Australia is a continent with a settlement history dating back 60,000 years that culminates in an extensive network of Indigenous cultural landscapes. Despite the importance of these landscapes, Bashta explains that Indigenous cultural landscapes, like that of the Sunbury Rings, in the Victorian Heritage Register are under-represented demonstrating a disconnection between Indigenous cultures and systems and that of our Western planning structures. This paper analyses the current Victorian statutory planning processes to determine their ability to conserve cultural landscapes possessing Indigenous heritage values. The discussion includes consideration of Indigenous notions of Country as landscape, the impact of colonisation upon Indigenous heritage and the nature cultural landscape identification in Victoria as it pertains to Indigenous Country’s within Victoria’s urban planning process. The research focuses upon a Kulin Nation exemplar on Wadawurrung Country that involves several land use planning appeals and requests to protect The Three Sisters at Anakie from continued quarrying operations and the expansion of the existing commercial quarry that has been in operation for approximately 80 years. While a localised case study, it offers a timely exemplar to better assist our built environment disciplines and professional practises in understanding cultural landscapes that possess Indigenous values towards better reconciling and acknowledging our nation’s larger history, both pre- and post-colonisation, to ensure that Indigenous knowledge transfer and engagement is not negated or unduly mediated. The paper demonstrates that through an equitable use of the Victorian planning processes, we can better understand its ability to conserve cultural landscapes possessing rich Indigenous values.

**Keywords** — Cultural Landscapes; Indigenous Heritage Value; Wadawurrung Country; Victorian planning processes.

**Cultural Acknowledgement**

We acknowledge the traditional custodians of the land where this paper was researched and compiled, the Wadawurrung people, of the Kulin Nation. We pay respects to their Elders, past and present and thank them and their people for continually, over countless generations, caring for this Country.

**Introduction**

This paper aims to reflect on and analyse the current Victorian planning processes to determine its ability to conserve cultural landscapes with Indigenous heritage values. This includes the describing of Indigenous notions of Dreaming and
Methods

This research has been pursued through a qualitative approach with a strategy of examining both historical Australian Indigenous history and Western history of cultural landscapes combined with a case study of an intangible Wadawurrung landscape. The research uses a contemporary planning appeal determination within Victoria’s planning process, to consider the practice of the conservation of cultural landscapes with Indigenous heritage values.

The research appraised primary and secondary literature, archival documents [i.e. public documents], and involved face-to-face interviews and/or questionnaires to address the above research aims. The face-to-face interview and/or questionnaire audience directly drew from the participants involved in the Victorian Civil and Administrative Tribunal [VCAT] case of Aerolite Quarries Pty Ltd [Aerolite] v Greater Geelong City Council, order dated 24 December 2014, including the applicant, Responsible Authority, representors and consultants appearing for these parties where they could be identified and subsequently grouped. In addition, participants involved in the subsequent Supreme Court of Victoria case of Aerolite Quarries Pty Ltd and Delacom Pty Ltd v Secretary to the Department of Premier and Cabinet, with a judgement date 21 November 2014, were cross-compared, further identified and grouped. Secondly, the questions distributed to these groups applied consistent terminology to enable a comparative analysis to determine similarities and differences in the perceptions of the participants in reaching and voicing their understanding and opinions. Further, careful consideration and monitoring was also undertaken as to the use of language and words to embedded in the research topic with forethought to distinguishing between Indigenous heritage values and Western heritage values coupled with demonstrating how Victoria’s planning processes deals with discrete spatial or geographical boundaries in comparison to Indigenous interconnected landscapes possessing no distinct boundaries.

Cultural Landscapes and Meaning

A Western concept, ‘cultural landscapes’ can be defined as a physical area with natural resources modified by human activity, and yet is also a cultural artefact. Cultural artefacts, as described by Lennon, evolve or change elements with relict or intangible association through collective memories like that of songs, story lines, poetry or legends. With such a broad definition and considering the extensive network of Indigenous cultural landscapes from pre-colonial history,
our planning schemes should include an extensive list of cultural landscapes. Therefore, if these cultural landscapes are under-represented in our planning schemes and Indigenous heritage values are inclusive within our definition of cultural landscapes, this is resulting in Indigenous landscape under-representation.

