



Australian Heritage Database

Places for Decision

Class : Indigenous

Item: 1

## Identification

<b>List:</b>	<b>National Heritage List</b>
<b>Name of Place:</b>	Myall Creek Massacre and Memorial Site
<b>Other Names:</b>	
<b>Place ID:</b>	105869
<b>File No:</b>	1/02/172/0001
<b>Primary Nominator:</b>	104353 The Myall Creek Memorial Committee
<b>Nomination Date:</b>	23/08/2005
<b>Principal Group:</b>	Aboriginal Historic/Contact Site

## Status

<b>Legal Status:</b>	23/08/2005 - Nominated place
<b>Admin Status:</b>	11/03/2008 - Assessment by AHC completed

## Assessment

<b>Assessor:</b>	
<b>Recommendation:</b>	
<b>Assessor's Comments:</b>	
<b>Other Assessments:</b>	:

## Location

<b>Nearest Town:</b>	Bingara
<b>Distance from town (km):</b>	17
<b>Direction from town:</b>	NE
<b>Area (ha):</b>	23
<b>Address:</b>	Bingara Delungra Rd, Myall Creek via Bingara, NSW, 2404
<b>LGA:</b>	Gwydir NSW

### Location/Boundaries:

Approximately 23ha, 23km north east of Bingara at the junction of Bingara-Delungra and Whitlow Roads, being an area bounded in the east by the south bank of Myall Creek, in the north west by the south-east side of Bingara-Delungra Road, in the south west by the north side of Whitlow Road, and in the south east by the western boundary fence of Myall Creek Station.

### Assessor's Summary of Significance:

For half a century after the arrival of the First Fleet in 1788, a pattern of relations developed between Indigenous people and European that lasted for the next century. While the British Colonial Office had instructed that Indigenous people should be treated with amity and kindness, competition for resources and land following the expansion of European settlement invariably resulted in frontier violence.

The escalating conflict between settlers and Aboriginal people on the frontier was one of the issues facing Governor Gipps on his arrival New South Wales colony in 1838 and the Myall Creek massacre in June of that year provided Governor Gipps with an opportunity to demonstrate that the law would protect Aboriginal people.

The Myall Creek massacre, the subsequent court cases and the hanging of the seven settlers for their role in the massacre was pivotal development of the relationship between settlers and Aboriginal people. It was the last attempt by the colonial administration to use the control frontier conflict between settlers and Aboriginal people. Instead of setting a precedent that Aboriginal people could be protected the law, it hardened settlers' resolve to use whatever means were available to clear Aboriginal people from the land on the frontier.

Since 1838, the Myall Creek massacre has continued to reflect the evolving relationship between Indigenous and non-Indigenous people. The debate surrounding the outcomes of the trials in the late 1800s reflected the broader debate on the status and treatment of Indigenous people. The Myall Creek massacre also reflected the 'great Australian silence' on Indigenous issues from the 1830s to the 1950s and it was used to silence people on Australia's Indigenous history during the 1960s-80s. More recently, the Myall Creek massacre and the memorial place on the site have become part of Australia's reconciliation movement.

**Draft Values:**

<i>Criterion</i>	<i>Values</i>	<i>Rating</i>
A Events, Processes	<i>(a) The place has outstanding heritage value to the nation because of the place’s importance in the course, or pattern, of Australia’s cultural history</i>	AT

The Myall Creek massacre, the subsequent court cases and the hanging of seven settlers, played a pivotal role in the development of the relationship between settlers and Aboriginal people. In the half century following British settlement, the Colonial Administration stated on numerous occasions that Aboriginal people and settlers were equal before the law. However, juries regularly found settlers accused of killing Aboriginal people on the frontier not guilty. Since the 1850s the story of Myall Creek massacre has been retold in a number of poems and books and has continued to remind Australians about the mistreatment of Aboriginal people during the period of frontier conflict. The Myall Creek massacre is outstanding in the course of Australia’s cultural history as it is the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings.

**Historic Themes:**

**Nominator's Summary of Significance:**

The Myall Creek massacre was typical of massacres that occurred right across Australia as Europeans occupied Aboriginal lands and came into conflict with the original owners of the land. Its unique significance lies in the fact that following this massacre, the perpetrators were tried, and seven of the twelve were executed for their crime on 18 December 1838. This was the first time that European people were executed for the murder of Aboriginal people. Because of this, the site has considerable historical, social and symbolic significance for Aboriginal people, who for the first time saw Aboriginal and non-Aboriginal people treated in the same way by the law. The site has particular symbolic significance for Aboriginal people, because after 162 years the truth of this aspect of our shared history was honoured when hundreds of people - Aboriginal and non-Aboriginal people gathered from near and far across Australia for the dedication of the Memorial. Each year several hundred people from several States gather for the annual service held on the Saturday nearest 10 June. The Memorial has great symbolic significance for the reconciliation of Aboriginal and other Australians. At the dedication on 10 June 2000, descendants of those who were murdered, and descendants of those who carried out the massacre came together in an act of personal reconciliation, as depicted in an episode of An Australian Story on ABC Television. The Hon John Anderson, Deputy Prime Minister, spoke at the Dedication Service. Her Excellency, Professor Marie Bashir AC, the Governor of New South Wales, addressed the annual service in 2003. Many people after visiting the Memorial have commented on the profound effect the Memorial had on them and their understanding of our shared history. The Memorial received the ANTaR 2005 Inaugural Prize for Innovative Reconciliation Work.

**Description:**

The Myall Creek massacre and memorial site is located on 23 hectares of gently rolling slopes and small hills which have mostly been cleared and improved for grazing sheep and cattle. The area supports dry sclerophyll woodland species such as the White Box, Bimble Box, Red Gum, Scribbly Gum and various Ironbarks. The land is part of a Travelling Stock Route (TSR) used by cattle to access the Creek. Two basalt blocks mark the beginning of the Memorial walkway which is a 600 metre winding path in red gravel that leads through woodland and grasses. At various stages along the walkway there are seven oval shaped granite boulders which contain plaques with etchings and words in English and Gamilaroi. These plaques tell the story of the Myall Creek massacre. At the end of the walkway the memorial is set on a rise overlooking the site of the massacre between five spreading gumtrees. The memorial rock is a 14 tonne granite boulder with a simple plaque surrounded by a circle of crushed white granite, edged in by stones from all around the state of New South Wales.

