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Possessory stratigraphy: land title, dispossession and housing crisis

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ABSTRACT

The myth that Indigenous sovereignty lives in the past is central to the lore of settler colonial societies. Sustaining that myth entails significant material and symbolic work, particularly organised around the recursive placement of the 'original moment' of dispossession and colonisation in the past to make the settler sovereignty that has been imposed appear legitimate and complete. This paper presents an analysis of the story of one public housing estate in inner Melbourne, Walker Street, that has been the subject of recursive dispossession and multiple enactments of displacement. We examine the history of title documents at Walker Street, tracing back and forward through time to consider how those land titles have come to be and the work they do to constitute questions of belonging and housing inequality on stolen land. The methodology we develop seeks to understand land title as a literal register of the ongoingness of settler colonialism to reveal how title documents affectively and materially underscore the myth of a thickening settler claim to territory whilst distancing Indigenous sovereignty: we call this a possessory stratigraphy.

KEYWORDS: Public housing; Indigenous sovereignty; displacement; dispossession; settler colonial policy

In March 2018, a local tenant-led campaign had taken shape at a public housing estate in the inner-Melbourne suburb of Northcote. Will, a resident of the Walker Street Estate, was organising alongside neighbours against their forced displacement from the site. Having been assured a right to return after site redevelopment, he was navigating a fraught middle space where he sought to minimise the inevitable harm to his community by resisting displacement, while trying to realise better design outcomes in the masterplan to minimise any disadvantage to public housing tenants. Alongside organising activist meetings, he would host informal walking tours

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of his estate, inviting researchers, architects, urban planners and politicians at various times to connect with the stories of Walker Street.

Will's tours were a cathartic reanimation of the estate where his kids played and went to an afterschool homework group, where gumtrees, art murals, graffiti walls, basketball courts and community spaces were lived in and with. Now demolished, the relocation of the community preceded a full redevelopment of the estate, including the razing of all 87 public housing dwellings, for replacement with predominantly market housing. The redevelopment will completely reimagine the site, in both the demographic mix of residents who return and the transfer of property title from public to private hands.

The estate sits atop the bank of the Merri Creek, a significant urban waterway on Wurundjeri Country. Will typically starts his informal walking tour in his backyard, removing a panel of his fence and stepping through onto the bank of the creek. Under his guidance, visitors stride under thickets of tree branches and over knee-high grass, tracking the bank to an old footbridge that leads to the train station. A restricted path leads up to the station, but Will leads us over the fence, down the bank and to a secluded part of the creek. Less than 100 metre from the estate a plaque set in a concrete footing marks the place where an early invader, John Batman, created a 'treaty' with Wurundjeri Woi-Wurrung people, a fraudulent transaction seeking to consummate Batman and his cronies' efforts at proprietary control over land. Peeling back the scrub and kicking aside overgrown grass, Will clears the plaque and says, 'this is what I wanted you to see' (Figure 1).

Introduction

Will and his neighbours are enmeshed in processes of clearance, erasure and reimagination that have long been underway in the place from which we write. To attend to those processes we begin where our earlier work left off (Porter & Kelly, 2022) with the aim of bringing 'purposeful attention to where we are' (Barker, 2018, p. 34). In this paper we are located on and writing about housing injustice in ways materially and conceptually grounded in the colonial property relation that has produced what we will refer to in this paper as Walker Street, a parcel of land on Wurundjeri country, located in Northcote, a now-trendy inner-metropolitan suburb of Melbourne. Built as a public housing estate in the 1960s, Walker Street was demolished in 2021. Along with ten other similar estates, it was the target of a major urban renewal programme that signalled the beginning of the end for public housing in Victoria. Successive waves of piecemeal renewal have now morphed into an overt policy, announced in 2023, to eradicate all public housing estates across the city—44 high-rise towers and 11 low-rise estates home to more than 12,000 households (Figure 1).

It would be relatively easy to frame this as simply 'one more round of displacement'. This is a commonly drawn conclusion in the housing displacement literature, even that which acknowledges an original round of

Figure 1. Walker Street estate and Merri Creek. By David Kelly 2023.

