

Planning research and educational partnerships with Indigenous Communities: Practice, Realities and Lessons

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Abstract:

Increasingly planning practice and research are having to engage with Indigenous communities in Australia to empower and position their knowledge in planning strategies and arguments. But also to act as articulators of their cultural knowledge, landscape aspirations and responsibilities and the need to ensure that they are directly consulted in projects that impact upon their 'country' generally and specifically. This need has changed rapidly over the last 25 years because of land title claim legal precedents, state and Commonwealth legislative changes, and policy shifts to address reconciliation and the consequences of the fore-going precedents and enactments. While planning instruments and their policies have shifted, as well as research grant expectations and obligations, many of these Western protocols do not recognise and sympathetically deal with the cultural and practical realities of Indigenous community management dynamics, consultation practices and procedures, and cultural events much of which are placing considerable strain upon communities who do not have the human and financial resources to manage, respond, co-operate and inform in the same manner expected of non-Indigenous communities in Australia. This paper reviews several planning formal research, contract research and educational engagements and case studies between the authors and various Indigenous communities, and highlights key issues, myths and flaws in the way Western planning and research expectations are imposed upon Indigenous communities that often thwart the quality and uncertainty of planning outcomes for which the clients, research agencies, and government entities were seeking to create.

Introduction

The following paper draws from several years of research and academic engagement with Indigenous communities in Australia (Western Australia, South Australia, Victoria and Queensland) over the last 15 years and draws some salient points about this engagement. Central are flaws and misunderstandings and the lack of comprehension of cultural dynamics and obligations that our research activities with Indigenous communities have raised. In particular it focuses upon the contradictions, mis-assumptions and dichotomies made by mainstream research and institutional organisations who predicate their paperwork, timelines and expectations upon Western protocols and understandings.

Community Engagement

It is clear that many grant agencies, government instrumentalities and university entities do not understand Indigenous community engagement protocols and the time necessary to satisfy inquiries from the Indigenous perspective.

At the recent National Climate Change Adaptation Research Facility (NCCARF; <http://www.nccarf.edu.au>) national conference in Melbourne, for example, all 2012 NCCARF Indigenous grant recipients voiced a common concern that NCCARF did not comprehend the complexities of Indigenous community consultation (<http://www.nccarf.edu.au/conference2012/>). In particular, the grant recipient conclusions were that NCCARF had applied a naïve time frame to achieve what they considered were normal expectations, and that they were pre-occupied with research outcomes and ethics hurdles rather than research quality, robustness and comparativeness that both the recipients and the community audiences wishes to express and consider (Low Choy *et al.*, 2012). This researcher chorus was irrespective of the temporal warnings in the *National Climate Change Adaptation Research Plan: Indigenous Communities* (2012) report by Langton *et al.* (<http://www.nccarf.edu.au/publications/national-climate-change-adaptation-research-plan-indigenous-communities>).

There are three points pertinent here. The first is that there is a generic assumption that a researcher can wander into an Indigenous community or search out an Indigenous community in the same way as we can wander up and down a shopping street and undertake questionnaires and surveys, to venture into a suburb and questionnaire newly arrived couples about their sense of place or the quality of the suburbia they have bought into. This is a false assumption, as time and community structure, scope of knowledge expertise and empowerment, community availability but also community willingness are factors at play. Some of these issues are discussed at length under 'Indians and Chiefs', 'Country', 'Knowledge and No Knowledge' below. But the essential issue is that you cannot approach this 'community' in the same way that you approach a generic non-Indigenous Australian community.

The second pertinent point is time. As articulated at the NCCARF conference, Western research ‘production’ timelines impose unrealistic constraints upon both successful and quality engagement and thereby research outcomes. Experience working in Broome has revealed a phase called ‘Broome time’. In essence it means ‘what will occur will occur’ but it will occur in its own particular time frame and you cannot force it, expedite it, shorten it, because time in Indigenous Australia is a cultural concept linked to society and not a Western cultural concept linked to accountability. This was a perspective offered by *Nyikina* elder; ‘Uncle’ Paddy Roe (1912-2001) (Sinatra & Murphy 2001; <http://www.goolarabooloo.org.au/obituary.html>) and is eloquently captured in Muecke and Benterrak’s *Reading the Country* (Muecke & Benterrak 1996; Sinatra & Murphy 1999)

Time, in our sensibilities and that our research production and accountability masters, is however very much a Western construct institutionalised in the Gregorian Calendar reinforced by the need to date stamp and time annotated our actions (<http://en.wikipedia.org/wiki/Calendar>). Thus, it is accountability that is temporally measured and mapped. Our frame therefore is the Western calendar year of 365 days that is broken into four season and 12 months, and thereupon its 29-31 days phases, comprised of hours, minutes, seconds, milli-seconds, etc. It is world that we take for granted, and is very much embedded in our psyche of short-term, long-term 2030, etc., plans and plan making as ours is a short term perspective compared to an Indigenous perspective.

Damein Bell, a *Gunditjmara* man, poetically expresses it in an analogy; ‘you fella’s have been here a short time; when you have finished mucking with our country we will heal it and restore it to what generations of our forebears have looked after it’ (Bell & Jones, 2011). Thus, we were here before you arrived in the 1830s, and thereupon you have subsequently mis-managed the land by mis-burning, vegetation changes, fencing and enclosure, drainage works, etc. You leave and we will simply act to heal this land back to the cultural expectations we have been entrusted to undertake. This action is already occurring whereby the *Gunditjmara* have acquired management rights over Lake Condah, a landscape extensively drained in the 1920s-30s, and re-established the original natural drain system, flooding the landscape, and dramatically changing the ecological and biodiversity richness of this landscape within 12 months (Bell & Johnson, 2008; Gunditjmara with Wettenhall 2010; LCSDP, 2012).



