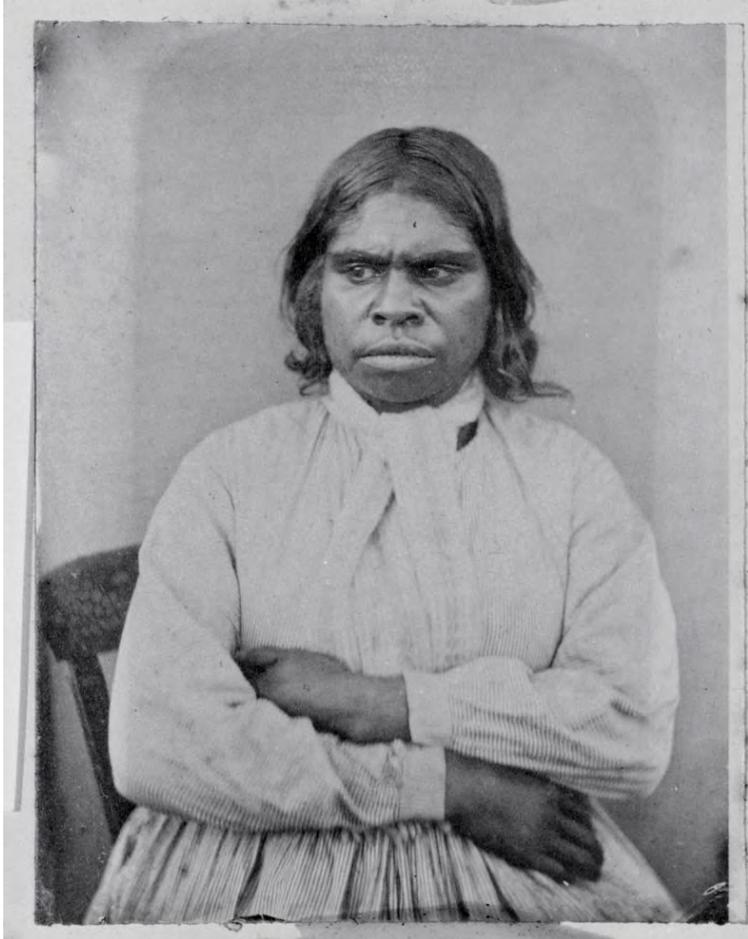
Clans (7)

- Wurundjeri Willam – along the Yarra and Plenty Rivers
- Gunung Willam Balug – Mt William, Cadden and Howey cattle station, south of Mt Macedon extending to Daylesford
- Talling Willum – at Bachus Marsh
- Kurung Jang Balug – Werribee River area, east end of Bachus Marsh
- Marin Balug – three miles north of Sunbury at Jacksons Creek
- Wurundjeri Balug – Mt Macedon
- Bulug Willam- at Dandenong, Cranbourne and Westernport

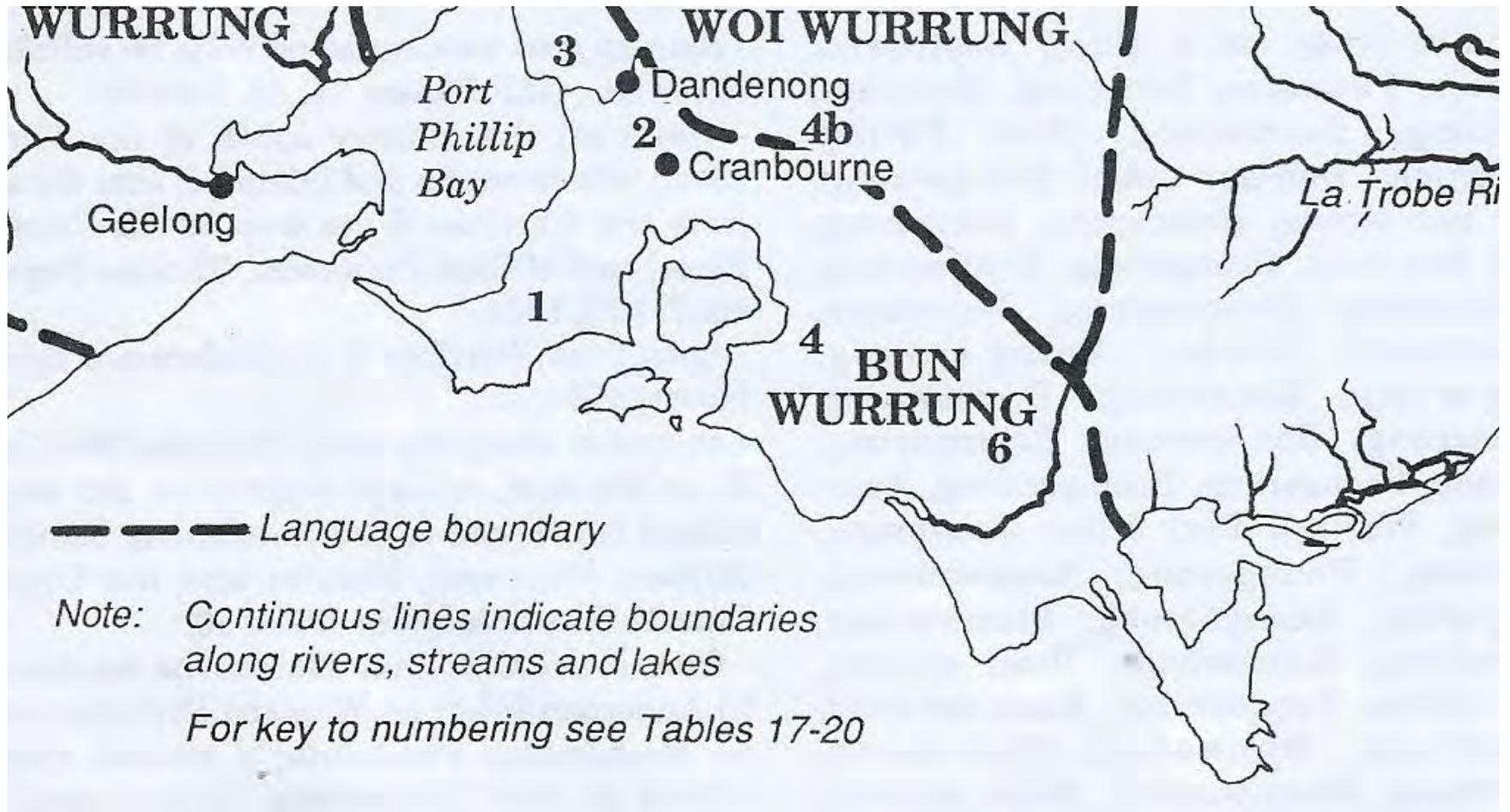
Ancestors

- Bebejan (c.early1800's-1800's) and Tooterrie and their daughter Boorat (c.1834-1874)
- Thomas Briggs and Maria McKay/Mcrae and son Alick Mcrae-Briggs (c.1873)

c. mid 1850's Wurundjeri Woman Borate and Kulin Clans at Coranderrk



Boonwurrung *Bunwurrung*



Boonwurrung

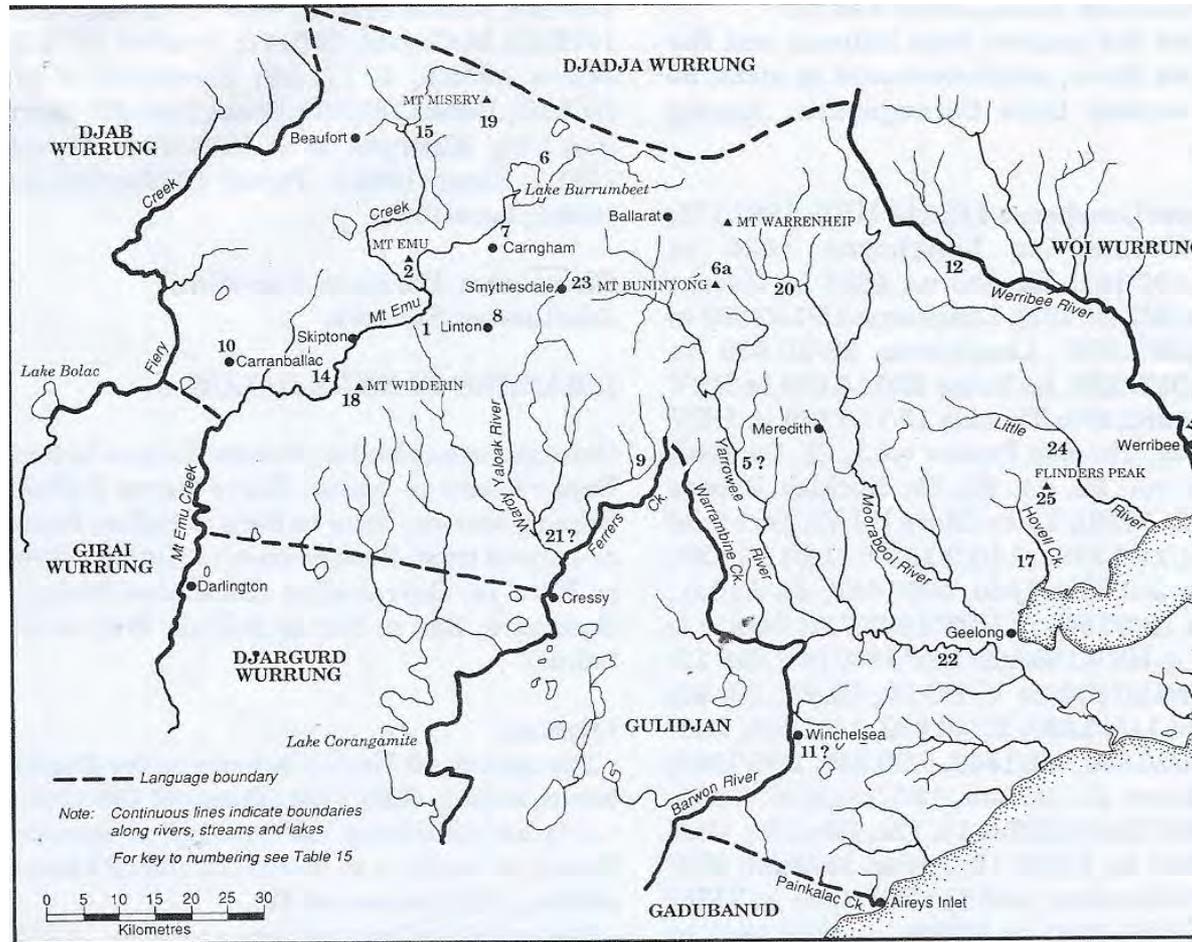
Clans (6)