Indigenous dispossession (see Masuda et al., 2020). However this framing tends to bracket 'original dispossession' as not just historical, but at such distance as now to be irrelevant to the apparently more urgent question of contemporary housing justice. The myth that Indigenous sovereignty lives in the past is central to the production of national narratives of belonging and legitimacy in settler colonial societies. Sustaining that myth entails significant material and symbolic work, organised around the recursive placement of the 'original moment' of dispossession and colonisation in the past to make the settler sovereignty that has been imposed appear legitimate and complete. The fact of unceded Indigenous sovereignty immediately renders this apparent legitimacy and completeness untrue. But what does it mean analytically for housing scholarship? Here, we draw on the concepts of *territory as analytic* (Barker, 2018) and *recursive dispossession* (Nichols, 2020) to further develop a methodology and analytical framework to critically appraise the relationships between housing and land at Walker Street.

With this lens, only two correlates match displacement underway in Melbourne today: the urban slum clearance policies of the 1930s that produced the public housing now being demolished; and the missionisation policies that enclosed Wurundjeri and other Indigenous people during the nineteenth and twentieth centuries. These moments of mass displacement in the colony fundamentally prefigure the re/structuring of settler property regimes. Both processes were at work to create Walker Street. They are entangled processes of displacement and property creation that bootstrap the dispossession of Indigenous people through repetitious land transactions, constituting what Nichols (2020) terms recursive dispossession.

To create the site as it now exists, Wurundjeri people, the sovereign custodians of the site, were cleared off the land during the frontier period and contained in missions outside the city. In the 1950s, the site was cleared again of people deemed 'undesirable' through the slum reclamation programme enabling a public housing estate to be built. Now, under a proclaimed 'renewal' programme, those public housing residents have been cleared to make possible yet another round of revalorisation through a largely private housing redevelopment (Homes Victoria, 2023). Walker Street is thus emblematic of how recursive dispossession works in practice a synecdoche of the shifts in political imaginaries since invasion about housing in a settler colony. From the frontier to today, these processes are structurally embedded within settler economies and societies, registered in the transfer of land title, and justified in the codification of white law after the fact.

In her 2018 essay, Barker uses debt as the unit of analysis to grapple with the relationships that produce territory as a site of value extraction under colonial racial capitalism. In so doing, she argues, we are better able to contextualise how current formations of inequality and dispossession are contingent on the configurations of the meaning of land and belonging created through colonialism and to recognise the imposition of this meaning as a normative force in everyday contemporary relations. Our focus here is on the land relation, that which as Glen Coulthard (2014) identifies underpins the myth that Indigenous sovereignty lives in the past, extinguished by an original moment of dispossession now cast non-proximate and politically irrelevant. In other words, we are interested in what creates the possibility of property-generating theft (Nichols, 2020), how recursive cycles of possession and dispossession are sustained seemingly in perpetuity, and how starting from this premise reveals that the prospect of un-homing and displacement for populations deemed disposable is always on the horizon. Following Strakosch and Macoun (2012) analysis of temporal settler colonial policy interventions, the colonial property regime is a mechanism by which settler futurity is supposedly secured.

Our unit of analysis, therefore, is land title and specifically the land title *document*. Examining title documents exposes dispossession as a *present* mode of imperialism and the *persistent* mechanism through which settler colonial societies organise social relationships with land and place. Following Barker, this reveals how dispossession is not merely a past occurrence but 'the articulatory present' (2018, p. 25) of an imperial formation that structures all subsequent contemporary socio-economic relationships. Coloniality, where settlers felt unconstrained by the relations of ownership and aristocracy 'at home', has long been observed as a crucible where 'new forms of land holding could be imposed with relative ease' (Bhandar, 2018, p. 254). Titles literally register the ongoingness of colonialism through their enforcement of a unidirectional settler temporality. Like Barker's (2018) genealogy of the function of debt in coloniality, our analysis traces the history of the land titles that make up Walker Street

to consider how those land titles have come to be and the work they do to constitute questions of belonging and housing inequality on stolen land. The methodology we begin to develop here seeks to attend more closely to understanding Will and his neighbours' displacement from Walker St estate in relation with unceded Indigenous sovereignty as both fact and organising concept (Moreton-Robinson, 2015; Watego, 2021; Watson, 2015)—as territory as analytic (Barker, 2018). We posit that the creation of property as a legal artefact underwrites settler authority at the same time as property as a material, proprietary relation is upheld by settler presence (see Tuck & Yang, 2012, pp. 5–6). That presence is qualitatively different to the type of Indigenous presencing (see McQuire, 2023) where relations to land are material, ontological, enduring and manifest. We anticipate that this approach might be broadly applicable across other settler colonies, offering new insights into a local housing justice struggle organised at least in part around the question of the publicness or otherwise of land.