Figure 1: Map of the Gunditjmara Country as a Registered Aboriginal Party;

Source: <http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties/table-of-registered-parties#Gunditj>

Also, ‘this place is our country; it is special to us’, as expressed by ‘Uncle’ Kenny Saunders (a Councillor on the Glenelg Shire Council) of the *Gunditjmara*, reinforces the *Gunditjmara* expression that this is a sacred landscape in their eyes for which they have special custodianship responsibilities over irrespective of its elevation as a National Heritage Landscape under the Commonwealth’s *Environment Protection and*

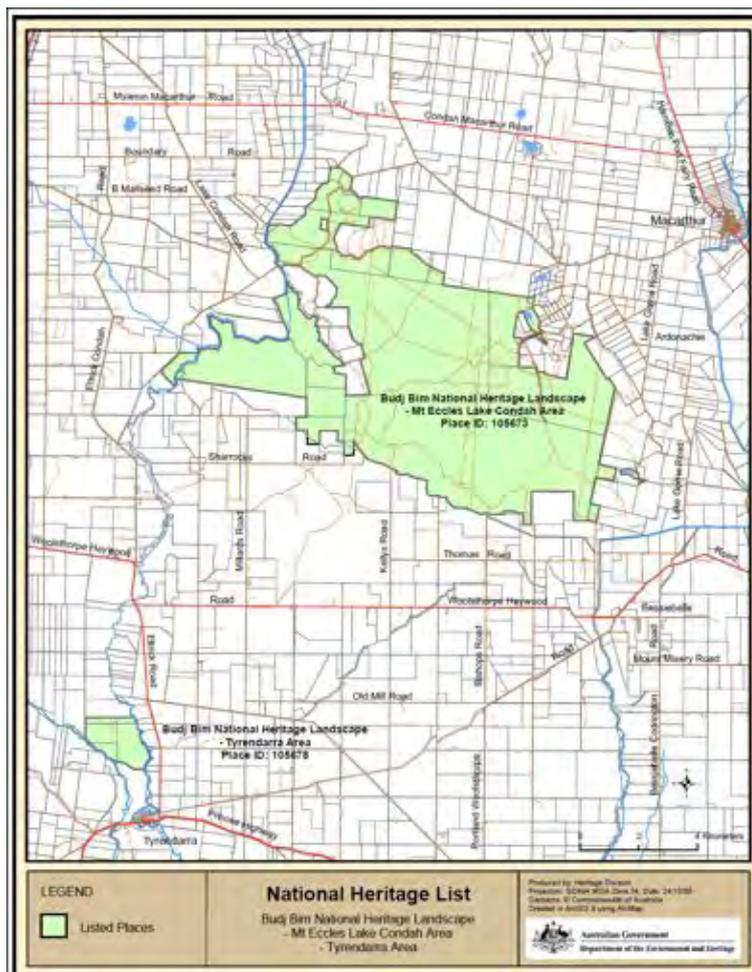


Figure 2: Map of the Budj Bim National Heritage Landscape;

Source: <http://www.environment.gov.au/heritage/places/national/budj-bim/information.html>

The third point is ‘protocols’. There seems to be a propensity to write, discuss and publish protocols, but their accessibility and their actual adherence is little addressed. As an example, an extensively canvassed protocol document formulated in South Australia with three communities resulted in an excellent document (Four Nations Governance Group, 2011). But, the *Protocols* (2011) itself has had limited distribution; its enabling through a government department ought to have ensured its credibility to both fellow government departments and their consultants but such has not occurred and the document now languishes on a bookshelf; the document was published in a hardcopy format only but its cost (\$60) ensured limited market catchment as also its lack of a pdf e-version delimits its access; the *Protocols* (2011) is hidden on a government department www site and despite political rhetoric to the contrary, the elevation of this document would logically be perceived as politically correct (South Australia, 2012). Other comments in respect to protocols are contained below under “Ethics”.

Country

Most grant agencies and university entities continue to assume that there is one ‘Aboriginal’ community. That ‘Aboriginal’ implies one identifiable generic ethnic grouping of people which is far from the truth. This perception is manifest in the nature and manner of their paperwork and oral questions and in the way their information retrieval systems are constructed.

This content is further complicated by state legislation in Victoria that has incorrectly delineated cultural ‘counties’ and who are the spokespersons. The *Victorian Aboriginal Heritage Act 2006* recognises Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties (RAPs) are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage. RAPs have responsibilities relating to the management of Aboriginal cultural heritage under the Act. These include evaluating Cultural Heritage Management Plans, providing advice on applications for Cultural Heritage Permits, decisions about Cultural Heritage Agreements

and advice or application for interim or ongoing Protection Declarations (<http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties>).

Thus, the *Wathaurong* (<http://www.wathaurong.org.au/>) of the Geelong, Werribee Plains and Bellarine Peninsula have been de-enfranchised by the *Wathaurung* (<http://www.wathcorp.com.au/>) of the Ballarat region who are the legal spokespersons for this overall country as delineated under this *Act* and documented on the RAP www site (<http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties/table-of-registered-parties#Wathaurung>). But the Ballarat 'mob' do not know the knowledge of the Werribee Plains – Bellarine Peninsula region, and there is a clear custodial and cultural divide between both 'mobs' causing considerable friction and angst. Note the spelling difference in this nation or community nomenclature: *Wathaurong* and *Wathaurung*. So, for example, when the City of Greater Geelong Council seeks a *Wathaurong* to do a 'welcome to country' ceremony they seek out a *Wathaurong* as distinct from a *Wathaurung* causing considerable angst in the Ballarat 'mob'. Even the Wikipedia entry on the 'Wathaurong people' confuses the dilemma (http://en.wikipedia.org/wiki/Wathaurong_people) .