**INDIGENOUS LANDSCAPES WITHIN THE VICTORIA PLANNING PROCESSES**

Porter explains, that dissimilar to those other countries colonised by Great Britain, our nation’s history has no treaties or agreements enacted with Indigenous peoples.**8** Fundamentally the notion of *terra nullius*, being that of empty land, was unjustifiably served on our country at the time of British colonisation, despite clear London-based instructions to 'treaty' with 'native peoples'.**9**

Australia was undoubtedly occupied by this nation’s first people, and whether defined as racism, a belief of superiority bias or simply the colonist’s lack of ability to recognise the existence of Indigenous sovereignty, our colonial actions saw our Indigenous peoples removed from their lands.**10** Wensing explains this removal from traditional Country as a 'turbulent history', where Indigenous cultures were systematically denied and destroyed, people were forcibly removed from their communities and *Country*.**11** Subsequently since this time, *terra nullius* has served as the basis of our government laws and systems. Wensing explains that it was not until the High Court’s decision on the Mabo case in 1992 that change commenced. Wherein our first Indigenous peoples were legally recognised for their prior and continuing occupation and ownership, determining that Great Britain’s occupation and development of Australia was legal fiction.**12** The Court also returned the right of Australia’s Indigenous peoples to live on and use traditional lands; a right now known as 'native title'.**13**

Porter explains that cultural heritage management is the jurisdiction of each Australian state and territory within its own legislation and regulatory processes.**14** Rowley extends Porter’s explanation, detailing the *Victorian Aboriginal Heritage Act 2006*, which establishes the Victorian Aboriginal Heritage Council responsible for protecting and managing Aboriginal Heritage.**15** He further explains that Act also establishes the Victorian Aboriginal Heritage Register, a list of known Aboriginal cultural heritage places and objects within Victoria.**16** The Register, unlike other heritage listings, additionally acts to manage sensitive areas of 'potential significance', expressed as areas of 'Aboriginal Cultural Heritage Sensitivity' and therefore is much wider than the actual register itself.**17** Though not defined in planning overlays, they are available in Planning Property Reports generated through state land mapping services.**18** Eccles and Bryant extends on Rowley’s discussion, explaining that in an area of ‘Aboriginal Cultural Heritage Sensitivity’, that a responsible authority cannot grant a planning permit until a Cultural Heritage Management Plan has been prepared and approved.**18** This Plan involves assessing the area of sensitivity to determine the nature of any Aboriginal cultural heritage and proposing recommendations or measures to be taken to manage and protect the heritage noted in the Plan.**19** It is these planning processes that have been established with the purpose to recognise, protect and conserve Victorian Aboriginal cultural heritage that were shaped and interwoven from colonial values and dispossession.

**THE LANDSCAPE**

*Anakie Youang*, meaning ‘little hills’ that comprise of *Coranguilook* - the western peak, *Baccheriburt* – the central peak and *Woollerbeen* – the eastern peak that is held sacred to the *Wadawurrung* people of the *Kulin Nation* and part of their stories and cultural landscape.**20**

Though currently there is limited evidence to map movement of the *Wadawurrung at Anakie Youang* and its surrounds, we can establish some knowledge of movement from the landscape descriptions of the early European surveyors and the Aboriginal seasonal calendars. Like that of the season of *Chunnup* [Cockatoo Season] is depicted by cockatoos, fungi as well as clothes and totems and the return of *Aquila constellations* [i.e. *Bunjil*].**21** It is the coldest part of the year with bleak mists, rain and freezing winds, it is now people would move to shelter in the hills for refuge. While *Larenuk* [Nesting Bird Season], is depicted by owls and eagles; tubers like *Murnong* or yam daisy (*Microseris lanceolata*) and ground orchids are providing underground larders; and cultivation. It would be expected during this time the wettest part of the year that people would move towards the volcanic plains to harvest cultivated tubers like *Murnong*, harvest curated foods while baskets where made of *Larenuk*.**22** Anakie Youang and the surrounds holds true to this seasonal depiction with its open plains, water courses, being lightly timbered and hills, further supported with the surrounding forested hills of the Brisbane Ranges and the You Yangs.