- Bun Wurrung Balug – Point Nepean and Cape Schank
- Mayne Balug – Carrum Swamp, Mayune Station
- Ngaruk Willam – Brighton, Mordialloc, Dandenong and between Mts Eliza and Martha
- Yallock Ballug – Bass River, Tooradin
- Yalukit Willam – East of Werribee River, Williamstown, Sandridge and St Kilda
- Yowengarra – Tarwin River

Ancestors

- Louisa Strugnell 1833-1925
- Marjorie Munro

Wada Wurrung Wathaurong



Wada Wurrung *Wathaurong*

Clans (26)

- Barere Barere Balug - Colac and Mt Bute Station
- Beerekwart Balug – Mt Emu
- Bengalat Balug – Indented Head
- Berrejin Balug - Unknown
- Borogundidj – Yarrowee River
- Burrumbeet Balug – Lakes Burrumbeet and Learmonth
- Keyeet Balug – Mt Buninyong
- Carringham Balug – Carngham
- Carninje Balug – Emu Hill Station, Linton’s Creek
- Corac Balug – Commeralghip Station and Kuruc-a-ruc Creek
- Corrin Corrinjer Balug – Carranballac
- Gerarlture – west of MoLake Modewarre

Wada Wurrung *Wathaurong*

Clans

- Marpeang Balug – Blackwood, Myrniong, and Bacchus Marsh
- Mear Balug – Unknown
- Moijerra Balug – Mt Emu Creek
- Moner Balug – Trawalla Station, Mt Emu Creek
- Monmart – Unknown
- Neerer Balug – Between Geelong and the You Yangs
- Pakeheneek Balug – Mt Widderin
- Peerickelmoon Balug – Near Mt Misery
- Tooloora Balug – Mt Warrenhip. Lal Lal Creek, west branch of Moorabool River
- Woodealoke Gundidj – Wardy Yalloak River, south of Kuruc-a-rue Creek
- Wada Wurrung Balug – Barrabool Hills
- Wongerrer Balug – Head of Wardy Yalloak River
- Worinyaloke Balug – West side of Little River
- Yaawangi – You Yang Hills

Wada Wurrung *Wathaurong*

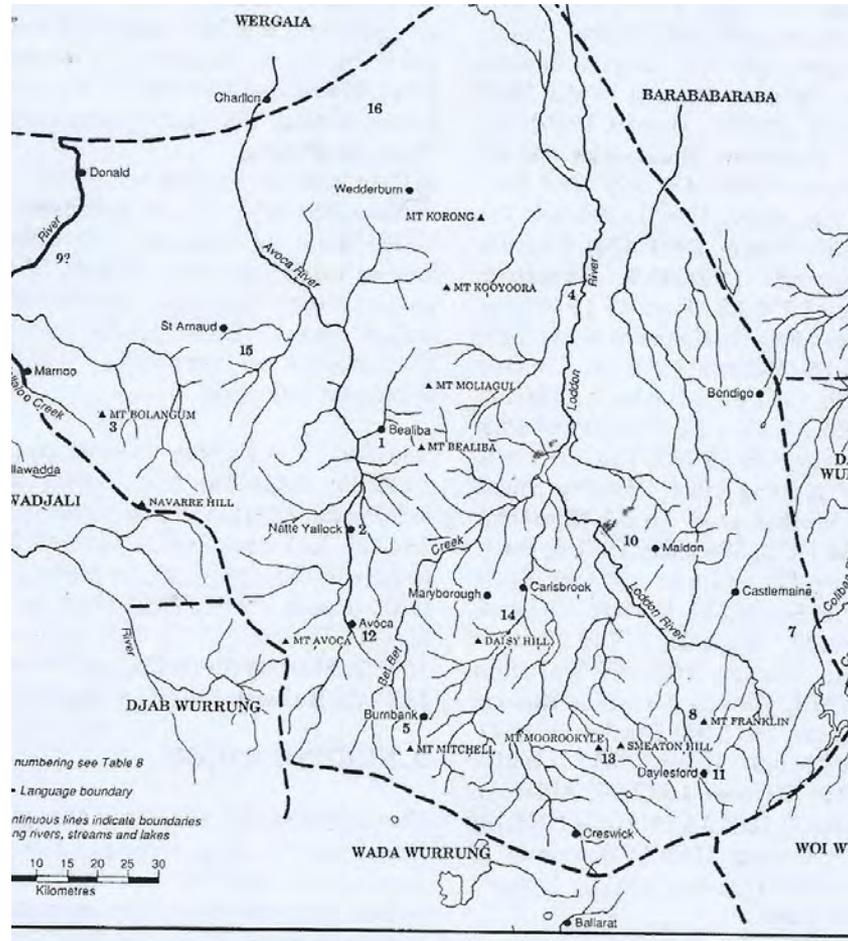
Ancestor (1)

John Robertson/Robinson (1846-1919) and his Descendants Emily Hewitt (1868-1898), William Robertson (1870-?), Mary Edith Hine (1893- 1955), Victoria Alice Brannelly (1895-1964), Valentine Margaret Dalton (1897-1977), Mabel Violet Powell (1899-1984), Hector Norman Arthur Robinson (1900-1944), Ellen Rose King (1902-1999), and Thomas Joseph Russell Robinson (1904-1933)

1854 Boort Yung Balug Clans



Dja Dja Wurrung Jaara



Dja Dja Wurrung *Jaara*

Clans (19)

- Bial Balug – Near Bealiba
- Burung Balug - Natteyallock
- Bulangurd Gundidj – Mt Bolangum
- Catto’s Run Clan – Catto’s Station on the Loddon River, four miles south of Bridgewater
- Galgal Gundidj – Burbank and Mt Mitchell
- Gurabungalid Gundidj – Mt Beckworth
- Banyul Willam – Pyrenee Range
- Dja Dja Wurrung Balug – Unknown
- Galgal Balug –North West from Kyneton
- Gunangara Gundidj– at Larnebarramul and Franklinfoord
- Larning Gundidj – Along the Richardson River
- Liarga Balug – Country near Mt Tarengower and Maldon
- Tardardyinlar – Unknown but classed with the Learabulluk
- Munal Gundidj – Daylesford
- Dirag Balug – Avoca
- Durid Balug – Mt Moorokyle and Smeaton
- Wurn Balug – Between Daisy Hill and Carisbrook
- Wungaragira Gundidj – Upper Avoca and near St Arnaud
- Yung Balug – Mt Buckrabanyule, Boort and Charlton

Dja Dja Wurrung *Jaara*

Ancestors

- Leonard Kerr (b.1854)
- Emma Curr (c.1853-1886) and son John Patterson (c.1850-c.1900's)
- David Harrison (c.1800-1861)
- Finemore Jackson (b.1868/1869)
- Wannanee (c.early1800's) and her son son John Terrick (c.1835-1922)
- Lerimburneen (c.1800's-1865)
- Gilpoon-Mouning, and her daughter Caroline Malcolm (b.1846)
- Mary Jane and her son Henry Harmony Nelson (c.1855-1919)
- Jamie Warbot and Katie, and their son John Charles (b.1852-1884)
- Thomas Dunolly
- Tommy Avoca / Deardjoo Warramin (b. 1834)
- Alfred Davis
- Burman aka Tommy Farmer
- Mapooungun aka Samuel Kinnear
- William Parker
- Kate/Kitty) Robinson (c.1800's-1880)
- Martin Simpson
- Charlotte Williams

Taungurung



Taungurung

Clans (9)

- Buthera Balug – Goulburn River, about Seymour
- Look Willam – Campaspe River, and near Kilmore
- Moomoom Gundidj – West of Campaspe River, and northwest of Mitchellstown
- Nattarak Balug – Coliban River, and Upper Campaspe River
- Nira Balug – Kilmore, Broadford and Pyalong
- Warring-Illum Balug – Yea
- Yarran-Illum Balug – Mitchellstown
- Yeerun-Illam Balug – Benalla
- Yowung-Illam Balug - Alexandra

Taungurung

Ancestors

- Tommy Bamfield
- Lydia Beaton
- Doctor Billy
- John Franklin
- Billy Hamilton
- Jessie Hamilton
- Lilly Hamilton
- William Hamilton
- Elizabeth Hylett/Murchison
- Louisa Shepard
- Polly Wallambyne
- Tooterie

c.1885 Clans from the Ramahyuck Aboriginal Mission, Gippsland, Victoria



Gunai Kurnai



Gunai *Kurnai*

Clans (5)

- Brataualung
- Tatungulung
- Braiakaulung
- Brabralung
- Krauatungulung

1865 Ramahyuck Aboriginal Mission, near Sale, Victoria



Gunai *Kurnai*

Ancestors

- Charles Boldin/Bolden & Emily Clarke
- Jemmy Bull and Mary
- Tommy Bumberrah
- Bungil Narran
- Bungil Wrekallak
- King Tom Kee-lum-bedine & Mary War-gyle
- Old Ngary & Mary Woon-grook
- James Scott
- George Thomas
- Timothy Bungil Barlijan & Patty
- Bungil Tay-a-bung
- Jack Chase & Kitty