**Analysis:**

**Boundary:**

There has been a degree of uncertainty and debate concerning the exact location of the Myall Creek massacre site. In 1976 the massacre site was registered as an Aboriginal site by the New South Wales National Parks and Wildlife Service (NPWS); and it is now recorded on the NSW Aboriginal Heritage Information Management System (AHIMS). When it was recorded, the reference point for the massacre site was believed to be the location of the old stockyards of the Myall Creek Station, however the site recording form states that the actual location of the massacre site is ‘doubtful at present and awaits further confirmation’. The connection between the stockyards and the massacre site is not supported by any other records or the evidence provided in both Myall Creek trials and has therefore been discounted. In 1979 the Myall Creek massacre site was nominated to the Register of the National Estate (RNE) by the NPWS and listed in 1980. The nominated and subsequently listed boundary was approximately 50 hectares and was defined by a series of AMG points. No supplementary documentation supporting why this boundary was nominated was provided with the nomination. In 2005 the Myall Creek memorial committee nominated the Myall Creek memorial site to the National Heritage List (NHL). The boundary is approximately 23 hectares, and overlaps with parts of the RNE boundary. The nominators claim that the boundary supplied in the NHL

nomination includes the massacre site. The memorial committee support their claims through the research of local historian Russ Blanch as set out in his book “Massacre: Myall Creek Revisited” (2000), and also the oral tradition of the descendants of the Wirrayaraay people who were involved in the massacre. Taking all the available information into account, including the evidence given in the Myall Creek trials, the NHL boundary most likely includes the Myall Creek massacre site.

**a) The place has outstanding heritage value to the nation because of the place’s importance in the course, or pattern of Australia’s cultural history.**

The Myall Creek massacre in 1838, the subsequent court case and the hanging of seven settlers for the killing of Aboriginal people is pivotal in the development of the relationship between settlers and Aboriginal people. It is the first and last time that settlers were found guilty of, and hanged for, the killing of Aboriginal people on the frontier. It is the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings. Instead of setting a precedent that Aboriginal people could be protected under the law, Ryan (1980:20) states:

the Myall Creek massacre and the ensuing cases had intensified the squatters determination to have unfettered occupation of pastoral land. They were not prepared to wait while protectors rounded up the Aborigines, nor were they prepared to allow their stockkeepers to endure the full force of the law...for 1838 was the year that saw the final loss of control by government of pastoral expansion.

As Markus (1994:49) states, the Myall Creek massacre also ‘provides evidence not of the impartial administration of the law, but- as the great exception, the only trial that resulted in multiple executions- of the colonists’ unwillingness to treat the murder of Aborigines as a crime’.

In the half century after the arrival of the First Fleet in 1788, a pattern of relations developed between Aboriginal people and European settlers that lasted into the 1900s. While the British Colonial Office instructed Arthur Phillip, the first Governor, to treat the Aboriginal population with goodwill and kindness, competition for resources and land following the expansion of European settlement invariably resulted in frontier conflict. Frontier violence posed a problem for the British Administration because Aboriginal people and settlers were legally British subjects with the same rights and protection. Lack of resources and pressure from settlers, however, made it increasingly difficult for the Administration to apply the rule of law.

With the expansion of European settlement into the Hawkesbury and Hunter regions, frontier conflict intensified. This conflict was the result of competition for land which settlers required for crops and the grazing of sheep and cattle; Aboriginal people relied upon the same land for food and water (Kidd 1997:14). The initial response by the Administration was to dispatch troops to police the frontier, but the expanding area of land to be covered made this an increasingly difficult task. A lawless frontier environment soon existed where it was impossible to control the conflict between settlers and Aboriginal people. In response to this challenge the Administration ordered settlers to defend themselves and ordered Aboriginal people to stay away from European habitation. There is no evidence that Aboriginal people understood and agreed with these orders to stay away from European settlement as the conflict on the frontier continued.

A similar pattern of frontier conflict developed in Tasmania following the establishment of the penal settlements in 1803. The early settlers were mostly convicts and military guards tasked with developing agriculture and industries. By the 1820s settlers occupied all the limited arable land in Tasmania and conflict with Aboriginal people intensified resulting in Governor Arthur succumbing to settler pressures and authorising resistance by force including the organisation of pursuing posses (Turnbull 1965:73-75). Aboriginal people were increasingly being viewed as a serious threat to settlers and a genuine fear existed within the colony as highlighted by one settler who felt that ‘sooner or later [Aboriginal people] would murder every white man on the island’ (Plomley 1992).

In 1828 following a dramatic increase in attacks by Aboriginal people on settlers including the murder of 13 landowners and the burning of barns and stores, Governor Arthur published his Demarcation Proclamation. This Proclamation ordered the removal of all Aboriginal people from the districts settled by Europeans and gave magistrates the right of removal; capture without force was encouraged, but if this failed force could be used (Plomley 1992).

During the 1830s the individual colonies around Australia started to develop distinctive approaches to dealing with the issue of frontier violence. All of these approaches focused on removing Aboriginal people from areas settled by Europeans, but the measures adopted were markedly different

Following the failure of Governor Arthur’s attempts to exclude Aboriginal people from the areas occupied by European settlers (Reynolds 1995:117; Connors 2002:100) George Augustus Robinson approached the Tasmanian Administration with a plan to solve the ongoing conflict between settlers and Aboriginal people. He suggested that in return for protection, food, clothing and a safe passage he could convince the Aboriginal people to move from mainland Tasmania to Flinders Island. By the mid 1830s more than 200 people had been relocated to the Wybalenna settlement. This was the first official attempt at protection of Aboriginal people by removal and segregation.

In 1836 the newly established colony of South Australia also adopted a policy of protecting Aboriginal people. This included: only colonising unoccupied lands, the reservation of land for Aboriginal people and the appointment of Aboriginal Protectors. Governor Hindmarsh issued a proclamation promising to protect Aborigines who were to be considered the same as settlers under the law, and entitled to the same privileges of British subjects (Report of the National Enquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families 1997). Despite the early attempts at protection, the pattern of violence and dispossession of Aboriginal people repeated itself in South Australia.

During the same period the British Government appointed a Select Committee to inquire into the condition of Aboriginal people in all the British colonies. The report recommended that the ‘native’ must be protected (Rowley 1970:20). In response the Port Phillip Protectorate was established by executive fiat, but this system was not extended to the rest of New South Wales. This by-passing of the squatter-dominated Legislative Council in New South Wales did nothing to improve relations between settlers and Aboriginal people in Port Phillip or New South Wales.

While government appointed protectors were to ‘civilise’ and ‘settle’ the Aboriginal people around Port Phillip, none were appointed for the areas occupied by settlers around the Illawarra, the Hawkesbury, Bathurst, Newcastle or the Liverpool Plains. In these areas the practice of sending in troops to suppress Aboriginal violence, often aided by settlers, continued (Milliss 1992:1-21). This was evident in the Liverpool Plains area following its initial settlement by Europeans in 1827.

When settlers attempted to drive away the Kamilaroi and Wirrayaraay people from the Namoi River in the Liverpool Plains area, the Aboriginal people reacted hostilely, spearing cattle and killing five settlers (Milliss 1994:1). The settlers demanded military protection and in response Acting-Governor Snodgrass appointed Major James Nunn to ‘suppress these outrages’ (Snodgrass in Reece 1974:32). Nunn and as many as twenty troopers reached the Liverpool Plains in 1838, but what occurred once they arrived remains unclear. Milliss (1992) states that Nunn and his men were involved in a killing spree where upwards of 200-300 Aboriginal people may have been killed. Windshuttle (2002) disputes this version of events stating that Nunn’s campaign was to apprehend and capture murderers, and that it is most probable that between eight and nine Aboriginal people were killed, although he acknowledges that one eyewitness testified that 40-50 may have been killed.