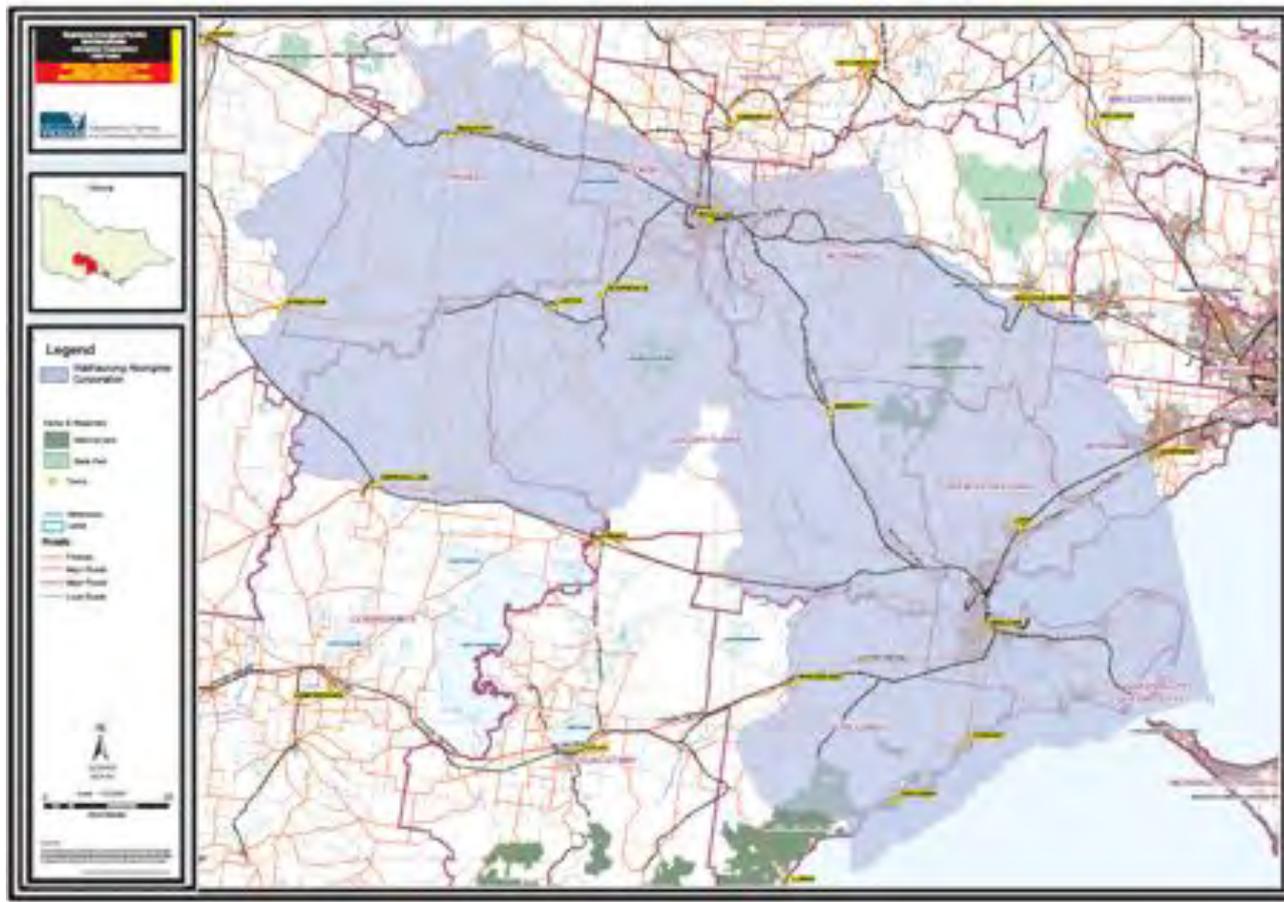


Figure 3: Map of the Wathaurung Country as a Registered Aboriginal Party;

Source: <http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties/table-of-registered-parties#Wathaurung>

'Country', in most areas, is characterised by one Indigenous language. While Tindale dissected Australian into over 250-300 Indigenous language area that were anthropologically translated into countries or nations, his research established the conceptual spatial regions where common threads of one language were evident. A suite of anthropological dissertations in the 1980s and 1990s reinforced the finer detail of these countries; by detailing the 'mobs' residents and unfortunately drawing black ink lines in the manner of which cartographers and planners love to express. Thus the *Wathaurong* and the *Wathaurung* suddenly became the *Wathaurung* and the state government notionally legislated these country boundaries in an attempt to create representative councils or committees per community to rationalise the Western perceived quagmire of people, groups, and communities claiming 'leadership', knowledge and custodianship and ethnic obligations to seemingly unclear and ever changing tracts of land. Thereupon the Registered Aboriginal Parties (RAP's) were instrumentalised (<http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties>). While logical on one hand, it has also been divisive on another. Thus the *Wathaurong* and the *Wathaurung* are ethically distinct but now legally grouped in one country.