In the next section we outline the contemporary housing crisis in so-called Melbourne, Australia. Narratives about the housing crisis here tend to exceptionalise the current moment as distinct and disconnected from Indigenous dispossession and sovereignty, a framing that lends itself to response in the form of liberal redistributive activist demands. Through an analysis of titles, we reveal how the colonial land relation has already made possible a particular socio-political and spatial organisation of 'housing' that make an anti-privatisation (or redistributive) agenda appear both unremarkable and progressive. The empirical sections that follow examine the means of dispossession that attempt to convert Wurundjeri Country into property. Throughout this paper we use the term *Country*, referring to the sovereign territory of Indigenous peoples, an agentic sense of place with whom Indigenous people have an ontological relationship and derive their sense of belonging. Writing as settlers, we acknowledge this is not our philosophy to advance but rather for us to learn with. Country is everywhere, everywhen, encompassing not just terrestrial land, but skies, waters and subterranean lifeworlds as conceptualised by Wurundjeri knowledge-holder Mandy Nicholson (Nicholson & Jones, 2018). Country is conceptually incommensurable with the 'white geologic' of stratigraphic time (Yusoff, 2018). We develop a narrative around land title that demonstrates how Wurundjeri Country became entangled with processes of recursive dispossession, how property was created at Walker Street and how these processes are co-constitutive of contemporary displacement and theft. From this, we glean what it might mean to begin approaching the question of housing justice on stolen land.

Narrating a housing crisis

Like other cities whose establishment was contingent on British settler colonialism, the organisation of housing in Melbourne is all about

ownership. The public-private property relation that structures the housing question here profoundly privileges the notion that housing is an asset from which wealth should be extracted. The normative aspiration of dwelling in Australia is private ownership, with macro financial systems such as taxation geared towards incentivising and sustaining the extraction of wealth from private property. For those struggling to 'get on the housing ladder', the only real option is renting in the private market because social housing is so thoroughly residualised and marginal (Morris, 2015). Social housing is around 2.9% of the housing stock in Victoria (AIHW, 2023), made up of both public housing (owned and managed by the state) and community housing (owned and/or managed by not-for-profit housing associations). Whilst social housing households in Victoria are predominantly white, high-rise towers and low-rise estates are highly racialised. Those estates scheduled for demolition are overwhelmingly home to ethnic minority migrant communities, many from refugee backgrounds, and Indigenous people.

Like many other parts of the world, Melbourne is in the grip of a fierce affordability crisis with rents rising 13% in the past year (CoreLogic, 2023), rental vacancies at an historic low and inflation placing further pressure on stagnant household wages. In perhaps the most compelling source of evidence that the experience of crisis has leaked beyond those social groups who most commonly experience it, Melbourne has seen the emergence of a YIMBY[4] movement, following other global North cities (McElroy & Szeto, 2018; Wyly, 2022). The YIMBYs sing to the same tune of most public commentary from housing economists and policy wonks: that the crisis is one of insufficient supply and the solution is to dramatically increase it by removing planning and environmental regulations. When the dogma of supply is challenged by more structural critiques, the problem is framed as one of maldistribution: that there may be enough housing available, but it is not equitably distributed because the innate structure of capitalism enables housing as a form of wealth extraction rather than a fundamental human right. We ourselves have made these maldistribution arguments in public forums.

Complicating the housing policy domain further is a growing shift in Federal and State Governments' stance towards privatised models of low-income housing provision. Deploying the more slippery term 'social housing', governments are divesting from public housing by transferring stock, tenancies, and sometimes land to private not-for-profit housing associations, which in Victoria are called Community Housing Organisations (CHOs). A range of tricky financial techniques are used such as the Victorian Government's Ground Lease Model, a mode of public-private partnership that reinscribes parcels of state-owned land as sites for profit generation while pre-empting critiques about the loss of 'public' land (Kelly et al., 2023). This shift is further demonstration of the role of capitalist urban logics in the development of low-income housing. From within the normalised settler colonial frame of reference, public land and public housing

offer vital capacity for a more socially just distribution of housing. Consequently, the contemporary public debate about the provision of low-income housing centres on the state's role and capacity. A significant claim is thus enabled about the distinctive value of public land as a special and uncomplicated kind of ownership category that holds a more proximate possibility for housing justice. Yet public land or 'commons' in a settler-colonial context 'not only belong to somebody—the First Peoples of this land—they also deeply inform and sustain Indigenous modes of thought and behaviour' (Coulthard, 2014, p12). Defending or reclaiming a commons unproblematised by the underlying dispossession that enables labels like 'public land' to be applied in the first place, functions to naturalise the legitimacy of settler claims to belonging and place (see also Barker, 2018; Fortier, 2017; Grande 2013).