Gunai *Kurnai*

Ancestors

Dan Bun-gyl Tambo & Kitty Wangung Old Darby Tar-loomba & Mary Tur-un-gook

Charles Rivers & Kitty

Charles Hammond & Annabella/Hannah McLeod Jimmy

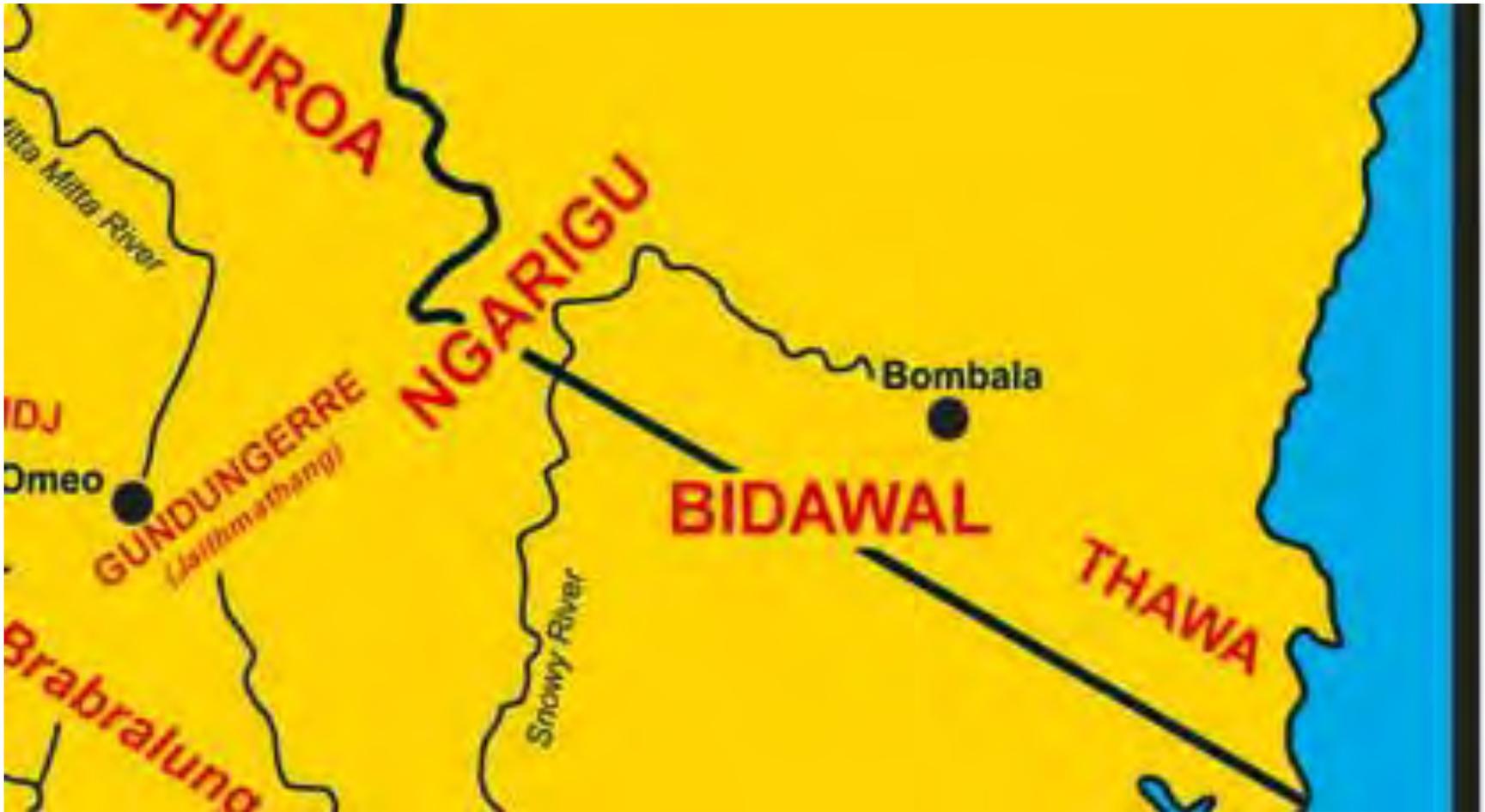
Billy Login/Logan & Mary Tu-duk Charlotte Mercawan

Yallung/Tharnaberrang Kitty & Wookalnom/Dukalunern Mary Wood-a-turn

Merriguin Lucy Goold William McDougall Edward 'Neddy' O'Rourke

John Wilson and Polly

Monero-Ngarigu *Southern Monero*



Monero-Ngarigu *Southern Monero*

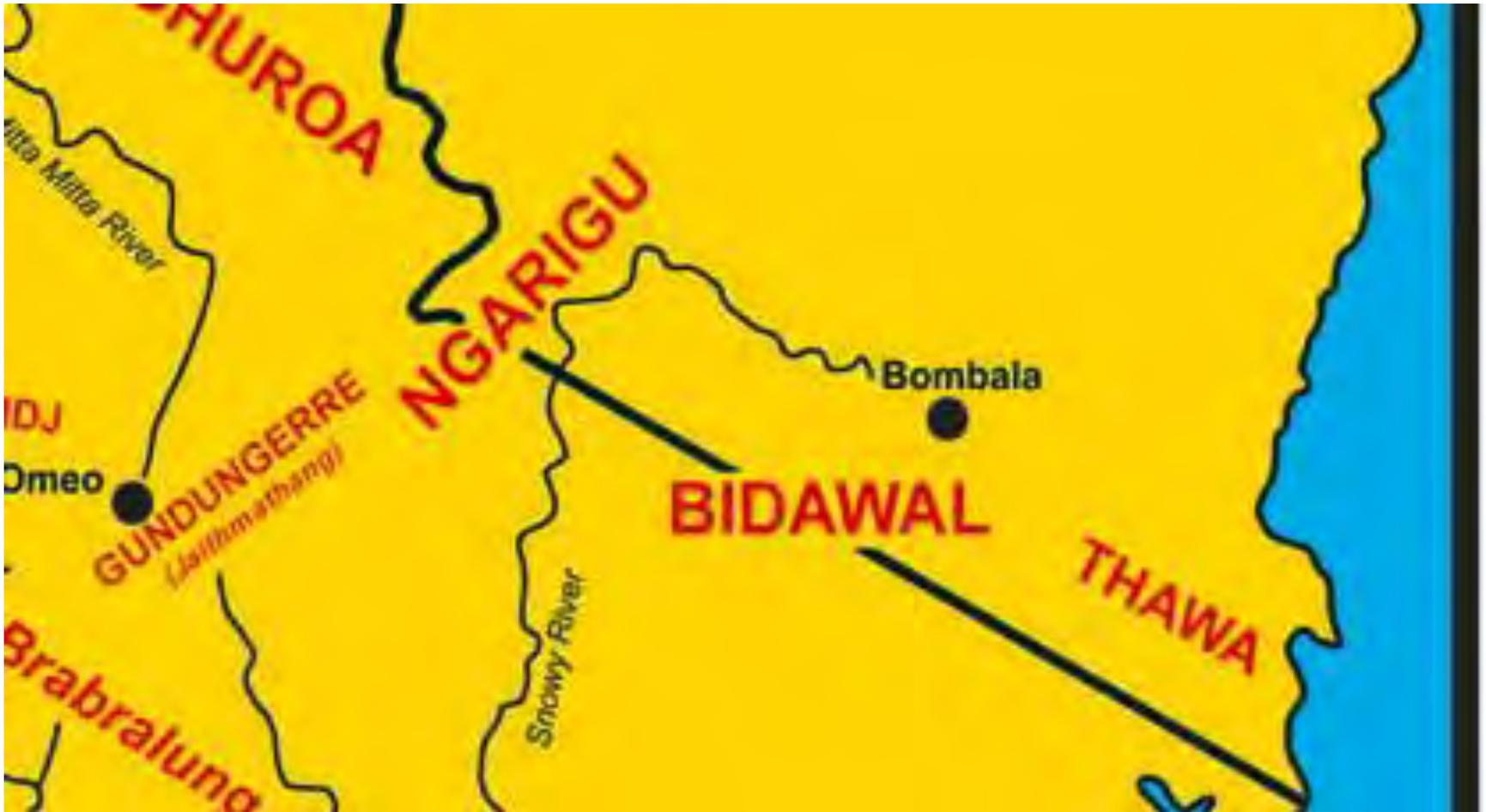
Clans (6)

- Unknown

Ancestors

- Solomon c.1820
- Mongta/Longbottom/Broughton c.1818
- Mason c.1800's
- Dixon c.1800's
- Mcleod c.1800's
- Mundy c.1800's