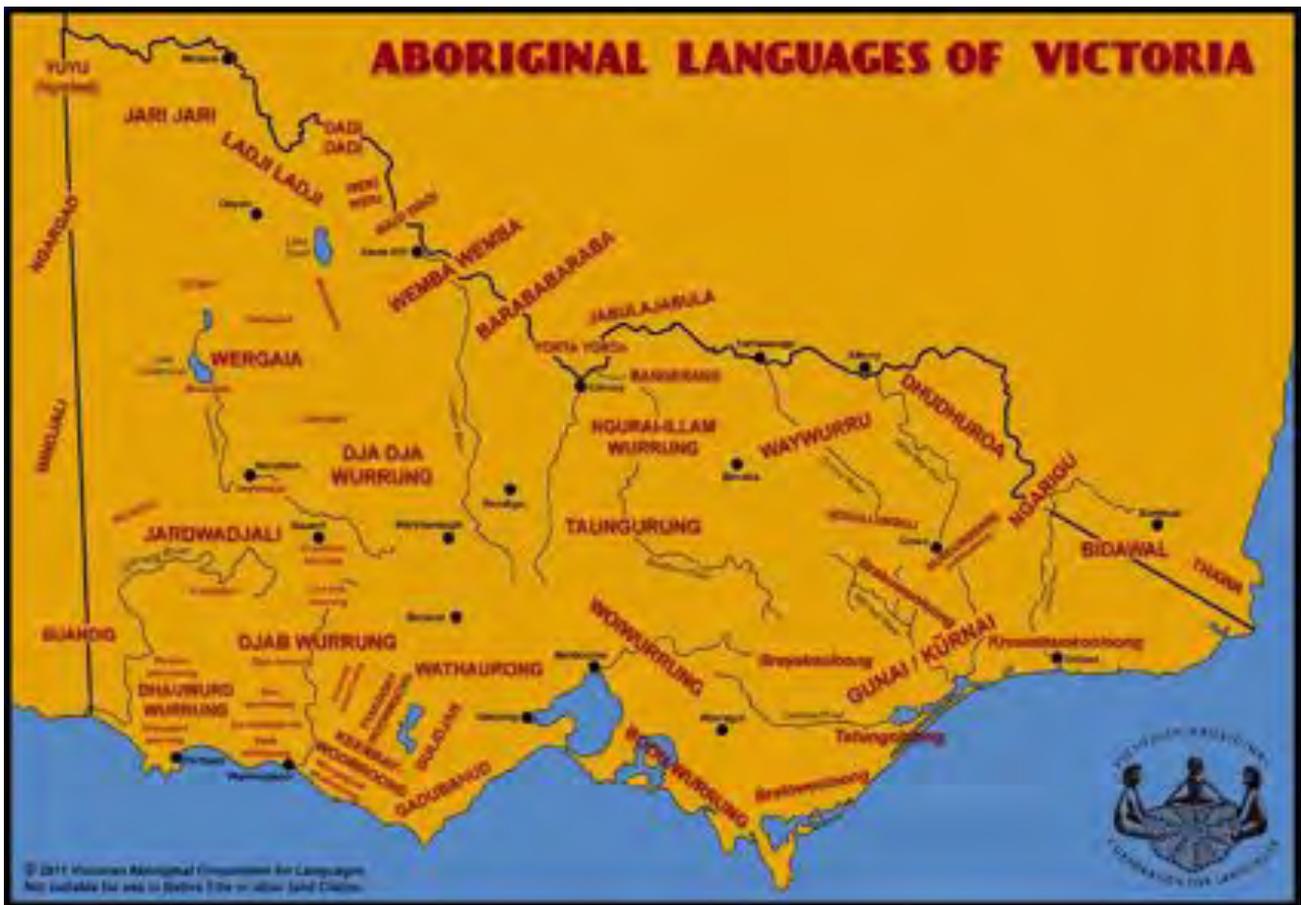


Figure 4: Indigenous language map for Victoria; VACL, 2011,
<http://www.vaclang.org.au/admin%5Cfile%5Ccontent11%5Cc7%5CVACLMap2011%28A4%29.jpg>

For the *Boon Wurrung*, there is a political divide between the south-eastern Melbourne - Mornington Peninsula mob to the mob that 'claims' custodianship for the Bass Coast-Wilsons Promontory region.

Contemporary political, anthropological and even Museum Victoria maps prescribe clear spatial boundaries for the *Boon Wurrung* and the *Wurundjeri*; the latter is the community whose country is demarked as being north of the River Yarra and the Princes Highway eastern alignment down to the Warragul locality. But, this is a boundary in transition that belies internal political and cultural re-negotiations that have been transpiring using anthropological and family records. In the last 12 months this boundary has been dramatically re-drawn whereby the *Boon Wurrung* are now recognised as having their country extending over inner central Melbourne reaching up to the Coburg-Brunswick line but also including a large portion of The Dandenong Ranges. As part of the negotiations, the change of inner Melbourne has been dealt with by recognition and that the tract of country has mutual neutrality but clarity of ancestral obligations linked directly to the *Boon Wurrung* (Briggs 2012, *pers. comm.*). Thus, a large and important central portion of Melbourne's Indigenous boundary lines have been re-drawn with little non-Indigenous participation and announcement.

Thus, the complexity of country in Melbourne assumes that it is all *Wurundjeri* 'land'. Factually, the *Wurundjeri* are the custodians for the western, northern and eastern regions of Melbourne but the *Boon Wurrung* are the custodians for the south-eastern coastal fringe together with the Mornington Peninsula and the Western Port regions demonstrating that boundaries are not socio-political in Western thought and systems.