In contrast to the *Wadawurrung* land practises and custodianship, our Western understanding is that *Anakie Youang* is situated on a geomorphic unit of the West Victorian Plain that was formed by Miocene to Holocene lava flows.**23** Mount Anakie [*Coranguilook*] with panorama views of Rowsley Fault, the You Yangs and Werribee Lava Plains has been assessed as being a prominent eruption point and a significant scoria volcano on the Werribee Plains, with both regional geological and geomorphological significance.**24**

With further European contact in the area around Anakie soon after 1835, squatters took up large pastoral runs.**25** Early attempts were made to crop in the area closer to the Brisbane Ranges however it was unsuccessful, so squatters turned to sheep grazing.**26** With the discovery of gold in the Anakie Hills and surrounds in 1850s the emphasis on grazing shifted and the landscape experienced another significant change towards the harvesting of timber for mine shoring, building timber and firewood.**27** In 1853 *Anakie Youang* was marked on a portion of the Anakie Pastoral Runs No. 444, divided into sections to Fredrick Griffin, with the name of each peak.**28** These peaks commonly referred to as the Three Sisters are named *Coranguilook, Baccheriburt* and *Woollerbeen*.**29**

Mining commenced at *Anakie Youang*, on *Baccheriburt* in the early 1900s with the site being purchased in 1986 by Ken Jarvis.**30** The site purchased extended further than *Baccheriburt* including *Woollerbeen*.**31** The Shire of Corio, the previous responsible authority, granted the planning permit dated 11 December 1986 for the existing quarry on *Woollerbeen* and associated works.**32** *Woollerbeen* is currently mined by Aerolite for red scoria, one of the very aspects assessed as being of regional geological and geomorphological significance by *Roosengren on Coranguilook*.**33**

![Figure 4: ‘Anakie Youang with evidence of the quarry on Woollerbeen’; © RYAN, Susan; 2017; Photograph.](image)

**THE PEOPLE**

Though *Anakie Youang* is in *Wadawurrung Country*, the people occupying and protecting the landscape have changed over the years, subsequently there are four groups of people who held interest in this case study.
The Wadawurrung people of the Kulin Nation, are the traditional custodians of Anakie Youang and over countless generations have cared for the land and continue to seek to care for this land. Each edge of Wadawurrung Country can be observed from the summit of Anakie Youang. The Wadawurrung have occupied this land that stretches south of Geelong toward Lorne, north toward Ballarat and Beaufort, and then south east toward the Werribee River for tens thousands of years. The Registered Aboriginal Party [RAP] under the Aboriginal Heritage Act 2006 for Wadawurrung Country representing the Wadawurrung people is the Wadawurrung [Wathaurung Aboriginal Corporation].

Aerolite holds the right to mine Baccheriburt and Woollerbeen, while Delacom Pty Ltd is the owner. Aerolite has been operating a scoria quarry which includes an extraction area, crushing plant, stock pile area, access area and weighbridge under Work Authority No. 225. Aerolite applied, through a planning permit, in August 2014 to extend their quarrying operation on Woollerbeen to include the removal of basalt. After the application received numerous representations, including a claim of Aboriginal significance, the Anakie Youang were listed on the Victorian Aboriginal Heritage Register in 2015.

The Anakie Action Group was formed by residents in 2014 with the slogan ‘Hands Off Our Sister’. Their purpose was to bring attention to and notify people of the proposal by Aerolite to extend the current quarry operation to an area more than 49ha with a 75-metre hole in the landscape adjacent to the landmark, Anakie Youang. During their campaign, the Anakie Action Group presented a petition to the City of Greater Geelong containing approximately 1,000 signatures objecting to the proposal.