The escalating conflict between settlers and Aboriginal people on the frontier was one of the issues confronting Governor Gipps on his arrival in the New South Wales colony in 1838. Governor Gipps and the Colonial Secretary Lord Glenelg agreed that an important measure to prevent frontier conflict was to impress Aboriginal people with ‘the conviction that the laws of the colony will be equally administered for their protection from wrong and injury as for that of European Settlers’ (Rowley 1970:35; Lord Glenelg to Gipps cited by Connor 2002:113).

The Myall Creek massacre in June 1838 gave Governor Gipps an opportunity to demonstrate that the law could protect Aboriginal people through its equal application. When news of the incident was reported to him, Governor Gipps did not hesitate to order the perpetrators be brought to justice (Wannan 1962:200). The Myall Creek massacre was marked by the unusual circumstance that one of the station hands who did not participate in the massacre, George Anderson, informed the station manager, William Hobbs, who reported the incident to the local magistrate. Once Governor Gipps was informed he gave instructions that Police Magistrate Day should proceed immediately to the scene of the tragedy with a party of mounted police to seek out the murderers (Wannan 1962: 201). Day conducted a thorough investigation and apprehended eleven of twelve suspected Myall Creek murderers. The eleven men were arrested and tried for the murder of Daddy and an unknown Aboriginal (R v Kilmeister No. 1 - <http://www.law.mq.edu.au>).

Upon being found not guilty, seven of the men were re-arrested and tried for the murder of an Aboriginal male named Charley (R v Kilmeister No. 2 - <http://www.law.mq.edu.au>). The second trial resulted in a guilty verdict and Judge Burton sentenced all seven men to death. Governor Gipps later wrote that none of the seven attempted to deny their crime, though they all stated that they thought it extremely hard that white men should be put to death for killing blacks (H.R.A Vol XIX:739). On 18 December 1838, after all legal objections were exhausted and the Executive Council rejected petitions for clemency, the sentences were carried out.

The hanging of seven stockmen in 1838 for their part in the Myall Creek massacre caused controversy throughout the colony, led to heightened racial tensions and hardened attitudes towards Aboriginal people (Reece 1974: 48). This was evident on the day of the execution when the *Australian* newspaper published a letter which said, ‘I look on the blacks as a set of monkees, and the earlier they are exterminated from the face of the earth the better. I would never consent to hang a white man for a black one’ (*Australian* 18 December 1838).

Governor Gipps’ public resolve to treat Aboriginal people equally never diminished, however the public response to the Myall Creek trial influenced his future decisions. The failure to re-try the remaining four men accused in the Myall Creek massacre and the continuing delays to the enquiry of Major Nunn’s campaign highlight this. Governor Gipps indicates that one of the reasons for the delay into the enquiry was the settlers ‘very excited state in respect to the blacks’ after the execution of seven men for their part in the Myall Creek massacre (H.R.A. XX:246). Governor Gipps was also concerned that any action taken against Major Nunn would result in soldiers quitting their positions, leaving the frontier severely weakened (H.R.A. Vol XX:246).

After the Myall Creek massacre, when settlers were arrested for the murder of an Aboriginal person, they were often found not guilty or had their sentences reduced. For example, in 1841 John Kelly a servant in the Agricultural Company’s service, was accused of the shooting murder of an Aboriginal person known as Jacky Smith. Kelly had seen a group of ‘blacks with bad intentions’ approach the property. Kelly enticed three of the Aboriginal men into his hut and then accused them of stealing corn. As they rushed out of the hut Kelly shot the musket at the group, murdering Jacky Smith. The jury found that Kelly had ‘fired the gun intentionally with the object of hitting some blacks’. Judge Stephen sentenced Kelly to death, the mandatory sentence for a capital crime, however he promised to lay the facts before Governor Gipps in an attempt to have the sentence reduced. NSW State records indicate that Kelly was never hanged, but sent to Cockatoo Island in November 1841 with his sentence reduced to seven years transportation (Principal Superintendent of Convicts; NRS 12216, Cockatoo Island: General index to convicts, 1834-44 [4/4540], Ree; 605).

While this was not the first time settlers were hanged for murdering Aborigines (see R v Ridgway, Chip, Colthurst and Stanley 1826, R v Kirby & Thompson 1820), it was the first time that settlers were found guilty of, and hanged for, the killing of Aboriginal people on the frontier. It is also the last time the Colonial Administration intervenes in a case involving the killing of Aboriginal people by settlers.

Governor Gipps' decision to reduce Kelly's sentence is further evidence of the public response to the Myall Creek trials influencing his subsequent decisions. This case would have provided an opportunity to reinforce his push for the equal application of the law but instead illustrated that the outcome of the Myall Creek massacre was an exception.

Despite the guilty verdicts and the hanging of seven men that followed the Myall Creek trials frontier violence between settlers and Aboriginal people did not diminish. Although the police and Aboriginal protectors investigated the frequent reports of violence towards Aboriginal people, settlers were rarely arrested and when they were, juries generally found them innocent of any crime. For example, the Lubra Creek massacre in 1842 involved a party of six on horseback surrounding a gully, dismounting and killing five Aboriginal people (Patton 2006). The protector for the area visited the site and within weeks the government put out a reward to find those responsible. In May 1843 a trial was held but the accused were acquitted by a jury of squatters (Patton 2006). The Mustons Creek massacre in 1842 is another example; in this case three Western Districts settlers were accused of killing three women and a child but were also acquitted (Patton 2006).

A decade after the Myall Creek massacre the deeply entrenched hostility of settlers in New South Wales towards Aboriginal people on the frontier remained unchanged. Aboriginal evidence was inadmissible in court as it was thought that Aboriginal people did not believe in a supreme being who could punish them for wrong doing. On this basis Aboriginal people were unable to swear an oath. During New South Wales Legislative Council debates in 1844 and 1849 on Bills to accept Aboriginal evidence, the Attorney-General argued that if the Bill was made law it would control frontier violence because allowing Aboriginal people to testify would prevent settlers from hostile collisions with them (Rowley 1970:128). Members opposing the Bills disagreed, suggesting that it may have the opposite affect, on the principle 'that dead men tell no tales'. The argument put forth by such members as Loewe, Hamilton, Wentworth, Fitzgerald and James Macarthur went even further saying that 'it was not the policy of a wise government to attempt the perpetuation of the Aboriginal races... by any protective measures. They must give way before the arms, aye! Even the diseases of civilised nations'(Elkin 1941:191).