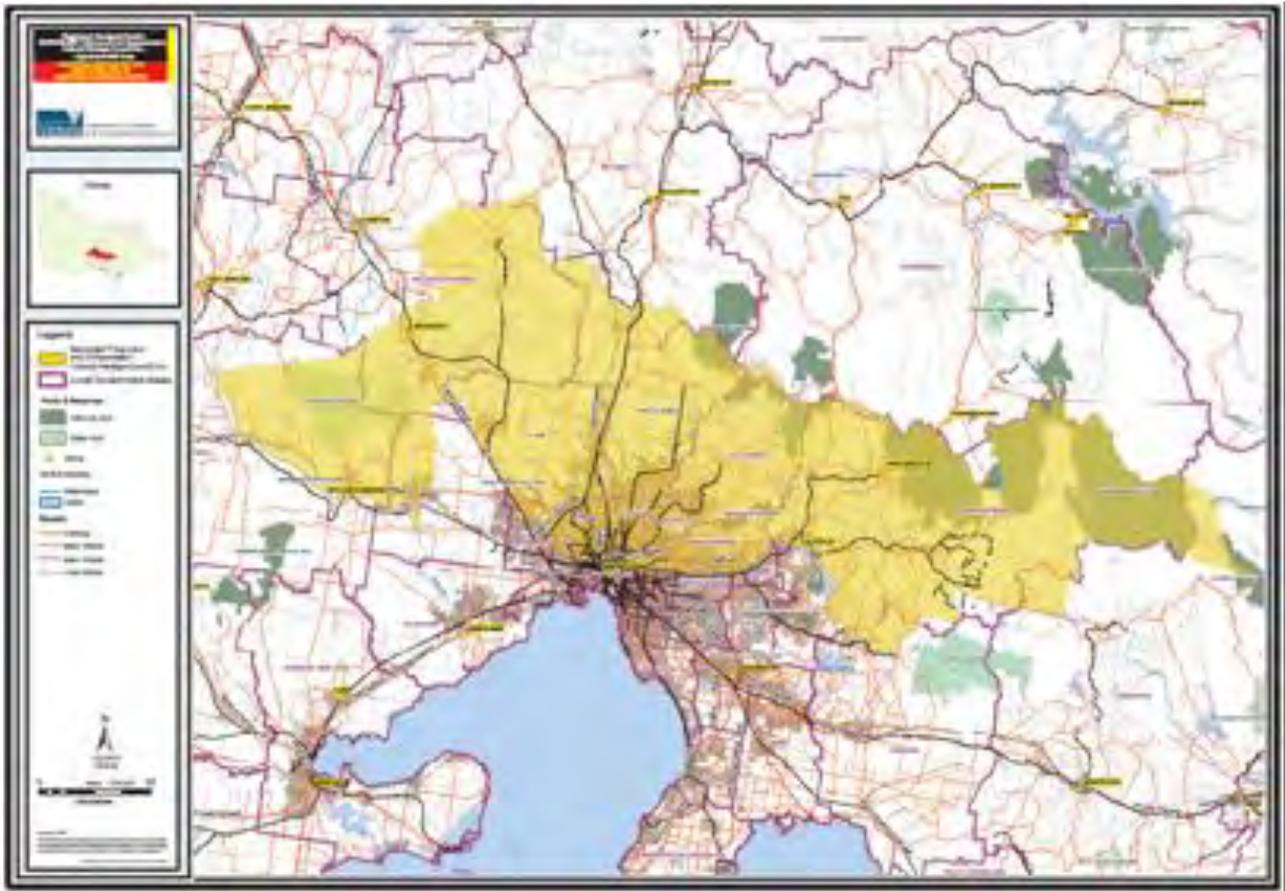


Figure 5: Figure: Map of the Wurundjeri Country as a Registered Aboriginal Party. Source: <http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties/table-of-registered-parties#Wurundjeri>

For the *Gunditjmara* (*Dhauwurd Wurrung* language), early native title arrangements and agreements promulgated by the Portland Alumina smelter project split their community along the north-south Moyne River corridor. The west, the main *Gunditjmara* have forged perhaps the most cohesive and respected Indigenous community in Victoria. To the east, the *Gunditjmara* name has been washed with political intrigue and financial mismanagement allied to their core property assets at Framlingham, and thankfully in it the nomenclature 'Framlingham' has identified them in the media and government writings alleviating negative connotations to the western *Gunditjmara* community. This cohort of *Gunditjmara* are actually *Girai Wurrung* along with surviving *Djargurd Wurrung* descendants within the larger language grouping (as defined by Western anthropologists) of *Dhauwurd Wurrung* ([http://en.wikipedia.org/wiki/Framlingham, Victoria](http://en.wikipedia.org/wiki/Framlingham,_Victoria)), and again Wikipedia muddies the whole situation by combining all parties into one entry at 'Gunditjmara people' ([http://en.wikipedia.org/wiki/Gunditjmara people](http://en.wikipedia.org/wiki/Gunditjmara_people)).

Aunties and Uncles

In each community there is a system of 'Aunties' and 'Uncles' that are the 'elders' of these communities. These individuals are well respected in their communities as the custodians of knowledge but they also hold certain knowledge and not all knowledge. Further Western research systems incorrectly assume that a supposed 'hierarchy' of leadership, enraptured in these epithets, exists when such knowledge may in fact be stratified by sub-geography, gender, location and or theme.

In one sense the notion of one 'Aboriginal' community perpetuates the *terra nullius* myth in that all unknowns are buddled together into one category. In reality, there are over 250-300 separate Indigenous languages in Australia, and ethnographically some 600 dialects, that are directly linked to specific tracts of 'country'. One analogy that explains this situation is Europe whereby over 50 languages are prevalent and some 30 countries adhoc'ly independent or subsumed within the European Union (EU). Thus, the Basque's and the Catalan's are colonised within Spain but fiercely and identifiably maintain their cultural different, language and identity. We witnessed this with the Barcelona Olympics whereby the Catalan's led and drove the Olympic experience in Barcelona drawing upon their culture with Madrid totally supporting it but keeping arm's length from the design, identity-making, infrastructure and management of what transpired. Madrid has been loath to intercede in these regional debates unless the notion of self-independent arises; thus the strife in the northern Basque area of Spain.

In the Australian context, what is *Quandamooka* 'land' pre-colonisation was a 'country' bound together by a particular language, cultural ties and cultural narratives (<http://www.atns.net.au/agreement.asp?EntityID=966>; <http://www.redland.qld.gov.au/AboutRedlands/NorthStradbrokeIsland/Pages/Quandamooka.aspx>). While Dreaming trails inter-lined across *Quandamooka* 'land', enabling passage of other communities and individuals along invisible neutral political routes, the *Quandamooka* community knew the boundaries, obligations and patterns and trails of their country but not the same in a neighbouring country and nor could they speak on behalf of or about that neighbouring country.