The City of Greater Geelong [COGG], is the local government authority and Responsible Authority, within Victoria’s state planning laws for the subject land.

In May 2014, Aerolite sought planning consent from COGG to use and develop land at 255-355 Brownes Road, Anakie, for a quarry. The purpose of this application was to establish a new Work Authority No. 1535 for the extraction of basalt rock and the economic longevity of Aerolite. The property at the time of application was open pastures used for agricultural purposes, largely devoid of any vegetation except for two isolated small trees. In addition the use and development of the property proposed an extraction area of 130.46ha with buffer zones of 30m; that access would be from the internal roads of the existing quarry situated on Boundary Road; that a processing plant and stockpile would be established in the northern-most sections of the extraction area, with necessary depth of 10 to 15m; and that relocation of the electricity easement to the eastern boundary would occur.

Prior to November 2014, the Wadawurrung [Wathaurung Aboriginal Corporation] requested Aboriginal Affairs Victoria to protect Anakie Youang by formally recognising the site as significant to the Wadawurrung people registering the site as an Aboriginal Place.

With a planning application under consideration from Aerolite with COGG, the Planning Delegations for COGG Ordinary Meeting on 28 October 2014, the Monthly Planning Decisions Report includes report for Application No. 528/2014, the planning officer’s report proposed approval through COGG’s Planning Committee to be scheduled on 17 September 2014 which was rejected by the Committee and a refusal issued. Aerolite’s Chief Executive Officer, Ken Jarvis, expressed his disappointment in Council’s decision and commitment to appeal the decision.

Subsequently in November 2014, the Supreme Court of Victoria heard the case of Aerolite Quarries Pty Ltd and Delacom Pty Ltd v Secretary to the Department of Premier and Cabinet. With an understanding that the Wadawurrung [Wathaurung Aboriginal Corporation] had sought registration much of the land as an Aboriginal place including the property subject to Aerolite’s activities and planning application, and with Aerolite appealing COGG’s decision to establish a new Work Authority No. 1535 for the extraction of basalt rock on adjoining land, Aerolite sort an interlocutory injunction. Aerolite feared that registration of the land would increase the uncertainty of prosecution in relation to their existing quarry activities and believed that the land concerned was not an Aboriginal place under the Act. The application for an injunction was refused, whereby Judge J Bell observed that due process needed to be followed in considering the possible registration and whether the land was an Aboriginal place concluding that the issue should be included in the pending VCAT proceedings.

In late November 2014, a VCAT proceeding commenced for a review on the failure of the responsible authority to grant a permit within the prescribed time, for the applicant Aerolite. COGG’s planning officers recommended the permit should be granted subject to various conditions, although COGG did not determine the permit application within the prescribed time, it did determine its attitude by refusing the permit on the following grounds; the proposal is contrary to clauses 11.04-4 Environmental Assets and 43.03 SLO of the Greater Geelong Planning Scheme due to the impacts the use would have on the landscape values of the Anakie Hills; and the proposal would have unreasonable amenity impacts on surrounding sensitive uses in relation to noise, dust, visual impact and an increase in traffic movements.

The proceedings’ discussions included the ESO noting that the scoria cone of significance was Mount Anakie as a collective and the clearing, development and use of the land had significantly altered the landscape values of the past. Notable in these discussions were; first, though expert evidence was given as to whether a site of Aboriginal Cultural Significance could be found on the property was possible, such could be said for nearly all the land in Victoria and thereby the Panel did not feel the situation could move from possible to probable. Second, places like that of the sea or waterways are recognised circumstances where Aboriginal sites are more likely to be identified and recorded, however this was considered not to be an exhaustive list. Thus the Panel deemed the proposal appropriate and that permission be granted subject to conditions including production limits, environmental management, acoustic management, air admission management, pest, plant and animal management, rehabilitation plan and traffic impact assessment.