In 1863 the area now known as the Northern Territory was established under the control of South Australia. Although 'there was a general lack of concern for the welfare of Aboriginal people in the Territory' a part-time Aboriginal Protector was appointed by the South Australian government in 1864 (National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families 1997). Despite the appointment of an Aboriginal protector frontier violence continued in the Northern Territory throughout the late 1800s and into the early 1900s. For example, the 1874 Barrow Creek massacre occurred after Aboriginal people attacked a police station either in response to the treatment of Aboriginal women or for the closing off of the local water supply (Central Land Council n.d). A large police hunt was organised by Mounted Constable Samuel Gason which resulted in the killing of Aboriginal men, women and children; no charges were ever laid. The 1928 Coniston Station massacre occurred after Fredrick Brooks was murdered by Aboriginal people for his treatment of Aboriginal women (Elder 1988:143). Mounted Constable Murray led a party which resulted in the killing of as many as 50 Aboriginal people. In 1929 a board of enquiry was convened to investigate the incident but despite the enquiry no settlers including police were ever charged as the board found that all the shootings were justified (Elder 1988:153).

Murder trials from 1884-1911 highlight that Northern Territory juries were also more inclined to excuse settlers for their actions than Aboriginal people. During this period nine Aboriginal people were charged with murder and all nine were found guilty, with three being executed (Broomham 2007). During the same period settlers charged with murdering Aboriginal people were found not guilty or released after a short time in gaol. The Daly Waters massacres for example, resulted in charges being laid against Constable Willshire after the Alice Springs Sub-Protector of Aboriginal people investigated reports of two Aboriginal men who were shot dead at Tempe Downs Station (Australian Dictionary of Biography 2006). Constable Willshire was charged with killing Aboriginal people but was honourably acquitted. Judge Bevan a Northern Territory Judge wrote in 1913:

Juries will not convict a white man for an offence against a black, certainly if the evidence is that of blacks, whereas on black evidence there is no difficulty in the way of securing a conviction against a black. The jury system may have worked well where the population is all one colour, but the introduction of racial antipathies goes far to undermine the principles of trial by jury.

The Myall Creek massacre was also a landmark event because retelling the story continued to remind Australians about the mistreatment of Aboriginal people during the period of frontier conflict. During the 1800s several popular poems were written about the massacre including 'Incantation Scene', 'Weird Sisters' and 'The Aboriginal Mother', the latter written by poet Eliza Dunlop was subsequently set to music (Webby 1980:1-13). The events were also recounted in texts published in Australia and overseas (Harris 1852; Heaton 1879; Flanagan 1888; Chomley 1903; Collier 1911). In the early 1970s, the historian Charles Rowley described the Myall Creek massacre as one of Australia's horror stories that must be told if Australians are 'to understand the real nature of the Aboriginal problem...[and] the brutalizing forces that brought it into being' (NSW Department of Child Welfare and Social Welfare 1971:9).

**The Myall Creek massacre and memorial site has outstanding heritage value to the nation under criterion (a) as it is the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings and accounts of the massacre written from the 1850s to the present have continued to remind Australians about the mistreatment of Aboriginal people during the period of frontier conflict.**

**d) The place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of a class of Australia's cultural places.**

The nominator claims that the Myall Creek massacre has outstanding heritage value under criteria (d) as no other massacre site is as well documented, largely because of the immediate reporting of the event, the investigation by officers of the law and the documentation of the event

through the trials.

All massacres are unique - the methods and motives vary for each. For example the massacre at Risdon Cove in Tasmania 1804 occurred when an Aboriginal hunting party was mistaken as a war party by a Lieutenant Moore and his soldiers, and they subsequently fired a cannon on the party killing men, women and children (Elder 1988). The motive for this massacre was the fear of attack by Aboriginal people. The massacre at Bells Falls Gorge in New South Wales 1824 occurred when soldiers found a group of Aboriginal people who were camped near the falls. Upon seeing the soldiers the Aboriginal people fled into the bush and were herded towards the falls by the soldiers. Most of the Aboriginal people jumped off the falls the rest were shot trying to get past the advancing line of soldiers (Elder 1988). The motive for this massacre was the ongoing battle with settlers regarding land use. The massacre at Casterton near the junction of the Wannon and Glenelg Rivers in Victoria in 1840 occurred when flour rations delivered on a monthly basis to a property were poisoned by a settler (Elder 1988). Aboriginal people involved in the theft of the flour were unaware that poison had been added and were found dead, the bodies were disposed of in the river. The motive for this massacre was the constant raiding of settler property by Aboriginal people.

As the circumstances surrounding each massacre vary considerably, principal characteristics of massacres as a class of cultural place are not identifiable.

**The Myall Creek massacre and memorial site’s importance in demonstrating the principal characteristics of a class of Australia’s cultural places does not meet the threshold of outstanding heritage value to the nation under criterion (d).**

**g) The Place has outstanding heritage value to the nation because of the place’s strong or special association with a particular community or cultural group for social, cultural or spiritual reasons.**

The nominators state that the descendants of the Wirrayaraay people who were massacred at Myall Creek, and other Aboriginal people who visit the place, have a strong or special association with the area. It brings a sense of relief that at least part of the shared history has been told as Aboriginal people have experienced it (Brown: 2005).

Massacres occurred throughout Australia during the first 150 years of European settlement (Horton 1994: 668). A number of states and territories on their respective heritage registers have recognised the significance of these types of sites to Indigenous people. For example in its assessment of the Pinjarra massacre Site, the Heritage Council of Western Australia recognised that this site is of very high significance to the Nyungar community as an important part of their history. This was shown by the work carried out in an effort to gain recognition for the site through events such as the Back to Pinjarra Day, as well as the campaign undertaken to establish a memorial to those who were killed in the massacre, and are buried at or near the site (Heritage Council of Western Australia 2006: 3).

Similarly, the listing of the Convincing Ground on the Victorian Heritage Register and Heritage Inventory recognises the social significance for the Gundidjmarra people and other Aboriginal people of south west Victoria because of the associations with country and the violent conflict with whalers and the deaths of members of the Kilcarer gundidj clan. The listing also stated that Convincing Ground is of social significance for all Victorians who look to develop an understanding of the history of contact, conflict and settlement (Heritage Council of Victoria n.d).

It is common for Indigenous groups to have a strong or special association with massacre sites or other sites of atrocity. While it is clear that the Wirrayaraay and other Indigenous people have a strong or special association with Myall Creek and the memorial, there is insufficient evidence to show that this association is of outstanding significance at the national level.

**The strong or special association that Indigenous people have with the Myall Creek massacre and memorial site does not meet the threshold of outstanding heritage value to the nation under criterion (g).**

The nominators state that the Myall Creek memorial has outstanding heritage value to the nation under this criterion as a place of reconciliation and education. The Royal Commission into Aboriginal Deaths in Custody explained that Indigenous disadvantage was a product of the history of dispossession and recommended that all political leaders recognise that reconciliation between Indigenous and non-Indigenous people in Australia must be achieved to avoid community division, discord and injustice to Aboriginal people (<http://www.reconciliation.org.au/i-cms.jsp?page=125>). Soon after, the Commonwealth Parliament voted to establish the Council for Aboriginal Reconciliation with the object of promoting a process of reconciliation between Aboriginal people and Torres Strait Islanders and the wider Australian community.