So, while the recent successful Native Claim has given recognition to part of the spatial country of the *Quandamooka* community it has now left a void in how to manage this tract of land and water under the logic of the Queensland state legislative framework and *Acts*. This is because, the framework of these structures partly assume a northern Queensland scenario whereby the claimant establishes the equivalent of a local council to levy rates, undertake service provision and formally manage the land under Western legislative constraints as well as *Quandamooka* cultural rules, expectations and obligations.



Figure 6: Scope of the recently successful *Quandamooka* native title claim determination; <http://www.redland.qld.gov.au/AboutRedlands/NorthStradbrokeIsland/Pages/Quandamooka.aspx>

Knowledge and No Knowledge

There is a false assumption that one or several elders in a community have 'the' knowledge. This is an incorrect historical anthropological assumption that has been perpetuated in translations of Dreaming story 'ownership' and the assumed nature of elder status.

One substantive 'truth' is that one elder can in fact hold that over-arching knowledge but may only offer a male portion of that knowledge. Thus, 'knowledge' is in parcels that can be both or either vertical and horizontal in their characteristics and while one elder may be responsible for a parcel of 'knowledge' several elders may be responsible for a collection of parcels. This is a difficult concept to explain and appreciate sometimes. In addition, while we can converse with a *Kaurna* elder about a spectrum of topics, we have witnessed clear breaks in the discussions that rotate around the cultural inability to either discuss a topic that you would presume he/she has jurisdiction over by virtue of their supposed hierarchy in the community. Or, that they do not have this knowledge and are either not prepared to admit this thereupon charting the conversation onto an alternate topic.

One student project we have been involved in implicated the *Wurundjeri* community from the upper Yarra Valley north-east of Melbourne in conjunction with Indigenous staff from Museum Victoria (Jones *et al* 1998; Jones *et al* 1997). Through progressive and incremental on-site and in-class discussions and research investigations the student and we increasingly felt that we were going around circles and not realising a *Wurundjeri*-relevant outcome, because of the continual neutral, expressionless, circuitous and unguided discussions, sketching's and draft oral presentations. Nothing could be further from the truth.

A 'chance' -- although in retrospective it was not a 'chance' invitation that appeared at the mid-project point -- invitation to an Indigenous art gallery opening in South Melbourne confounded this apparition. All night students, with glass in hand, urgently darted back to one of us saying "this elder" or "that elder" or "this non-*Wurundjeri* person" has said something curious to them that substantively said "you are doing excellent work"; "you are definitely on the right track"; "keep going." Needless to say, this project encapsulated the upper Yarra Valley seasonal calendar that is today the theory behind the award-winning design of the 'Gallery of Life' (<http://museumvictoria.com.au/melbournemuseum/>) designed by Taylor Cullity Lethlean at the Museum and the core environmental seasons explanation of the upper Yarra Valley for the *Wurundjeri*. Thus, in part we were being tested. But, on another level, the *Wurundjeri* representatives were culturally not able to confirm or deny the conclusions we and the students were drawing, and it was left to other *Wurundjeri* and several non-*Wurundjeri* to endorse and encourage the research inquiries without being able to say that the substantive and detailed conclusions were correct.

Indians and Chiefs

For each Indigenous community, there is an inherent assumption that there is a hierarchical system operating led by 'Chiefs' and an endless number of 'Indians' available to assist research. This is a false assumption.

The 'Indian' and 'Chief' scenario is a false assumption. It is predicated on Western notions that, a hierarchy in the traditional sense exists, and if contacted, the community can provide one persons who can serve as a spokesperson or representative on the task at hand.

Nothing can be from this 'truth'. Instead, various scenarios can occur, ranging from what seem avoidance of calls and messages to someone appearing suddenly on your door-step. A sub-assumption is that there is an endless supply of representatives and that they have plenty of time, and similarly that the representatives can in fact speak for the community and 'chiefs'.

For one community we have worked with, they simply did not have the time to deal with 'menial' research projects as they had to address Native Title fall-out issues as well as a review of the state Indigenous heritage legislation. Thus, they had too much 'on their plate'. For another, one community actually 'appointed' a representative from a different 'country' -- some 1500km away -- to serve as their conduit. Thus, they were desirous of partaking the project but did not have the human resources internally within their own community to assist. In another instance, we struggled getting the appointed representative to address the task, and defaulted to discussing the matter directly with an elder -- which was not protocol -- whom we had a long-standing knowledge relationship with, and suddenly two days later the project dramatically escalated. Thus, a 'Chief can be very instrumental but it is not always protocol to approach an elder in a community; and there are different elders and different levels and realms of their 'authority.'

The notion that there is also one community is false. We can talk about the *Kaurna* of the Adelaide Plains (Cape Jervis to Port Wakefield) and while conceptually on paper there is one language -- *Kaurna* -- and one 'community' -- *Kaurna* -- there are in fact is least 3 sub-communities. Each sub-community recognises that they are *Kaurna* and that they have custodianship responsibilities for one tract of the *Kaurna* 'country'. Thus, there is an Elisabeth Plains 'mob', a Port Adelaide 'mob' and a Marion-Noarlunga 'mob', and you need to respect the protocols of both the 'community' and as well as the mob depending upon the geographical nature of the project. For each mob there are a cluster of elders -- 'Aunties' and 'Uncles' -- whom curate their respective knowledge and county but there is also a mutual respect that certain elders can speak on behalf of the overall 'mobs' or certain issues. Thus, there is a multi-dimensional hierarchy of jurisdictions and even a seasoned practitioner can be confounded and discover that their assumed roles and capacities can vary suddenly.

There is also a false assumption that these 'arrangements' remain constant. An Indigenous person designated as a representative may suddenly be relieved of this status without your's, or their's, knowledge and warning due to totally tangential issues theta are often subtly rotating around cultural knowledge trust and boundaries. A Kurna colleague found himself in this situation earlier this year, and could not explain such to me the rationale for the situation because he was culturally not allowed to. Instead, protocols and a new representative had to be re-negotiated.