Yuin



Yuin

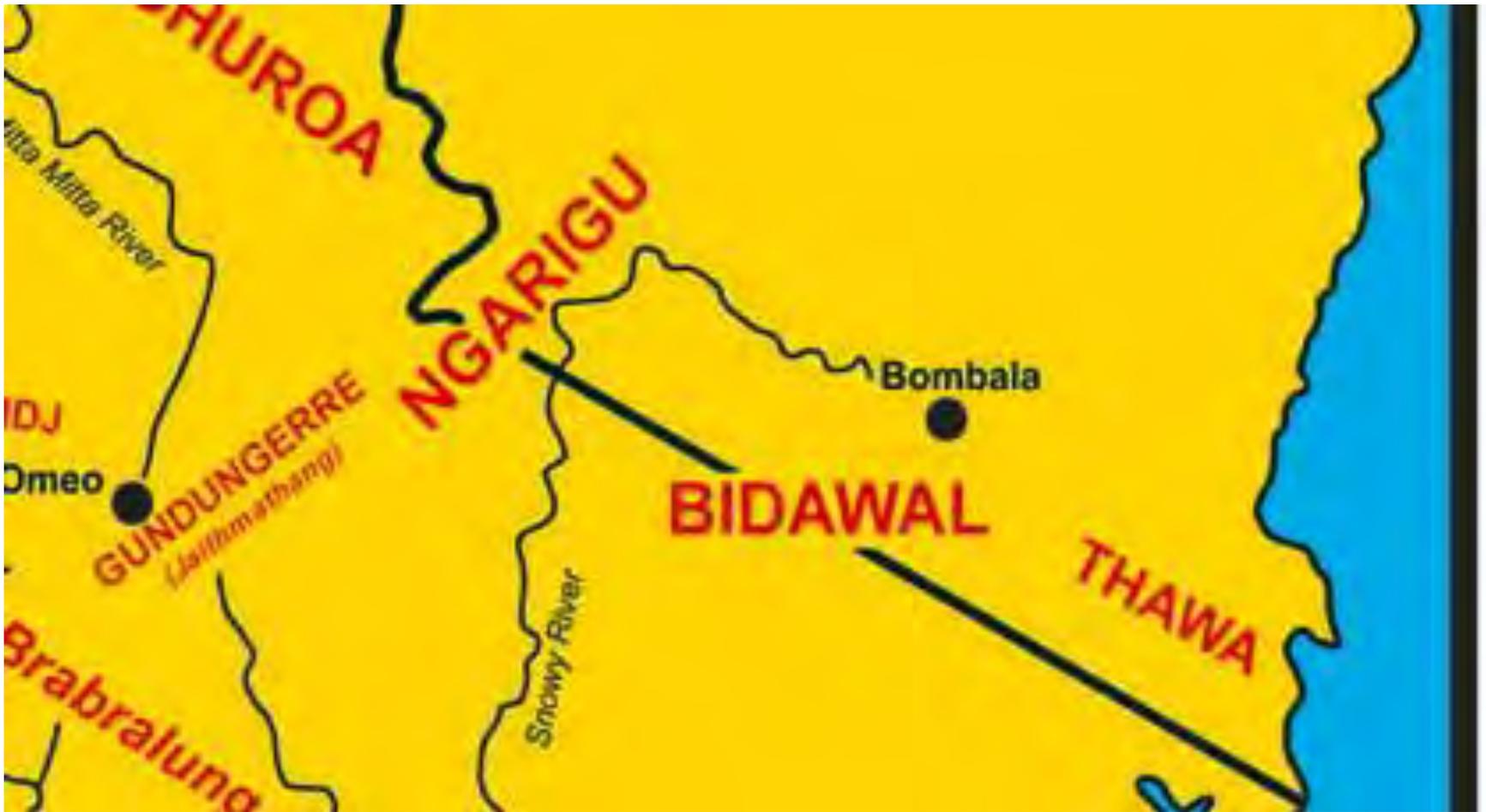
Clans

- Unknown

Ancestors

- Unknown

Bidwell



Bidwell

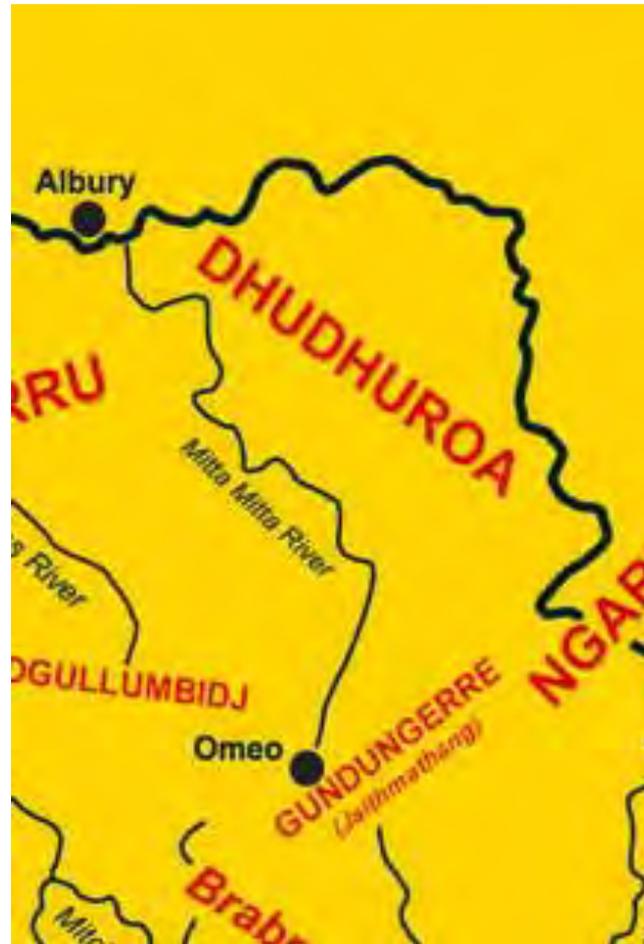
Clans

- Unknown

Ancestors

- Unknown

Dhudhuroa Yatmaithang



Dhudhuroa Clansman Neddy Wheeler



c.1870's Towong. Dhudhuroa Clans Maggie Simms and Charlotte Wheeler



*Black Mag and Charlotte
Mag's two children Isabella and Minnie attended the first Corryong School
Photo: Albert Mildren*

Dhudhuroa *Yatmaithang*

Clans (6)

Dhudhuroa

- Boengar Mittong
- Ginning Matong
- Tarrer Mittung
- Theddora Mittung

Gundungerre

- Kandangora Mittung
- Yatte Mittong

Ancestors

- Mary Jane Andrew (c.1849-1945)
- Jilbino aka Jenny Mutton aka Jinney Cooper aka Jane Cooper (c.1826-c.1884)
- Maggie Simms (c.1850 – 1878)
- Neddy Wheeler (c.1800's)

Waywurru



Waywurru

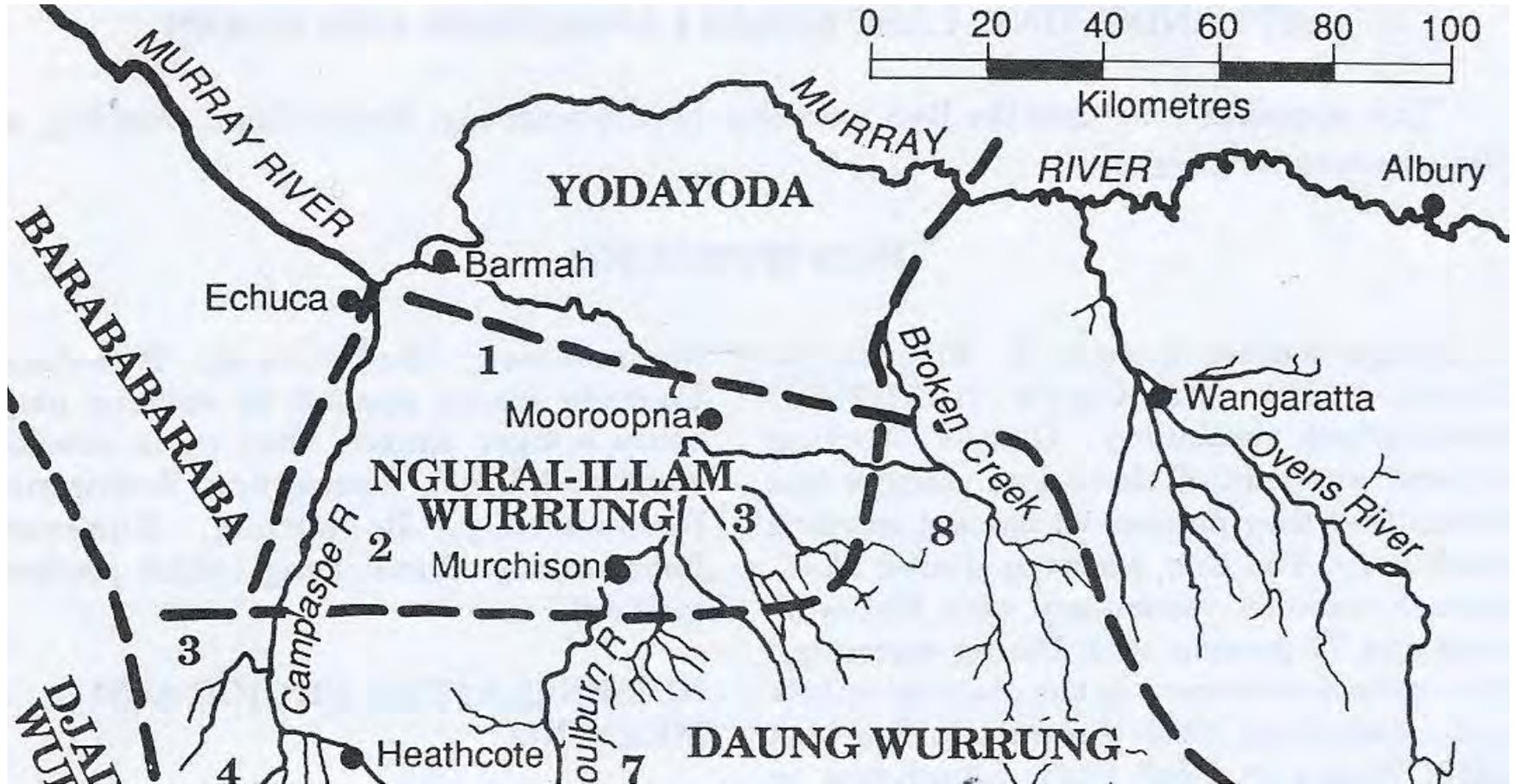
Clans (1)

- Tarrer Mittung

Ancestors

- Yakanduna aka Warra-euea aka Tommy Mcrae aka Tommy Barnes (1835-1901)
- Mary and her daughter Lydia Beaton (c.1851-1886)
- Mary Ann and her granddaughter Margaret "Maggie" Nelson nee Stone aka McDonald (1860-1953)
- Old Brangy & Mary and their daughter Kate Brangy (c.1856-1918)

Ngurai Illum Wurrung



Ngurai Illum Wurrung

Clans (3)

- Benbedora Balug
- Gunung-Willam
- Ngurai-Illam Balug

Ancestor

- Tooterie (c.early 1800's)

c. Late1800's Clans at Cummeragunga



Wallithica Clans Yorta Yorta



Yorta Yorta



Yorta Yorta



Yorta Yorta



Yorta Yorta



Yorta Yorta

Clans (15)

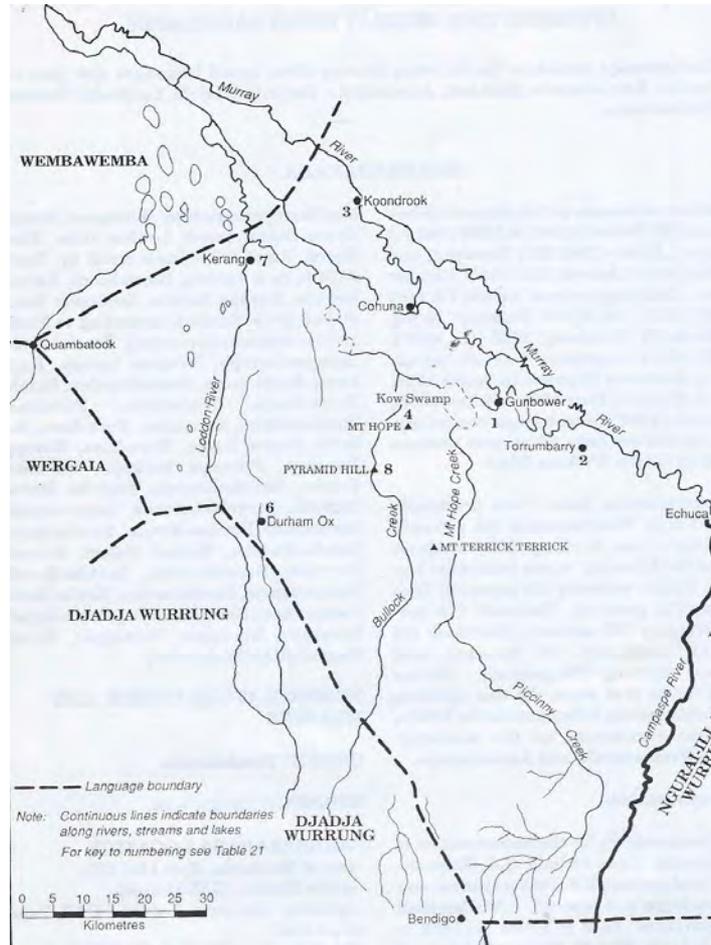
- Darrinban - Unknown
- Wongatban – West of Lake Moira and Kotupna
- Merdiderban - Unknown
- Maddemowero - Unknown
- Yewngotban - Unknown
- Biggolatban - Tocumwal
- Ungidderroban - Unknown
- Mowatban - Unknown
- Derranatban - Unknown
- Toolinyagan – Ulupna Murray River
- Boongatpan – West of Yeilima Murray River
- Angootheriban – Lake Goulburn
- Kailthiban – Lower Goulburn River
- Moiraduban – North of Murray River, Lake Moira region
- Towroonban – Lower Goulburn River and Broken creek