Since that time there have been hundreds of local acts or symbols of reconciliation. Many local councils have brought communities together for reconciliation projects and initiatives and in 2000 there were approximately 396 local reconciliation groups throughout Australia (Council for Aboriginal Reconciliation 2000).

The Council for Aboriginal Reconciliation recognised the Myall Creek memorial as a local symbol of reconciliation and included it in a kit entitled *Local Symbols of Reconciliation — What Can We Do?* (Council for Aboriginal Reconciliation 2000). Large numbers of Aboriginal and non-Aboriginal people took part in the planning, development and dedication of the Myall Creek memorial (Myall Creek Memorial Committee 2007: 19-24). District schools and representatives of all shires in the region participate in the annual service. For them, this represents a great step in mutual understanding, in the development of relationships across the racial divide and in moving towards reconciliation (Brown 2005). The Myall Creek memorial is also a place of reconciliation for the descendants of both the Aboriginal and non-Aboriginal people involved in the Myall Creek massacre.

Other Indigenous heritage places, including massacre sites, have been recognised as places of reconciliation. The Heritage Council of Western Australia has stated that the Pinjarra massacre Site has significant potential to contribute to the process of reconciliation, as a place that helps us to understand and acknowledge the impacts of the past and at the same time provides a future of hope and reconciliation (Heritage Council of Western Australia 2006: 3).

In addition to the hundreds of local symbols of reconciliation, there have also been a number of national reconciliation actions. The Australians for Native Title and Reconciliation (ANTaR) Sea of Hands, is a nationally recognised reconciliation initiative that has attracted huge community participation throughout Australia (Council for Aboriginal Reconciliation 2000). ANTaR (2007) describes the Sea of Hands as a symbol of the people's movement for reconciliation, with Sea of Hand installations displayed around Australia and overseas. The 2000 Walk for Reconciliation was also a national reconciliation action. The Walk for Reconciliation consisted of a series of bridge walks in Sydney, Perth, Brisbane, Canberra, Melbourne and other cities and towns across Australia. Over a quarter of a million people participated in the walk over the Sydney Harbour Bridge which was described at the time as ‘one of the most significant mobilisations of people in Australian history’ (Reconciliation Australia 2005:1).

More recently, the Australian Government created a place to represent national reconciliation. As a symbol of the Government's commitment to the ongoing reconciliation process, Prime Minister, the Hon John Howard MP announced that a ‘reconciliation square’ would be constructed in Canberra. Reconciliation Place recognises the importance of understanding the shared history of Indigenous and non-Indigenous Australians, and reaffirms the commitment to Reconciliation as an important national priority (National Capital Authority n.d).

There is evidence that the Myall Creek memorial is a place of reconciliation and education within New South Wales (Johnson 2002:61-75). However, there are also significant actions that have assisted in reconciliation and education at the national level. There is insufficient evidence to show that the Myall Creek memorial as a place of reconciliation is of outstanding significance at the national level.

**The Myall Creek massacre and memorial site does not meet the threshold of outstanding heritage value to the nation under criterion (g) as a place of reconciliation and education.**

**(5) Summary of Significance**

In the half century after the arrival of the First Fleet in 1788, a pattern of relations developed between Indigenous people and European settlers that lasted into the 1900s. While the British Colonial Office had instructed that Indigenous people should be treated with friendship and kindness, competition for resources and land following the expansion of European settlement invariably resulted in frontier violence.

The escalating conflict between settlers and Aboriginal people on the frontier was one of the issues facing Governor Gipps on his arrival in the New South Wales colony in 1838 and the Myall Creek massacre in June of that year gave him an opportunity to demonstrate that the law would protect Aboriginal people.

The Myall Creek massacre, the subsequent court cases and the hanging of the seven settlers for their role in the massacre, was pivotal in the development of the relationship between settlers and Aboriginal people. It is the first and last time that settlers were found guilty of, and hanged for, the killing of Aboriginal people on the frontier. It is the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings. Instead of setting a precedent that Aboriginal people could be protected under the law, it ‘intensified the squatter’s determination to have unfettered occupation of pastoral land’ and signalled the ‘final loss of control by government of pastoral expansion’ (Ryan 1980:20). The Myall Creek massacre ‘provides evidence not of the impartial administration of the law, but- as an exception, the only trial that resulted in multiple executions- of the colonists’ unwillingness to treat the murder of Aborigines as a crime’ (Markus 1994:49).

Since the 1850s the story of Myall Creek Massacre has been retold in a number of poems and books and has continued to remind Australians about the mistreatment of Aboriginal people during the period of frontier conflict.

**History:**

In the half century following the arrival of the First Fleet in 1788, a pattern of relations developed between Aboriginal people and European settlers that lasted into the 1900s. While the British Colonial Office instructed Arthur Phillip, the first Governor, to treat the Aboriginal population with goodwill and kindness, competition for resources and land following the expansion of European settlement invariably resulted in frontier conflict. Frontier violence posed a problem for the British administration because Aboriginal people and settlers were legally British subjects with the same rights and protection. Lack of resources and pressure from settlers, however, made it increasingly difficult for the Administration to ensure the application of the rule of law.

The Myall Creek massacre in 1838, the subsequent court case and the hanging of seven settlers for the massacre of Aboriginal people is pivotal in the development of the relationship between settlers and Aboriginal people. It is the first and last time that settlers were found guilty of, and hanged for, the killing of Aboriginal people on the frontier. It is the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings. Instead of setting a precedent that Aboriginal people could be protected under the law, Ryan (1980:20) states:

the Myall Creek massacre and the ensuing cases had intensified the squatter's determination to have unfettered occupation of pastoral land. They were not prepared to wait while protectors rounded up the Aborigines, nor were they prepared to allow their stockkeepers to endure the full force of the law...for 1838 was the year that saw the final loss of control by government of pastoral expansion.

Aboriginal attacks on unarmed convicts were commonplace following the establishment of the settlement at Port Jackson in 1788. While some members of the Administration felt that the Aboriginal inhabitants of the area should be driven away and kept away by the judicious use of muskets, Governor Phillip attempted to establish friendly relations and trade (Clendinnen 2003:19-31, 55). As a result of this policy, Phillip did not respond aggressively to the spearing of convicts by Aboriginal people. However, following the spearing and death of one of his servants in 1790 he authorised a punitive expedition against the 'Botany Bay' tribe. He ordered the expedition to bring back two Aboriginal men to be hanged and the heads of a further ten Aboriginal men but it returned empty handed (Clendinnen 2003:174-177). Phillip never ordered another punitive expedition.

Phillip appears to have generally adopted a non-hostile approach to dealing with Aboriginal attacks. Conversely he ordered the flogging of settlers who took Aboriginal spears and nets or damaged Aboriginal canoes. Although Aboriginal witnesses to the floggings were horrified (Clendinnen 2003:99), Phillip used them to demonstrate that settlers guilty of offences against Aboriginal people would be punished. In some cases he also provided compensation to Aboriginal people for their loss.