The death of a member of a community can also interrupt research activities. For example, a recent death on Stradbroke Island of a Quandamooka individual (and non-Elder) suspended native title workshops for a day due to cultural respect protocols, but in more remote areas such a suspension can range from 1 day to up to six months depending upon the standing of that individual in a community. For the Kurna, we dread the day when either of the two senior elders may die, as it is likely to suspend numerous Kurna-related research projects for at least six months while the traditional mourning period occurs, but also the invisible internal hierarchical system is re-assembled and succession occurs.

Ethics and the Ethics Paperwork Culture

National ethics forms (NEAF; <https://www.neaf.gov.au/default.aspx>), procedures and their administrators do not understand nor can accommodate the foregoing. While there are increasing numbers of 'guidelines' or 'protocols' for ethical research with Australian Indigenous communities, each is of varying applicability. The Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) (2012) version (<http://www.aiatsis.gov.au/research/ethical.html>) is perhaps the most comprehensive yet 'plain English' in its configuration, whereas the Australian Housing & Urban Research Institute (AHURI) (2012) version (<http://www.ahuri.edu.au/>) provides a comprehensive discussion of principles and methodologies for conducting research and evaluation in Indigenous housing but its bias is generic in ambit and it does not distinguish between urban and non-urban and peri-urban circumstances. The former embodies 11 principles which are relevant to quote:

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Consultation, negotiation and mutual understanding

1. Consultation, negotiation and free and informed consent are the foundations for research with or about Indigenous peoples
2. The responsibility for consultation and negotiation is ongoing
3. Consultation and negotiation should achieve mutual understanding about the proposed research.

Respect, recognition and involvement

4. Indigenous knowledge systems and processes must be respected.
5. There must be recognition of the diversity and uniqueness of peoples as well as of individuals.
6. The intellectual and cultural property rights of Indigenous peoples must be respected and preserved.
7. Indigenous researchers, individuals and communities should be involved in research as collaborators.

Benefits, outcomes and agreement

8. The use of, and access to, research results should be agreed.
9. A researched community should benefit from, and not be disadvantaged by, the research project.
10. The negotiation of outcomes should include results specific to the needs of the researched community.
11. Negotiation should result in a formal agreement for the conduct of a research project, based on good faith and free and informed consent.

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Figure 7: Eleven Practical Points for Ethical Engagement with Australian Indigenous Communities. Source: <http://www.aiatsis.gov.au/research/ethical.html>

As exemplars, the *Guidelines for ethical research in Indigenous studies*, by AIATSIS provides perhaps the best document to work from (<http://www.aiatsis.gov.au/research/docs/GERAIS.pdf>), and the Queensland Department of Aboriginal and Torres Strait Islander policy protocols for consultation and negotiation with Aboriginal people also offers some relevance albeit biased towards non-urban Indigenous communities (<http://www.communities.qld.gov.au/resources/atsis/everybodys-business/protocols-aboriginal/section4-1.pdf>). The AHURI funded *Investigating appropriate evaluation methods and indicators for Indigenous housing programs* provides a discussion of principles and methodologies for conducting research and evaluation in Indigenous housing. The majority of ethical principles, guidelines, or points pertain to medical human research and experimentation and not environmental and built environment situations.

A key dilemma in internal University and NEAF ethical processes is perception and cultural comprehension. In a recent re-joiner we were asked "what happens if that elder does not consent" asking us to nominate an alternate. Such was not culturally possible but was not the logic they applied and thereupon persisted in applying when we explained the situation.

In another, the re-joiner asked for the Registered Aboriginal Parties (RAP) organisation to grant consent in writing for a project within their legally designated region. For clarification,

... the Victorian Aboriginal Heritage Act 2006 recognises Aboriginal people as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage. At a local level, Registered Aboriginal Parties (RAPs) are the voice of Aboriginal people in the management and protection of Aboriginal cultural heritage (<http://www.dpcd.vic.gov.au/indigenous/aboriginal-heritage-council/registered-aboriginal-parties>; accessed 15th July 2012).

It is exceedingly difficult to say, despite this Victorian legal framework, that this RAP has no cultural rights over the community subject to the research projects and that the community concerned was ethnically insulted that a project they wished to participate in had to be vetted and endorsed by a community that they had a divisive dialogue with and no real cultural links to less commonalities in language. It was a situation with the NEAF process analogously asking London to be the arbitrators for a project that rotated around Scottish country and language for which they clearly had no cultural knowledge or regionalist appreciation of. The ethics administrators would not budge and nor would the community, so the project ceased and it was useless debating the matter with the ethics administrators.

In another situation, a non-elder who has inherited a university leadership capacity as the 'Indigenous' leader or professor has sought to establish a framework whereby all Indigenous-related research projects must be vetted and approved by him/her before they can be lodged in the name of the university. Thus, a non-elder from a country not associated with that university's campuses and properties has sought to determine and 'gate keep' all Indigenous-related projects in deference to projects that may have written consent from a community and their elders from a totally different country. Thus, a political football match has occurred with major cultural implications. The situation has caused considerable internal university angst but also confusion and negativity by the community to the leader and the university hierarchy of which the latter is totally oblivious as to these implications. In essence it raises the question of who 'owns' and can consent to engagement and whether someone from a different country can be the arbitrator of knowledge access. Thus, the EU president has said I cannot do a project in France despite having written French consent.

University codes of ethics go so far with research protocols to guide researchers engaged with indigenous communities. In many cases they are silent or limited in a number of matters such as detailing the mutual benefits from the research, recognition of intellectual property, and confidentiality matters. These shortcomings have led to the development of a set of engagement protocols to complement the standard research protocols that provide greater certainty and confidence to Indigenous communities. These engagement protocols are underpinned with the acknowledgement '...that Indigenous communities and their people are custodians of their traditional knowledge and have their own customary law and protocols for managing, sharing and protecting this knowledge. This must be respected throughout any research process' (Low Choy et al, 2011:1).