In July 2015, after a thorough and independent investigation, Aboriginal Affairs Victoria [AAV] placed Anakie Youang on the Victorian Aboriginal Heritage Register as an Aboriginal place of contemporary, social, historical, anthropological and spiritual significance to Aboriginal people, specifically the Wadawurrung people.

A Cultural Heritage Permit was granted in January 2016 to Aerolite that allows the existing quarrying and some future quarrying activity, but includes restrictions designed to minimise harm to the Aboriginal Place.

In July 2016 action was settled between Aerolite and AAV in the Victorian Supreme Court, after Aerolite sort to declare that Anakie Youang was not an Aboriginal place. As part of this settlement, AAV agreed to reconsider their decision to include Anakie Youang on the Victorian Aboriginal Heritage Register though it remains on the register today whilst this review is in process.

In May 2017, while the AAV was still undertaking its review, Aerolite appealed the conditions on the Cultural Heritage Permit to VCAT and the matter is due to be considered by VCAT later this year.

The Findings and Challenges

In an interview for this research paper, the authors were asked by one participant to take a moment to read the purpose, both part (a) and (b), of the Aboriginal Heritage Act 2006:

(a) To provide for the protection of Aboriginal cultural heritage and Aboriginal intangible heritage in Victoria; and
(b) To empower traditional owners as protectors of their cultural heritage on behalf of Aboriginal people and all other peoples;
The aim of this request was to reflect on knowledge gained on the Anakie Youang case study. To stop and appreciate how far the investigation had come but more importantly how much further we must go when looking at conserving cultural landscape with Indigenous heritage value, as we erode the purpose of the Act through how we meet the challenges we face as professionals and land owners. Our understanding of terms and place, identification of place and the role of our first people in our cultural landscape are only complex challenges when we all look at it with boundaries and without holistic knowledge.

Lennon clearly defines the Western concept of cultural landscape, with a broadness that encapsulates our Indigenous cultural landscapes. Notwithstanding this, the understanding of the term across those participating in the research was diverse. Group B participants demonstrated this diversity significantly with Participant #11 explaining the in-depth unity between the cultural and natural elements of landscapes and acknowledging the behavioural process that has a transformative impact on one another, that requires cross disciplinary and holistic thinking, compared to Participant #3 who acknowledged different meanings to different people, and the connection or attachment people have to a place. In complete contrast to both, Participant #1 was unfamiliar with the term. Lennon’s broadness in definition was best clarified by Group A who linked cultural landscapes with physical areas, natural resources, both tangible and intangible elements and its connection to heritage and people or family. With cultural landscapes acknowledged and appreciated as significant and the ability to recognise these within the Victorian Planning Scheme, Bashta’s interpretation that these are underrepresented, is likely to be linked to the challenges of a diverse and conflicting understanding of the term.

The research demonstrates a parallel between the diverse and conflicting understanding of the term cultural landscape and that of the understanding of the terms Country. Responses by participants in Group A drew the greatest similarities to Pascoe’s description of ‘everywhen’ describing it as everything you see from one horizon to another, it being the land, water, sky and well below the roots of the trees; and being handed down from the beginning. Group B participants exhibited the most considerable disparities, describing aspects to their understanding of being linked to a specific group, family group or moiety; furthermore, to the land, resources and the history of its creation; and finally, not being aware of a definition for the term but understanding all of Australia is Aboriginal Country.

The VCAT hearing, heard in November/December 2004, that recognised sites of Aboriginal cultural heritage sensitivity within our planning framework recognised sites more likely to be found near waterways coupled with those already recorded and that the list was not exhaustive. Participant #1 of Group A, explained if you were to look at the localised distribution of registered Aboriginal archaeology within the Werribee Plains, the distribution would be in clusters like that on the You Yangs and Brisbane Ranges. The participant went on to explain, do we assume then that the space around Anakie Youang has no artefacts or evidence of artefacts; or would it be more logical to assume as private land it has simply not been explored. These comments are reinforced in the expert report at the VCAT hearing that in conclusion noted that although no registered Aboriginal archaeological site was on the property, it had not been surveyed or assessed for Aboriginal heritage.