Clendinnen (2003:217) says of Governor Phillip, 'By the Spring of 1791 this reflective man had come to recognise the need for compensation even in cases he would judge to be criminal, not civil'. Clendinnen also asks whether Governor Phillip could have continued a non-hostile approach towards Aboriginal people. However, following his departure in December 1792 all accommodation ended and the British Administration adopted a simpler solution: the unequal application of the law for settlers and Aboriginal people (Clendinnen 2003:217).

With the expansion of European settlement into the Hawkesbury and Hunter regions, frontier conflict intensified. This conflict was the result of competition for land which settlers required for crops and the grazing of sheep and cattle; Aboriginal people relied upon the same land for food and water (Kidd 1997:14). The initial response by the Administration was to dispatch troops to police the frontier, but the expanding area of land to be covered made this an increasingly difficult task. A lawless frontier environment soon existed where it was impossible to control the conflict between settlers and Aboriginal people. In response to this challenge the Administration ordered settlers to defend themselves and ordered Aboriginal people to stay away from European habitation. There is no evidence that Aboriginal people understood and agreed with these orders to stay away from European settlement as the conflict on the frontier continued.

Despite this, successive Governors in New South Wales adopted similar approaches to addressing frontier conflict. In 1796 Governor Hunter ordered settlers to 'mutually afford their assistance to each other by assembling... when ever any numerous bodies of natives are known to be lurking about the farms'. By 1801 Governor King's orders were even more specific stating that the blacks were to 'be driven back from settlers' habitations by firing at them' (Reynolds 1996:39). In 1816 Governor Macquarie issued a proclamation stating that 'No Aboriginal person is to appear armed within a mile of any settlement and no more than six Aboriginal people are allowed to lurk or loiter near farms' (Australian Museum 2007).

A similar pattern of frontier conflict developed in Tasmania following the establishment of the penal settlements in 1803. The early settlers were mostly convicts and military guards tasked with developing agriculture and industries. By the 1820s settlers occupied all the limited arable land in Tasmania and conflict with Aboriginal people intensified resulting in Governor Arthur succumbing to settler pressures and authorising resistance by force including the organisation of pursuing posses (Turnbull 1965:73-75). Aboriginal people were increasingly being viewed as a serious threat to settlers and a genuine fear existed within the colony as highlighted by one settler who felt that 'sooner or later [Aboriginal people] would murder every white man on the island' (Plomley 1992).

In 1828 following a dramatic increase in attacks by Aboriginal people on settlers including the murder of 13 landowners and the burning of barns and stores, Governor Arthur published his Demarcation Proclamation. This Proclamation ordered the removal of all Aboriginal people from the districts settled by Europeans and gave magistrates the right of removal; capture without force was encouraged, but if this failed force could be used (Plomley 1992).

During the 1830s the individual colonies around Australia started to develop distinctive approaches to dealing with the issue of frontier violence. All of these approaches focused on removing Aboriginal people from areas settled by Europeans, but the measures adopted were markedly different.

In Tasmania the failure of Governor Arthur's Demarcation Proclamation to produce peace was followed by the placing of small 'proclamation boards' on trees. These were designed to show that settlers and Aboriginal people were equal before the law, but the continuing conflict between settlers demonstrated that the boards were a failure. Governor Arthur then devised and implemented a strategy to herd Aboriginal people into the unoccupied extreme south east corner of the island. The 'Black Line' as it was later known, comprised 2 000 men stretched in a line across the island. It slowly moved forward over a period of six weeks netting two Aboriginal people but failed to achieve its objective of clearing all Aboriginal people from the settled districts (Reynolds 1996:117; Connors 2002:100).

In 1831 after the unsuccessful efforts of the 'Black Line' George Augustus Robinson approached the Tasmanian administration with a plan to solve the continuing conflict between settlers and Aboriginal people. He suggested that in return for protection, food, clothing and a safe passage he could convince the Aboriginal people to move from mainland Tasmania to Flinders Island. By the mid 1830s more than 200 people had been relocated to the Wybalenna settlement. This was the first official attempt at the protection of Aboriginal people through segregation and removal.



In 1836 the newly established colony of South Australia also adopted a policy of protecting Aboriginal people. This included: only colonising unoccupied lands, the reservation of land for Aboriginal people and the appointment of Aboriginal Protectors. Governor Hindmarsh issued a proclamation promising to protect Aborigines who were to be considered the same as settlers under the law, and entitled to the same privileges of British subjects (Report of the National Enquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families 1997). Despite the early attempts at protection, the pattern of violence and dispossession of Aboriginal people repeated itself in South Australia.

During the same period the British Government appointed a Select Committee to inquire into the condition of Aboriginal people in all the British colonies. The report recommended that the ‘native’ must be protected (Rowley 1970:20). In response the Port Phillip Protectorate was established by executive fiat, but this system was not extended to the rest of New South Wales. This by-passing of the squatter dominated Legislative Council in New South Wales did nothing to improve relations between settlers and Aboriginal people in Port Phillip or New South Wales.

While government appointed protectors were to ‘civilise’ and ‘settle’ the Aboriginal people around Port Phillip, none were appointed for the areas occupied by settlers around the Illawarra, the Hawkesbury, Bathurst, Newcastle or the Liverpool Plains. In these areas the practice of sending troops to suppress Aboriginal violence, often aided by settlers, continued (Milliss 1992:1-21). This was evident in the Liverpool Plains area following its initial settlement by Europeans in 1827.

When settlers attempted to drive away the Kamilaroi and Wirrayaraay people from the Namoi River in the Liverpool Plains area, they reacted hostilely, spearing cattle and killing five settlers (Milliss 1994:1). The settlers demanded military protection and in response Acting-Governor Snodgrass appointed Major James Nunn to ‘suppress these outrages’ (Snodgrass in Reece 1974:32). Nunn and as many as twenty troopers reached the Liverpool Plains in 1838, but what occurred once they arrived remains unclear. Milliss (1992) states that Nunn and his men were involved in a killing spree where upwards of 200-300 Aboriginal people may have been killed. Windshuttle (2002) disputes this version of events stating that Nunn’s campaign was to apprehend and capture murderers, and that it is most probable that between eight and nine Aboriginal people were killed, although he acknowledges that one eyewitness testified that 40-50 may have been killed.

The escalating conflict between settlers and Aboriginal people on the frontier was one of the issues confronting Governor Gipps on his arrival in the New South Wales colony in 1838. Governor Gipps and the Colonial Secretary Lord Glenelg agreed that an important measure to prevent frontier conflict was to impress Aboriginal people with ‘the conviction that the laws of the colony will be equally administered for their protection from wrong and injury as for that of European Settlers’ (Rowley 1970:35; Lord Glenelg to Gipps cited by Connor 2002: 113).