Yorta Yorta

Ancestors

- Maria (d.1879) and her daughter Kitty Atkinson-Cooper (1829-1900)
- Fred Walker
- Bagot Morgan and Alf Morgan
- Maggie Toodles-Toolanyagan
- Annabella Howard
- Maggie Stone / Nelson
- Jenny Charles
- Tommy McCrae
- Jenny McCulloch
- George Charles
- Thowmunga – grandfather of Luana (Lily) Milawa
- Mulwella – mother of Alfred Morgan and Bagot Morgan

Barapa Barapa



John Terrick (c.1835-c.1921) and Ellen Terrick (c.1800's)



Barapa Barapa

Clans (8)

- Gunbower gundidj – Gunbower Station
- Kurrowertukhe – Torrumberry Station
- Mially Water Clan – Mially Water adjoining Koondrook
- Moyberrer Balug – Mt Hope
- Perregoo - Unknown
- Tanne Balug – Duck Swamp, adjoining Durham Ox
- Teerap Balug – Near Kerang
- Yulowil Balug – Mt Pyramid

Ancestors

- Albert Colger (1846-1917) was born in 1846
- Alice Holmes was born at Gunbower. She married Jasper Green who was born at Kow Swamp.
- Hannah Boyd was born c.1860 and Rosie Butcher born c. 1862
- Jasper Green was born at Kow Swamp. He married Alice Holmes.
- Johanna Gardner (1851-1921)
- John Galway
- Nelson Tro-Bullock and their son John Terrick (c.1835-c.1921)
- Koombra aka Alexander Campbell (c.1853-1921)
- Louisa Frost (c.1858-1893)
- William 'Billy' Murray (1872-1953)

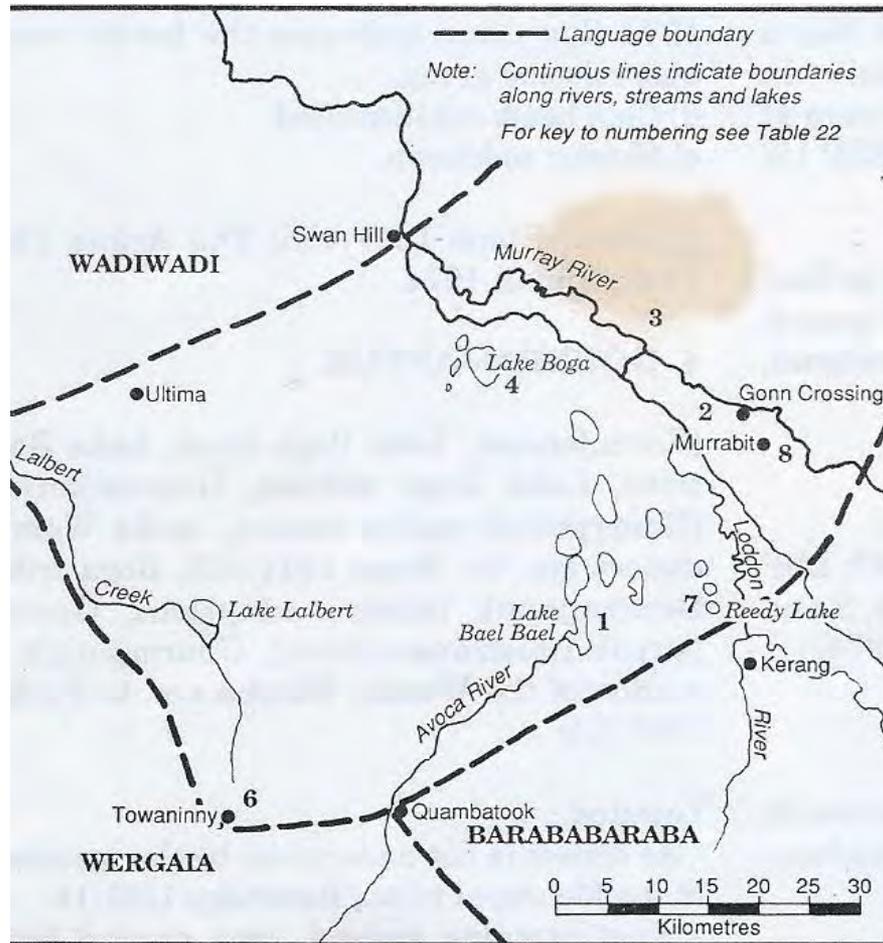
Wamba Wamba Barapa Barapa
c. late 1800's Alice Robertson



c.1890 Mellool Clan near Swan Hill



Wamba Wamba Wemba Wemba



Wamba Wamba *Wemba Wemba*

Clans (8)

- Bael Bael Gundidj – Bael Bael lake
- Dietchen Balug – Gonn NSW on the Murray River
- Geroung Bukeer – at Mellool NSW
- Gourrmjanyuk – Muymir aka Lake Boga
- Koron Gundidj - Unknown
- Mallenjerrick – at Towanninny
- Moorta Moorta – Reedy Lake
- Murrabit Gundidj – at Murrabit Station

Wamba Wamba *Wemba Wemba*

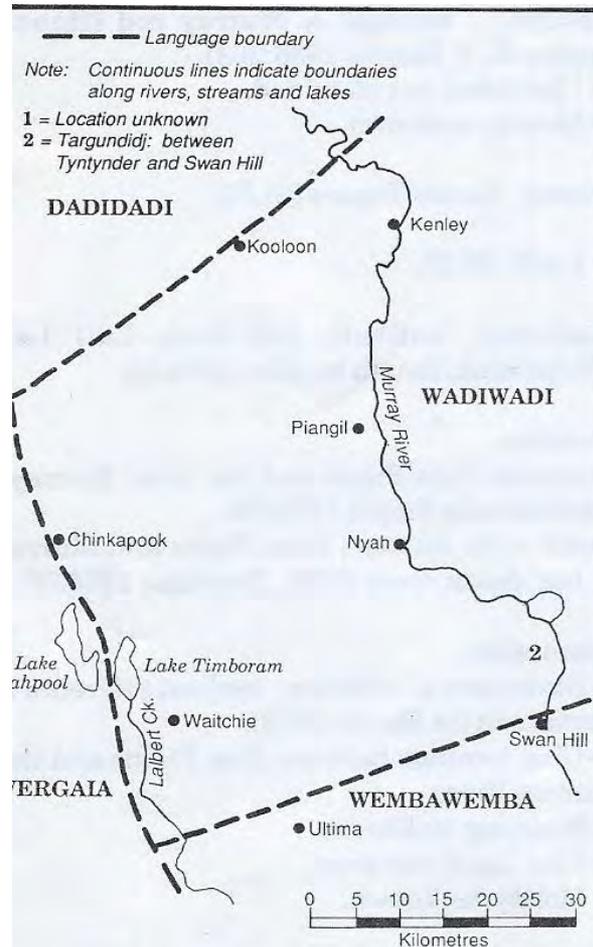
Ancestors

- Edward Firebrace (c.1855-1921)
- Edward Joachim (c.1854-1934)
- Ernest McGee was born c.1876
- George Allen was born in 1860
- Henry Edwards (c.1858-1949)
- Barradapgournditch *aka* Rob Roy Stewart (c.1855- 1940)
- Jemima Burns (c.1856-1944)
- Lanky Manton (c.1853-1881)
- Rebecca Conley (c.1868)
- Robert Taylor (c.1850-1915) and his brother David Taylor (c.1852-1929)
- Sarah Ingram (c.1851-1916) and her brothers Charles Osley, John 'Jack' Ingram, and William Ingram
- Sarah Smith (c.1858-1941)
- Sarah Wilson (c.1823-1898)
- William Day (b.1854)
- William Sampson (1851-1926)

c.1905 Speewa Swamp Agnes Edwards and the Murray Children



Wadi Wadi



Wadi Wadi

Clans (2)

- Nat Konedeyoke – location unknown
- Targundidj – at Piangil and north of Swan Hill

Ancestors

- Andrew Aulton (c.1861-1939)
- Isaac McDuff (c.1854-c.1918)
- Louis Walters
- Richard Wilson *aka King Wilson* (c.1808-1898)
- Sarah and her daughters Anne Wise Moore (c.1860-1908) and Jesse Mayne (c.1863- 1938) and only son Samuel Wilberforce Moore (born c.1869)
- Savina Wise (c.1858-c.1903)
- Thomas Randal (c.1836-1896)
- Victoria Wepraper *aka Victoria Ivanhoe* (b.1854)

Tati Tati

Clans (1)

- Jungeegatchera – at Euston in NSW

Ancestors

- Thomas and Sarah Randal

Latji Latji

Clans (3)

- Balug Mernen – north of the Wotjobaluk
- Bandjel Gundidj – Murray north of Wotjobaluk
- Lail Buil – Between Pine Plains and the Murray River

Ancestors

- Unknown

Nyeri Nyeri

Clans

- Unknown Clans

Ancestor

- Sarah and her daughter Jesse Mayne (c.1863- 1938)