Adams sums it up best in explaining that through heritage legislation and frameworks, Indigenous communities have been involved in aspects of land management, planning use and decision making, though the development of these exists within colonial frameworks that confines Aboriginal rights.

Participants, as part of the research, were asked to reflect on the challenges of our planning process and framework, which are tailored to individual sites with discrete boundaries, rather than complex landscapes that contain a range of significant values. Group A’s responses can be summarised as placing a culture, thousands of year old, into a foreign environment and process which ultimately sees place no longer the same demonstrating as professionals our lack of understanding of Country, and an inability to effectively conserve cultural landscapes within our current processes. The recurring response from Group B, was associated around the mapping of Aboriginal cultural heritage sensitivity, though it exists the processes and frameworks they work within are an ongoing challenge, problematic and inherently complex. This does not however mean we cannot work collaboratively and strive to conserve cultural landscapes, as Participant #11 of Group B expressed, though the framework is restrictive in that there are legislative requirements to meet and ensure consistency, that does not mean our methodology cannot move towards cross disciplinary and holistic approaches as we can always do more and do better than the planning frameworks requires of us.

Group A, Participant #1 expressed the importance of education to influence outcomes, while Participant #2 suggested a statutory mandate which alongside the Minister of Planning hears cases and make decisions with respect to planning schemes and assists in expediting those decisions. This specific response echoes comments from The Land Justice Group that has noted VCAT may have considerable experience of developers but had minimal experience with Aboriginal heritage matters. Participant #1 of Group B, discussed the importance of a review of the mapping through consultation with Registered Aboriginal Parties coupled with Participant #13 who indicated the importance of updating the heritage register. Additionally, Participant #11 reinforced the perspective that professionals often limit themselves to how they work within the framework to satisfy legislative requirements but working holistically and collaboratively can empower Indigenous people. To protect and conserve our heritage with Indigenous values, it is not only important to work holistically and collaboratively as noted by Group B, Participant #11 and Porter but to ensure that throughout the processes that cross disciplinary and regulatory authority’s knowledge is disseminated to all relevant parties to facilitate the best outcome for all.

Group B looked specifically at education and communication to encourage interpretation of sites, with Participant #11 expanded on this; through a better understanding and education we can continually build on our knowledge of place and landscapes that can then be translated in planning mechanisms. Participant #2, Group A reflected on the endurance and flexibility of the Indigenous peoples in the face of hostile adversity and the need to be mindful of others, while Participant #1 highlighted that education connected with understanding the importance as to why can develop a strong case for conservation.

CONCLUSION

Long time before today, on Wadawurrung Country, people tell the story of the ‘Three Sisters’, Anakie Youang, a story that is tens of thousands of years old. Along with their people and Country, this story would be lost with the impact of colonisation. A colonisation that would see a planning framework development that could be described as a system that holds the pre-conception that this Country began only with colonisation. As professionals face off on the development of land, challenging each other’s conflicting understandings and the perception that heritage with Indigenous value is problematic, we erode the Victorian Aboriginal Heritage Act 2006 purpose to protect Aboriginal cultural and intangible heritage while empowering traditional owners as protectors. While we work within the constraints of our planning frameworks, it does not mean that we can’t change our methodology towards one of a holistic and cross disciplinary approach. As we continue challenge this storyline, of our first people’s, Corangulook, Baccheriburt and Woolkerbeen can be seen today more as a western cultural landscape, a site of economic importance for red scoria and basalt than that of the Country.

ETHICS APPROVAL NOTE

This project has been subject to an approved human ethics application by the Deakin University Human Research Ethics Committee (DUIHREC) dated 16 June 2017 and coded 2017-136: Wadawurrung Landscapes in Victorian Planning Processes.
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