The Myall Creek massacre in June 1838 provided Governor Gipps with an opportunity to demonstrate that the law could protect Aboriginal people through its equal application. When news of the incident was reported to him, Governor Gipps did not hesitate to order the perpetrators be brought to justice (Wannan 1962: 200).

Once Governor Gipps was informed he gave instructions that Police Magistrate Day should proceed immediately to the scene of the tragedy with a party of mounted police to seek out the murderers (Wannan 1962:201). Day conducted a thorough investigation and apprehended eleven of twelve suspected Myall Creek murderers. The eleven men were arrested and tried for the murder of Daddy and an unknown Aboriginal (R v Kilmeister No. 1 - <http://www.law.mq.edu.au>).

The twelve men responsible for the massacre included freed convicts and assigned convicts, led by John Fleming the manager of the Mungie Bundie Station. The original party assembled at Bengari on a station owned by Archibald Bell before they set off and were joined by the remaining members somewhere along the Gwydir River (Elder 1988: 74-75). After spending the day unsuccessfully pursuing Aborigines the group came to the Myall Creek Station. They discovered approximately 30 Aborigines belonging to the Kamilaroi and Wirrayaraay peoples on the station, rounded them up and tied them together. When the station hand, George Anderson asked what they intended to do with the Aborigines he was told they were taking them over the back of the range to frighten them. A few minutes later the Kamilaroi and Wirrayaraay were led off and massacred. Two days later the men returned to burn the bodies (Elder 1988:78). The impact of the massacre on the Kamilaroi and Wirrayaraay peoples was devastating. As one of the descendants whose great-great-great-grandfather survived the massacre states ‘We didn’t want to talk about it because of how dreadful it was... I remember when we used to drive past that place. It...just had a feeling about it that I can’t explain’ (Australian Broadcasting Corporation 2001).

The Myall Creek massacre was marked by the unusual circumstance that one of the station hands who did not participate in the massacre, George Anderson, informed the station manager, William Hobbs, who reported the incident to the local magistrate. The reports by Anderson and Hobbs were not without danger, as the inquiry of magistrate Edward Day noted ‘[I] took George Anderson with [me], believing that [his] life would be in danger if he remained at Myall Creek’ (Day as cited by Wannan 1962:203).

In response to the charging of the eleven suspects settlers formed groups such as the ‘Black Association’ to support the men charged with the murder. Papers such as the *Sydney Herald* protested against the trials (Barber 1993). Charging the perpetrators of the massacre also stimulated the activism of religious and humanitarian groups who called for the execution of the perpetrators (Rowley 1970:36-37). These views were promoted through papers such as the *Sydney Monitor* and the *Australian*.

Upon being found not guilty, seven of the men were re-arrested and tried for the murder of an Aboriginal male named Charley (R v Kilmeister No. 2 - <http://www.law.mq.edu.au>). The second trial resulted in a guilty verdict and Judge Burton sentenced all seven men to death. Governor Gipps later wrote that none of the seven attempted to deny their crime, though all stated they thought it extremely hard that white men should be put to death for killing blacks (H.R.A Vol XIX:739). On 18 December 1838, after all legal objections were exhausted and the Executive Council

rejected petitions for clemency, the sentences were carried out.

The hanging of the seven stockmen in 1838 for their part in the Myall Creek massacre caused controversy throughout the colony. It led to heightened racial tensions and hardened attitudes towards Aboriginal people (Reece 1974:48). This was evident on the day of the execution when the *Australian* published a letter which said, ‘I look on the blacks as a set of monkies, and the earlier they are exterminated from the face of the earth the better. I would never consent to hang a white man for a black one’ (*Australian* 18 December 1838).

While this was not the first time settlers were hanged for murdering Aborigines (see R v Ridgway, Chip, Colthurst and Stanley 1826, R v Kirby & Thompson 1820) it was the first time that settlers were found guilty of, and hanged for, the killing of Aboriginal people on the frontier. It is also the last time the Colonial Administration intervened to ensure the laws of the colony were applied equally to Aboriginal people and settlers involved in frontier killings.

Governor Gipps’ public resolve to treat Aboriginal people equally never diminished, however the public response to the Myall Creek trial influenced his future decisions. The failure to re-try the remaining four men accused in the Myall Creek massacre and the continuing delays to the enquiry of Major Nunn’s campaign highlight this. Governor Gipps indicates that one of the reasons for the delay into the enquiry was the settlers ‘very excited state in respect to the blacks’ after the execution of seven men for their part in the Myall Creek massacre (H.R.A. XX:246). Governor Gipps also was concerned that any action taken against Major Nunn would result in the military quitting their positions, leaving the frontier severely weakened (H.R.A. Vol XX:246).

After the Myall Creek massacre, whenever settlers were arrested for the murder of an Aboriginal person, they were found not guilty or had their sentences reduced. For example, in 1841 John Kelly a servant in the Agricultural Company’s service, was accused of the shooting murder of an Aboriginal person known as Jacky Smith. Kelly had seen a group of ‘blacks with bad intentions’ approach the property. Kelly enticed three of the Aboriginal men into his hut and then accused them of stealing corn. As they rushed out of the hut Kelly shot the musket at the group, murdering Jacky Smith. The jury found that Kelly had ‘fired the gun intentionally with the object of hitting some blacks’. Kelly was sentenced to death by Judge Stephen, the mandatory sentence for a capital crime; although he promised to lay the facts before Governor Gipps in attempt to have the sentence reduced. NSW State records indicate that Kelly was never hanged but instead sent to Cockatoo Island in November 1841 and that his sentence was reduced to seven years transportation (Principal Superintendent of Convicts; NRS 12216, Cockatoo Island: General index to convicts, 1834-44 [4/4540], Ree; 605).

Governor Gipps’ decision to reduce Kelly’s sentence is further evidence that the public response to the Myall Creek trials influenced his subsequent decisions. This case would have provided an opportunity to reinforce his push for the equal application of the law but instead illustrated that the outcome of the Myall Creek massacre was an exception.

Despite the guilty verdicts and the hanging of seven men that followed the Myall Creek trials, frontier violence between settlers and Aboriginal people did not diminish. Although the police and Aboriginal protectors investigated the frequent reports of violence towards Aboriginal people, settlers were rarely arrested and when they were, juries generally found them innocent of any crime. For example, the Lubra Creek massacre in 1842 involved a party of six on horseback surrounding a gully, dismounting and killing five Aboriginal people (Patton 2006). The protector for the area visited the site and within weeks the government put out a reward to find those responsible. In May 1843 a trial was held but the accused were acquitted by a jury of squatters (Patton 2006). The Mustons Creek massacre in 1842 is another example; in this case three Western Districts settlers were accused of killing three women and a child but were also acquitted (Patton 2006).