Ngintait

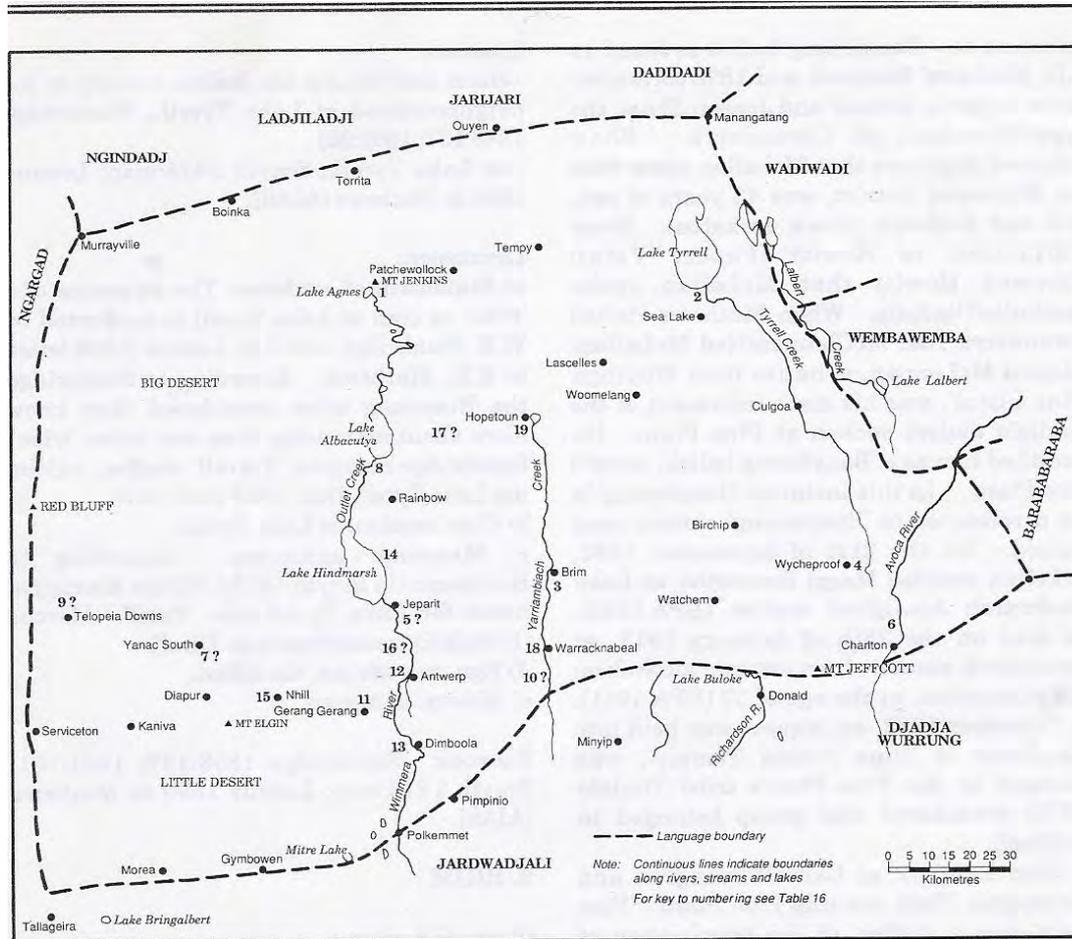
Clans

- Unknown Clans

Ancestors

- John Perry and Nelly/Emily Perry; or
- Elizabeth Johnson.

Wergaia



Wergaia Jaardwa Wotjobaluk Djupagalk

Clans(19)

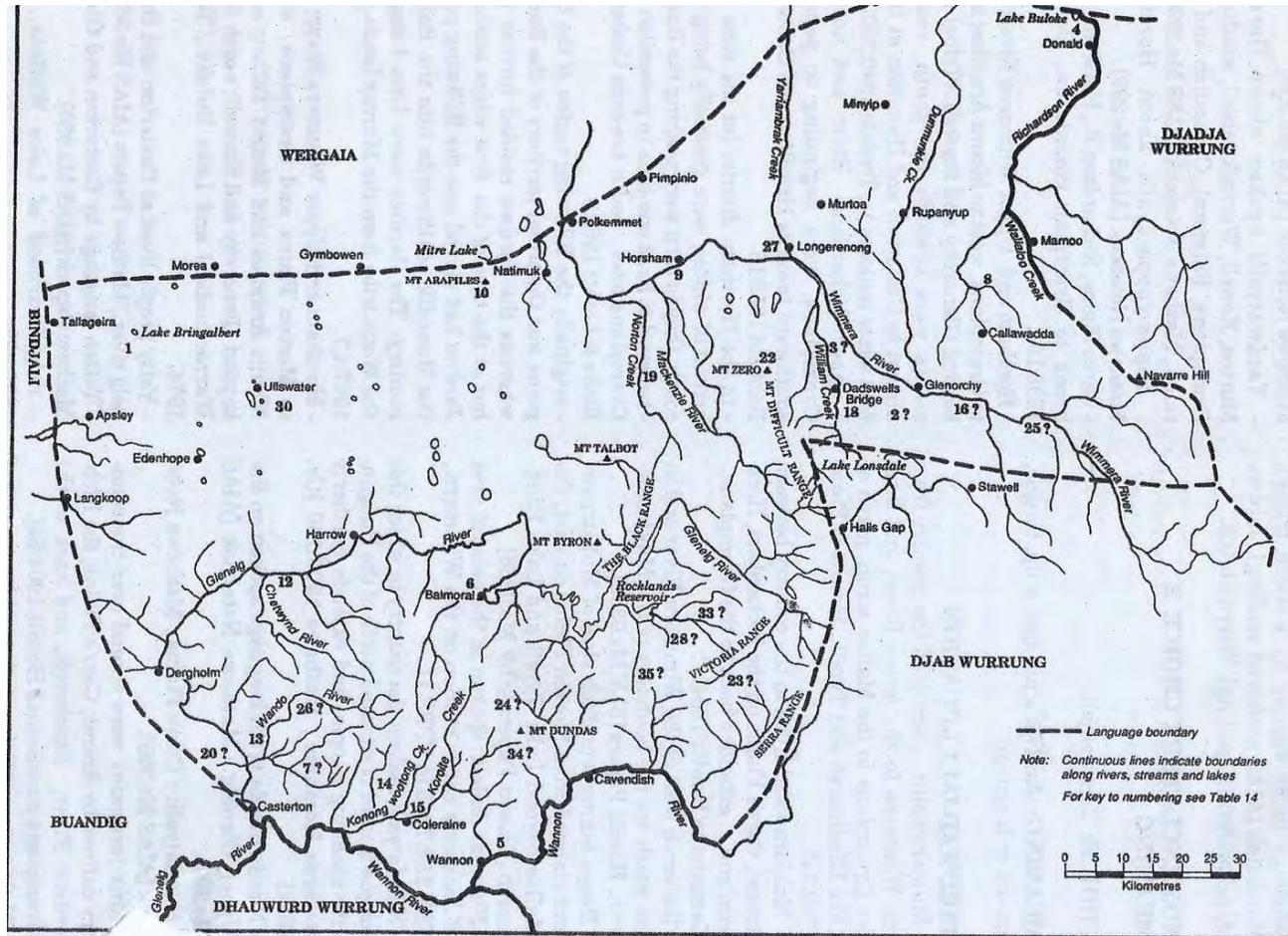
- Banyiinong Balug/Banju Bunan Gundidj
- Bulla Bulla Wycher
- Karroit Balug
- Djubagal Gundidj
- Duwin Barap
- Jakel Balug
- Jackal Barap
- Jarambiuk
- Wergaia
- Jarrung Jarrung
- Kapun Kapun Bara
- Kreitch Balug
- Gur Balug
- Nyill
- Porrone Gundidj
- Wengen Marongeitch
- Witch Wundauk/Njarimbalug
- Yarrikuluk
- Yoonjareup

Wergaia Jaardwa Wotjobaluk Djupagalk

Ancestors

- Augusta Robinson (1858-1886)
- Old Matty (c.1800's-1889)
- Tom Friday and Mary their son Johnny 'Jack' Friday (1850-unknown)
- John Mcreadie (c.1851-1876) and his daughter Edith Mcreadie
- Henry Fenton (mid 1800's)
- Blanche Oliver (1856-1929)
- Kitty Tullum (c.1825-1875) and Tullum and their sons
Pelham Cameron (1854-1932) and Adolphus Donald Cameron (b.1849)
- Blanche Oliver (1856-1929)
- Kate Callaghan (c.1867-1905)
- Richard Kennedy (b.1853)
- Captain Harrison (b.1838)
- Archibald Pepper (b.1859)
- Thomas Marks (b.1844)
- Pelham Cameron (b.1854)
- Albert Coombes (b.1852)

Jardwadjala



Jardwadjala

Clans (39)

- Apsley Clan
- Barbadin Balug
- Bernet
- Buluga
- Bung Bung Gul Gundidj
- Congbool and Yat Nat Clan
- Darkogang Gundidj
- Djappuminyu
- Djura Balug
- Jardwadjala
- Djurid Balug
- Kallutbeer Kanal Gundidj
- Karrebil Gundidj
- Konongwootong Gundidj
- Koroite
- Konenicen Balug
- Kum Balug
- Larnaget
- Jardwadjala
- Lil Lil Gundidj

Jardwadjala

Clans

- Mideriber Gundidj
- Moody Balug
- Murray Murra Barap
- Ngarum Ngarum Balug
- Pellerwin Balug
- Pobbiberer Balug
- Rockburrer Balug
- Tuan Balug
- Jardwadjala
- Tukallut Balug
- Tununder Balug
- Ullswater Clan
- Wanemollechoke
- Welleetpar
- Whiteburer Gundidj
- Worrercite
- Yamneborer Balug
- Yareen Me Yoke
- Yetteker Balug