The very fact that the NEAF system classifies 'Aboriginal and Torres Strait Islanders' as 'high risk' research audiences is discriminatory, and exactly why attempts are being made to amend the Australian Constitution. Professor Marcia Langton (<http://www.sph.unimelb.edu.au/about/contact/allstaff/langton>) expressed this angst in her recent speech wherein she stated:

Defining Aboriginal people as a race, as the Constitution does, sets up the conditions for indigenous people to be treated, not just as different but exceptional, and inherently incapable of joining the Australian polity and society.

The legislation and policy applied to indigenous people demonstrates this: not citizens until after the 1967 referendum; the shameful effects of the nearly half-century old Community Development Employment Program (a work-for-the dole scheme); the Northern Territory emergency intervention; and this is to name only a few of the exceptionalist initiatives that have isolated the Aboriginal world from Australian economic and social life.

In turn, many indigenous people have developed a sense of entitlement to special treatment on the grounds of race. This exceptionalist status, to which many Aboriginal people have ascribed unwittingly, involves a degree of self-loathing, dehumanisation and complicity in racism. As the exotic, indigenous people are not required to be normal, such as attending school regularly or competing in a meritocracy

Figure 8: Langton Speech. Source: <http://www.theaustralian.com.au/national-affairs/opinion/get-rid-of-race-to-stop-racism/story-e6frgd0x-1226461968870>

No other Australian ethnic or cultural group endures this specific identification. The stereotype by NEAF is the illiterate semi-sedentary in a Northern Territory tropical community with paint brush and didgeridoo in hand. How then do we collegially approach someone like well-respected Langton and ask her to sign a pre-consent form and then sign an interview Plain English Language (PLE) form just to interview her about her perceptions about climate change and the Australian landscape. To her it is insulting, discriminatory, and a continuation of the Western stereotyping let alone denying her her academic freedom of and elders-hip responsibilities. Similar thoughts have been articulated to us by *Gunditjmara*, *Kaurna* and *Wathaurong* elders and university degree-holding recipients.

Thoughts Forward

The short conclusion is, do not assume that the Western logical is in fact the Indigenous logical. Do not enter into discussions blithely without respecting and proceeding through protocols. The AIATSIS points offer the best guide in approaching research activities with indigenous communities, but the rider is that you cannot approach each community generically irrespective of their geographical or intellectual context. But, recognise that there is not one consistent answer, hierarchical system, and protocol route but that each can be different per community and their 'mob's within.

But, clearly parochialism and naivety still persist. At a recent signing of a legal co-operative management agreement for the Wilsons Promontory National Park, a *Boon Wurrung* elder was asked by a state government official to sign the agreement by use of a hand print rather than signature. This request, echoing the colonial impost of Batman's Treaty for land title over Melbourne, was greeted with considerable angst and frustration, and refusal to sign an agreement in such a culturally demeaning manner. To the *Boon Wurrung* this was culturally insulting, a perpetuation of their colonisation, but also a slight on their education level that was comparable to a university educated person and not an individual that signed with a symbol or 'x' or an  as what occurred on the Treaty. For information, Batman's Treaty, signed on the banks of a creek on 16 June 1835, was an agreement with eight Aboriginal leaders to transfer the land of the Port Phillip area to colonialist and adventurer John Batman. Both the transfer to a person rather than the Crown, and its implicit recognition of Indigenous ownership and occupation of the land, prompted Governor Bourke to disallow the Treaty the same year.



Figure: John Batman's Treaty. Source: <http://foundingdocs.gov.au/enlargement-eid-17-pid-73.html>

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Appendix A:

Extract from the NEAF Ethics Form

9.7 Research Involving Aboriginal and Torres Strait Islander Peoples

- 9.7.1 What is the estimated proportion of Aboriginal and Torres Strait Islanders peoples in the population from which participants will be recruited?
- 9.7.2 Will the Aboriginal or Torres Strait Islander status of participants be recorded?
 - 9.7.2.1.1 Explain why the Aboriginal or Torres Strait Islander status of participants will be recorded
- 9.7.3 Will there be or has there been a process of consultation and negotiation between Aboriginal or Torres Strait Islander peoples and the researchers / investigators regarding the proposed research?
 - 9.7.3.1.1 Describe this process of consultation and negotiation. Include, as appropriate: -how the consultation process and the research proposal demonstrates the integrity of the researcher - negotiation of the aims, anticipated outcomes and priorities of the research, - consultation regarding community and individual consent to participation in the research, - the process for negotiating ongoing advice as the research progresses, to monitor ethical standards and minimise unintended consequences, - how the processes show engagement with the values and processes of participating communities, and - the process of negotiating access to, and /or control of the results of the research.
- 9.7.4 Has there been a role for Aboriginal or Torres Strait Islander peoples in the development of the research and or will there be a role for Aboriginal or Torres Strait Islander peoples in the implementation of the research proposal.
 - 9.7.4.1.1 Describe the role of Aboriginal or Torres Strait Islander peoples in the development and or implementation of the research. Include, as appropriate: - whether any or all of the researchers / investigators are Aboriginal or Torres Strait Islander people, - how Aboriginal or Torres Strait Islander peoples from the community involved in, or affected by, the research have collaborated in the development of the research, - whether the participating communities have expressed satisfaction with the research agreement, potential benefits and their distribution, - the extent to which reciprocal obligations, responsibilities and benefits is demonstrated between the researchers / investigators and the community
- 9.7.7 Describe how the research will provide benefits to the Aboriginal and Torres Strait Islander peoples. Include, as appropriate: - a description of how the research relates to the health priorities and needs of participant communities, - a description of benefits for participants and the communities, including establishment and/or enhancement of capacities, opportunities and outcomes beyond the project, - a description of how the research shows an intent to contribute to the advancement of the health and well being of participants and their communities