A decade after the Myall Creek massacre the deeply entrenched hostility of settlers in New South Wales towards Aboriginal people on the frontier remained unchanged. Aboriginal evidence was inadmissible in court as it was thought that Aboriginal people did not believe in a supreme being who could punish them for wrong doing. On this basis Aboriginal people were unable to swear an oath. During New South Wales Legislative Council debates in 1844 and 1849 on Bills to accept Aboriginal evidence, the Attorney-General argued that if the Bill was made law it would control frontier violence because allowing Aboriginal people to testify would prevent settlers from hostile collisions with them (Rowley 1970:128). Members opposing the Bills disagreed, suggesting that it may have the opposite affect, on the principle ‘that dead men tell no tales’. The argument put forth by such members as Loewe, Hamilton, Wentworth, Fitzgerald and James Macarthur went even further saying that ‘it was not the policy of a wise government to attempt the perpetuation of the Aboriginal races... by any protective measures. They must give way before the arms, aye! Even the diseases of civilised nations’(Elkin 1941:191).

In 1863 the area now known as the Northern Territory was established under the control of South Australia. Although ‘there was a general lack of concern for the welfare of Aboriginal people in the Territory’ a part-time Aboriginal Protector was appointed by the South Australian government in 1864 (National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families 1997). Despite the appointment of an Aboriginal protector frontier violence continued in the Northern Territory throughout the late 1800s and into the early 1900s. For example, the 1874 Barrow Creek massacre occurred after Aboriginal people attacked a police station either in response to the treatment of Aboriginal women or for the closing off of the local water supply (Central Land Council n.d). A large police hunt was organised by Mounted Constable Samuel Gason which resulted in the killing of Aboriginal men, women and children; no charges were ever laid. The 1928 Coniston Station massacre occurred after Fredrick Brooks was murdered by Aboriginal people for his treatment of Aboriginal women (Elder 1988:143). Mounted Constable Murray led a party which resulted in the killing of as many as 50 Aboriginal people. In 1929 a board of enquiry was convened to investigate the incident but despite the enquiry no settlers including police were ever charged as the board found that all the shootings were justified (Elder 1988:153).

Murder trials from 1884-1911 highlight that Northern Territory juries were also more inclined to excuse settlers for their actions than Aboriginal people. During this period nine Aboriginal people were charged with murder and all nine were found guilty, with three being executed

(Broomham 2007). During the same period settlers that were charged with murdering Aboriginal people were found not guilty or released after a short time in gaol. The Daly Waters massacres for example, resulted in charges being laid against Constable Willshire after the Alice Springs Sub-Protector of Aboriginal people investigated reports of two Aboriginal men who were shot dead at Tempe Downs Station (Australian Dictionary of Biography 2006). Constable Willshire was charged with killing Aboriginal people but was honourably acquitted. Judge Bevan a Northern Territory Judge wrote in 1913:

Juries will not convict a white man for an offence against a black, certainly if the evidence is that of blacks, whereas on black evidence there is no difficulty in the way of securing a conviction against a black. The jury system may have worked well where the population is all one colour, but the introduction of racial antipathies goes far to undermine the principles of trial by jury.

The Myall Creek massacre was also a landmark event because retelling the story continued to remind Australians about the mistreatment of Aboriginal people during the period of frontier conflict. During the 1800's several popular poems were written about the massacre including 'Incantation Scene', 'Weird Sisters' and 'The Aboriginal Mother', the latter written by poet Eliza Dunlop was subsequently set to music (Webby 1980:1-13). The events were also recounted in texts published in Australia and overseas (Harris 1852; Heaton 1879; Flanagan 1888; Chomley 1903; Collier 1911). From 1920 to 1950 the Myall Creek massacre was less frequently discussed in texts although it did receive some attention (Elkin 1941; Shaw 1954). A chapter in *Australia* by anthropologist A. P. Elkin (1941:362) briefly described the Myall Creek massacre, noting that the stockman involved were enraged by the rushing of herds so 'sallied out in the fore, killed a score or two of natives – men women and children – and burned the bodies.'

In the early 1970s, the historian Charles Rowley described the Myall Creek massacre as one of Australia's horror stories that has 'given us such as racist image overseas' and must be told if Australians are 'to understand the real nature of the Aboriginal problem...[and] the brutalizing forces that brought it into being' (NSW Department of Child Welfare and Social Welfare 1971:9). It was around this time that stories of the Myall Creek massacre returned to prominence in texts on Australian history to illustrate the conflict between Indigenous people and settlers on the frontier (Beatty 1962; Barnard 1962; Ward 1969; Wannan 1972; Denholm 1978; Murray 1984; Bassett 1986; Atkinson *et al* 1987; Kociumbas 1992; Woods 2002). The Myall Creek massacre was also included in specialised text on Indigenous history and frontier conflict to describe race relations in Australia and the way the Colonial Administration dealt with Indigenous issues (Rowley 1970; Horton 1994; Milliss 1992; Windschuttle 2000; Elder 2003; Attwood *et al* 2003). In the 1990's the New South Wales Board of Education included the Myall Creek massacre in its 'Discovering Democracy Unit' which formed part of the curriculum for civics and citizenship education.

As well as playing an important role in educating people about Australian Indigenous history, the Myall Creek massacre also became part of Australia's reconciliation movement (Goodall 2002; Johnson 2002). In 1998 the Uniting Church held a conference on reconciliation at Myall Creek, which lead to the establishment of a Myall Creek Memorial Committee (Myall Creek Memorial Committee 2007:19). This Committee is made up of descendants of the Aboriginal people who survived the Myall Creek massacre, concerned locals and participants of the conference. One of the aims of this Committee was to establish a memorial in recognition of the Myall Creek massacre. While the concept of a memorial had been raised during the 1960s, this had met with strong opposition from some local residents who believed the idea was 'ill conceived, unconsidered and mischievous and an insult to the Bingara people' (Myall Creek Memorial Committee 2007:19).

In 2000, after several years of work, the Committee opened the Myall Creek Memorial 'in an act of reconciliation and in acknowledgement of the truth of our shared history' (Myall Creek Memorial Committee 2007:27). This memorial has brought together the descendants of the victims, survivors and perpetrators and each year a commemoration ceremony is held at the site. A Sydney Friends of Myall Creek has also been established to promote the significance of this site for all Australians. In recognition of the role that the memorial has played as a place of reconciliation, the Myall Creek memorial is a winner of the Australians for Native Title and Reconciliation's Judith Wright Reconciliation Prize (NSW Reconciliation Council 2003).

The Bronze Plaque on the memorial states;

In memory of the Wirrayaraay people who were murdered on the slopes of this ridge in an unprovoked but premeditated act in the late afternoon of 10 June 1838. Erected on 10 June 2000 by a group of Aboriginal and non-Aboriginal Australians in an act of reconciliation, and in acknowledgment of the truth of our shared history. We Remember them (Ngiyani winangay ganunga).

**Condition:**  
The nominated area is mainly woodland with the Myall Creek Memorial being constructed of fire resistant granite and metal alloys. The Myall Creek Memorial is managed by the Gwydir Shire Council and the Myall Creek Memorial Committee.

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