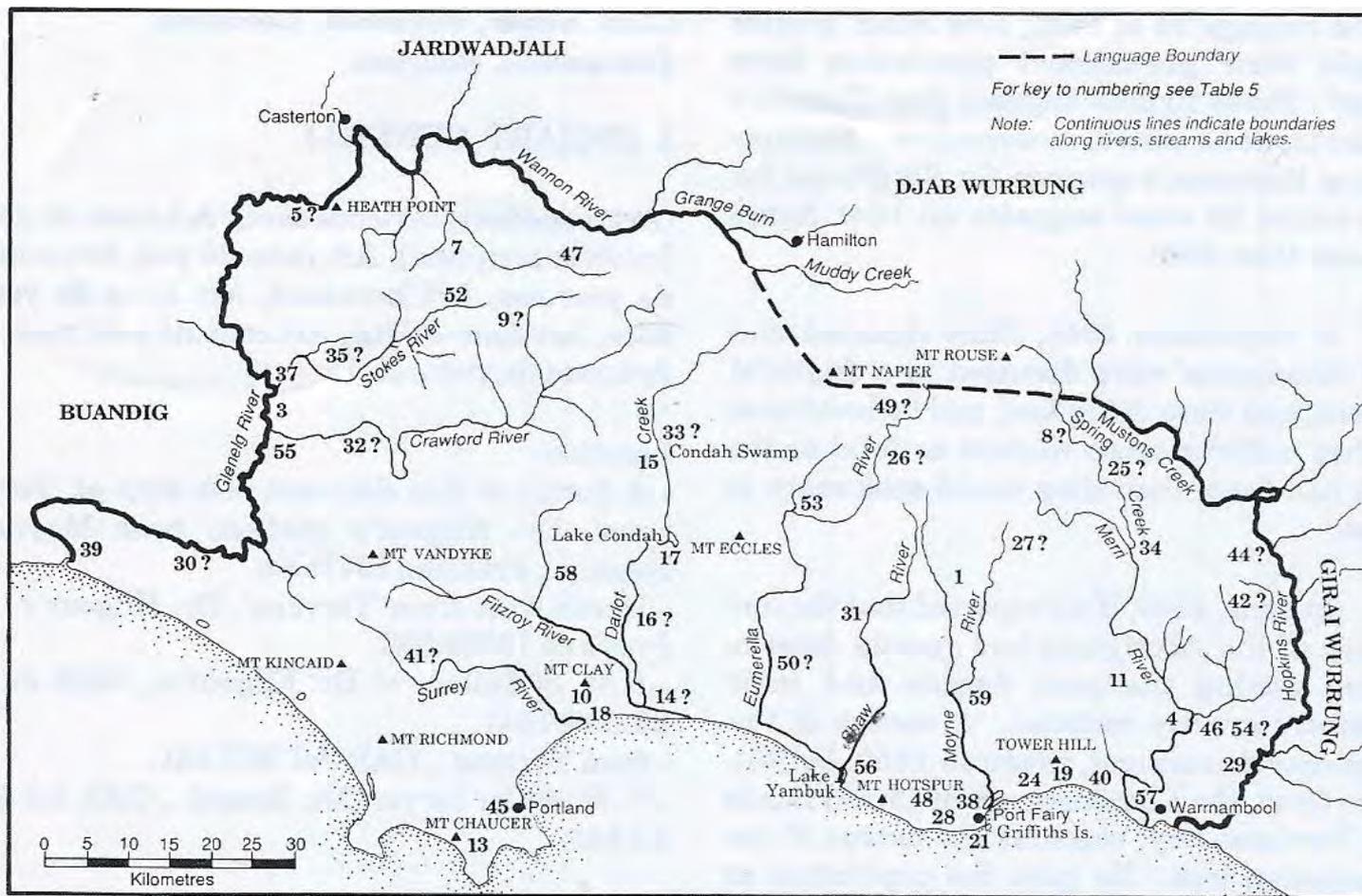
Ancestors

- Unknown

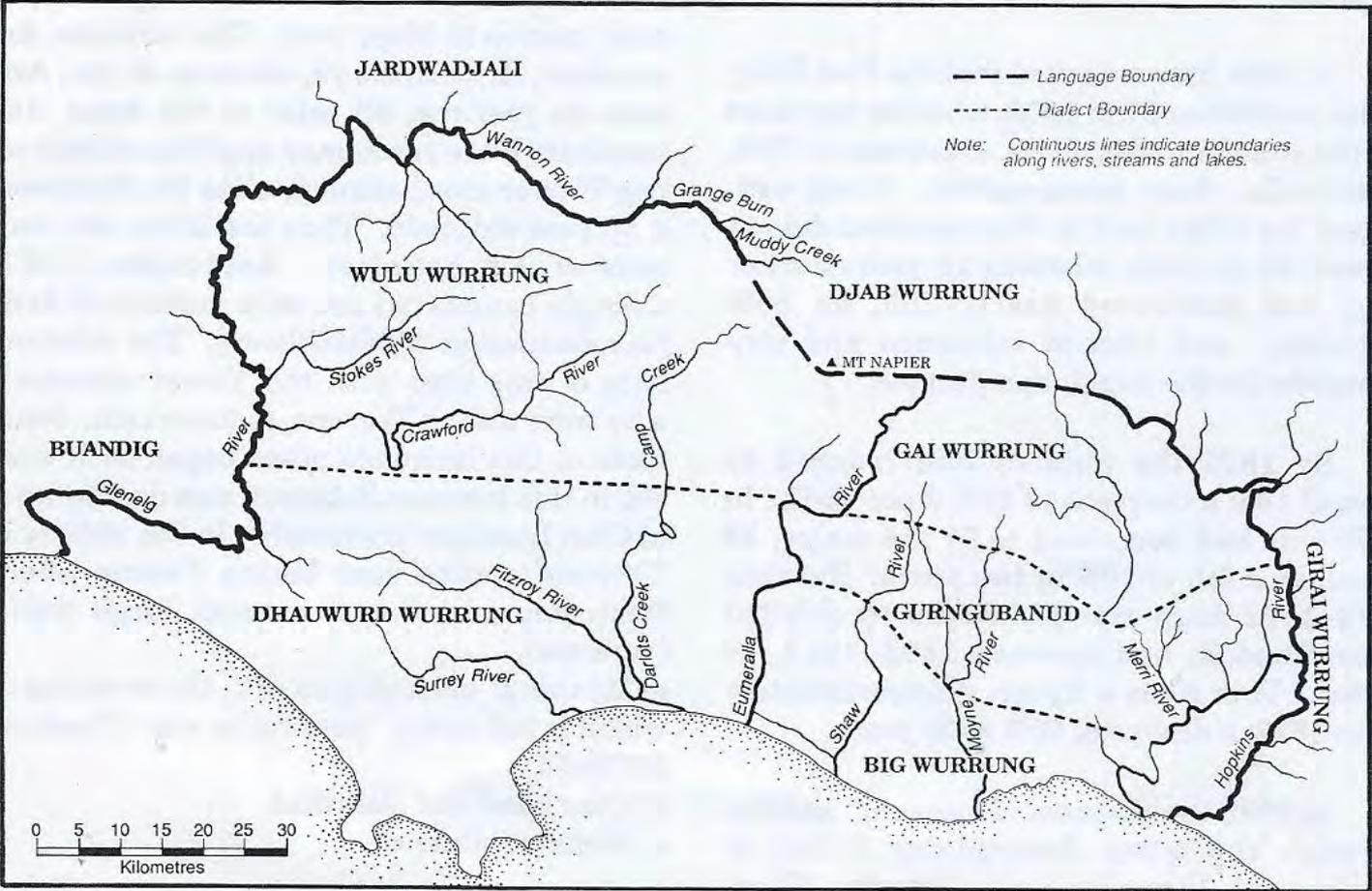
c.1895-1917 Aboriginal Cricket Team, Victoria
Gustav Melbourne Damman 1871-1975, photographer.



Gunditj Mirring Gundidjmara



Gunditj Mirring Gundidjmara



Gunditj Mirring *Gundidjmarra*

Clans (60)

- Art Gundij
- Ballumin Gundidj
- Bate Gundidj
- Biteboren Gundidj
- Bokerer Gundidj
- Bome Gundidj
- Bonedol Gundidj
- Can Can Corro Gundidj
- Carnbul Gundidj
- Cart Gundidj
- Cartcorang Gundidj
- Corry Gundidj
- Cupponenet Gundidj
- Dandeeyallum
- Direk Gundidj
- Gilgar Gundidj
- Kerrup Gundidj
- Kilcarer Gundidj
- Gundidj

Gunditj Mirring *Gundidjmarra*

Clans

- Koroit Gundidj
- Lay Gundidj Mallo
- Mallun Gundidj
- Meen Gundidj
- Mendeet Gudidj Marayn
- Monwer gundidj
- Moperer Gundidj
- Mordoneneet Gundidj
- Morro Gunditj
- Mum Keelunk Gundidj
- Mumdorrong Gundij
- Nancurrer Gundidj
- Nartitbeer Gundidj
- Net Net Yune Gundidj
- Nilan Gundij
- Omebegare Rege Gundidj
- Pallapnue Gunditj
- Peerracer
- Ponungdeet Gundidj
- Pyipgil Gundidj
- Tarrerwung Gundidj

Gunditj Mirring *Gundidjmarra*

Clans

- Tarerer Gundidj
- Tarngonene Wurrer Gundidj
- Teerar Gundidj
- Tolite Gundidj
- Tone Gundidj
- Ure Gundidj
- Wane Gundidj
- Wandedeet Gundidj
- Warerangur Gundidj
- Waywac Gundidj
- Weereweerip Gundidj
- Woortenwan
- Worcarre Gundidj
- Worerome Killink Gundij
- Worn Gundidj
- Tallo Gundidj
- Yambeet Gundidj
- Yarrer Gundidj
- Yiyar Gundidj
- Yowen

Gunditj Mirring *Gundidjmara*

Ancestors (13)

- Jenny Green (Alberts line)
- Timothy James Arden & Barbara Winter
- Mary, Surname Unknown, Mother of James Egan, Billy & Mary Gorrie
- William & Hannah King
- James Lancaster
- Susannah McDonald (Lovett Line)
- Mary McKinnon
- Eliza Mitchell (Saunders Line)
- John Henry Rose
- James and Mary Sutton
- Louisa Taylor
- Andrew and Ellen Winter
- Lucy Sutton

c.1865-1875 Framingham.

Photographic print attributed to George W. Priston, made from negative created by John Hunter Kerr.



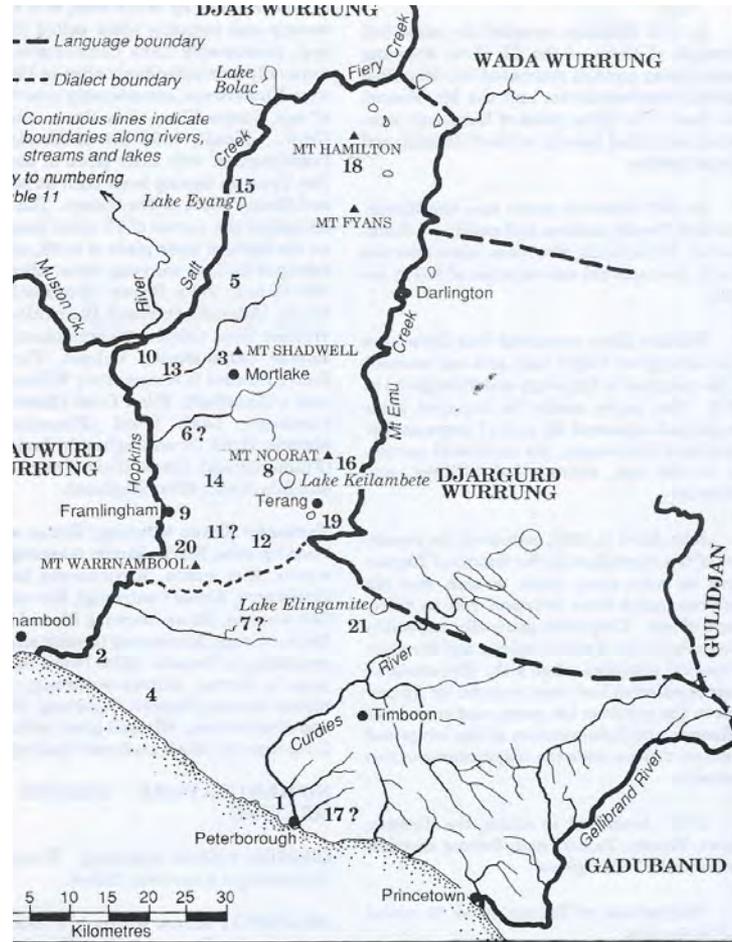
ABORIGINALS AT THE FRAMLINGHAM RESERVE 1867

Back row L. to R.: Joseph Livingstone, Pompey Austin, Tom Livingstone.

Middle row L. to R.: William Good, Dick Patterson, Henry Dawson, Joseph, Robert Clark, John Dawson, King David, Lutman, Camperdown George, Jim Crow, King George.

Front row L. to R.: Andy McKinnon, Norman Robertson, Will Clark, William Rawlings, Frank Blair, Henry Alberts.

Girai Wurrung Kirrae Wurrung



Girai Wurrung *Kirrae Wurrung*

Clans (23)

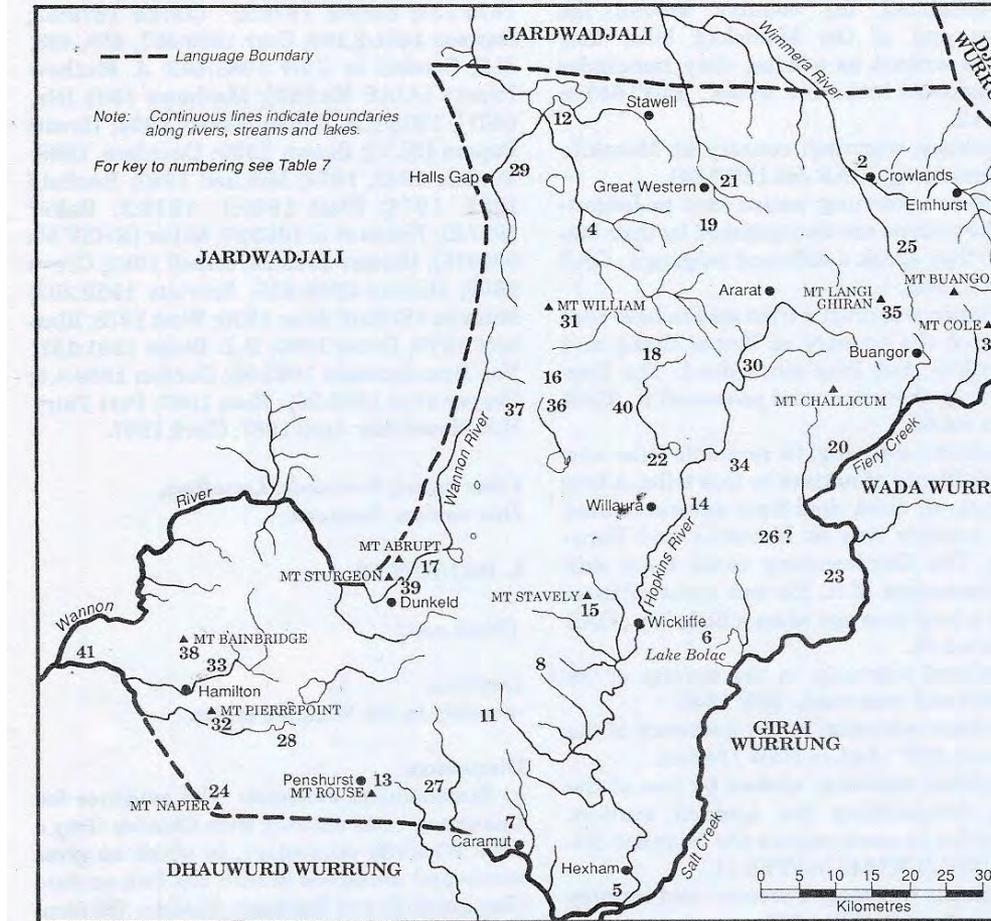
- Baradh Gundidj
- Badadgil Gundidj
- Burug Gundidj
- Duram Gundidj
- Flat Topped Hill Clan
- Garar Gundidj
- Garngigung Gundidj
- Girai Wurrung Kirrae Wurrung
- Gilambidj Gundidj
- Gilidmurar Gundidj
- Gulag gundidj
- Gular Gundidj
- Gun Gundidj
- Gunawurd Gundidj
- Gunindarar
- Ngalung Barar Balug
- Mt Noorat Clan
- Ngaragurd Gundidj
- Girai Wurrung Kirrae Wurrung
- Purteet Chowel Gundidj
- Lake Terang Clan
- Warnmbul Gundidj
- Yelingamadj Gundidj

Girai Wurrung *Kirrae Wurrung*

Ancestors

- King of Port Fairy and Eliza
- Old Jack (father of John Dawson)
- Charlie and Alice (parents of Albert Austin)
- Samuel Robinson and Mary Caramut
- Lizzie (mother of Frank Clarke)
- Robert and Lucy (parents of Alice Dixon)
- Barney Minimalk
- Nellie Whitburboin
- Louisa (mother of William Rawlings)
- Jim Crowe (son of Beeac)

Tjapwurrung



Tjapwurrung

Clans (41)

- Bankneit
- Bar Gundidj
- Beeripmo Balug
- Boner Balug
- Buller Buller Cote Gundidj
- Cartbonong Gundidj Cart Cart Worrata Gundidj
- Curruc Balug
- Gnareeb Gnareeb Gundidj
- Jacelet
- Kolorer Gundidj
- Konegilwerring Gundidj
- Mingalac Gundidj
- Mitteyer Balug
- Mutterchoke Balug
- Neetssheere Balug
- Tjapwurrung
- Peeripar Balug

Tjapwurrung

Clans

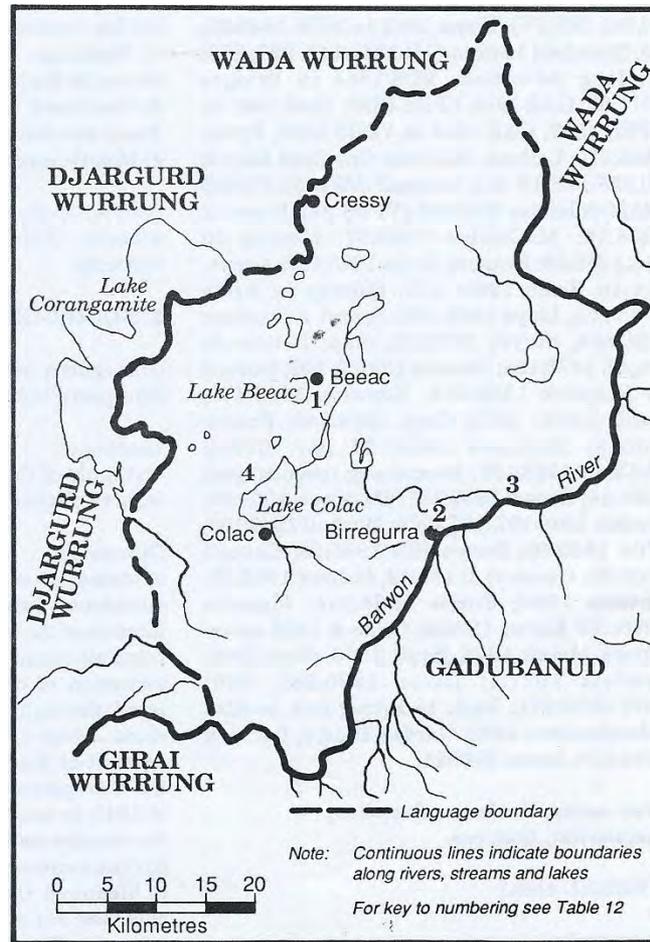
- Poit Balug
- Punnoinjon Gundidj
- Puppellenneering
- Tappoc Gundidj
- Terrel Balug
- Terrumbehal Gundidj
- The Gums Clan
- Tillac Gundidj
- Tin Balug
- Tjapwurrung
- Tonedidgerer Balug
- Tool Balug
- Toorac Balug
- Toorac Balug
- Uelgal Gundidj
- Ural Balug
- Utoul Balug
- Wattenpeer Balug
- Tjapwurrung
- Weeripcart Balug
- Worrembeetbeer Gundidj
- Wurcurri Gundidj
- Yam Yam Burer Balug
- Yourwychall Gundidj

Tjapwurrung

Ancestors

- Unknown

Gulidjan

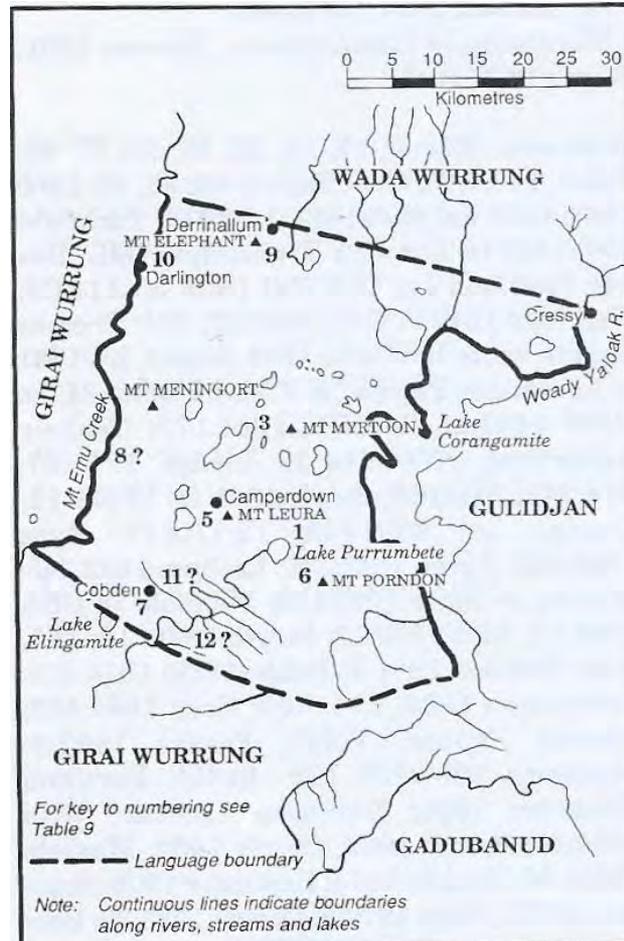


Gulidjan

Clans (4)

- Beeac Clans
- Birregurra Clans
- Guraldjin Balug
- Gulidjan Balug

Djargurd Wurrung



Djargurd Wurrung

Clans (13)

- Baumbidj Gundidj
- Djargurd Balug
- Koenghegulluc
- Korrungow Werroke Gundidj
- Lee hoorah Gundidj
- Mullungkil Gundidj
- Djargurd Wurrung
- Netcunde
- Tarnbeere Gundidj
- Teerinyillum Gundidj
- Uropine Gundidj
- Wane Gundidj Colac
- Worong Gundidj

Ancestors

- Unknown

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Website: <http://www.landjustice.com.au>