These are the lines currently drawn in public and policy debate about the 'housing crisis' here in Melbourne and across the continent. Naming this as a 'crisis', however, not only fails to acknowledge a structural tendency towards housing security under capitalism (per Madden & Marcuse, 2016), but also works to exceptionalise a situation that has been present since invasion. 'Crisis' suggests a period of intensity that can be fixed through targeted or new state policy settings rather than identifying a systemic condition that is the crucible of racialised relations of belonging here. The supply orthodoxy that dogs public debate assumes the ontological supremacy of capitalist land, as does the maldistribution argument. Both claims see the availability of land for housing, whether publicly or privately held, as uncomplicated by ongoing Indigenous sovereignty, because Indigenous dispossession is reconciled to a distant past and cast as no longer relevant. This is telling in the context of current Treaty negotiation now underway in Victoria where the State is being asked by First Peoples to seriously contend with the as-yet unreconciled question of land justice.

Claims for the vital importance of public land and attendant concerns about its privatisation have provided sharp focus on what is at stake in contemporary housing policy. Such concerns position the privatisation of *public* land as a particularly egregious form of injustice. In Australia, public land is that owned by different arms of the settler state, specific government departments, or different levels of government. It is often called Crown land as its ultimate authority resides in the Crown. There is no doubt that privatisation and commodification are rightly the focus of sustained critique and struggle. Yet when we scrutinise the category public land from a perspective grounded in Indigenous sovereignty as fact, it becomes clear that the claim for a category of land called 'public' further obscures the colonial land relation from view. Claims about the 'public' nature of such ownership is rooted in a progressive liberal ideal: that the category public land is in material and real ways a form of collective ownership—by the state, for its citizenry. The ecology of colonial property, however, is founded in—that is to say, created from

and through—patriarchal white possessiveness (Moreton-Robinson, 2015). Property dispossesses recursively (Nichols, 2020). Whether the owner is a private or public entity, property organises a set of possessive assumptions (Macpherson & Cunningham, 2011, see also Porter, 2014) that are 'uniquely predicated', as Park (2024) has observed, on racial violence, coloniality and enslavement.

Our purpose in this observation is not to undermine progressive struggle for a public good, but to take seriously, as territory as analytic demands, the fact of Indigenous sovereignty and allow that fact to reconfigure familiar housing justice questions and claims. What this brings into view is that struggles for land and housing justice that appeal to the logics of property simply further turn the screws on colonial extractivism and racial hierarchies. Starting from a position of Indigenous sovereignty as fact reveals, following Barker (2018), Coulthard (2014), Watego (2021), Watson (2015), and Moreton-Robinson (2015) the spurious nature of this arrangement and questions the claim that public land has a higher order of public value. Like any colonial property holding, public land is created through the same processes of dispossession and land theft. Who constitutes the 'public' in relation to this land, if the holding entity is an illegitimate settler state imposed fraudulently? This tension, and the issue of housing injustice experienced by Indigenous people in the colony has been a focus of sustained struggle and action by Indigenous people for decades. Indigenous activists in Victoria have pointed to the contradiction that such an agenda of strident privatisation is being undertaken by a State Government that is at the same time in an active Treaty negotiation (Thorpe, 2019). The Yoorrook Justice Commission as part of its truth-telling preparations for Treaty have identified housing as a key area of injustice experienced by Indigenous people, contextualising this explicitly in relation to a broader agenda of reconfiguring land relations in the state (Yorrook Justice Commission, 2023). These matters highlight the disconnect required for the settler colony to keep functioning, where by virtue of being physically settled and administratively defined, the land question is treated as if it has been put to rest.

Titles and recursive dispossession

In a settler colony, *property* entails a 'unique species of theft' (Nichols, 2020, p. 30) in which the transfer of, in our case here, Wurundjeri Country to colonial property parcels is at the same time a transformation into property. Thus, 'dispossession creates an object in the very act of appropriating it' (Nichols, 2020, p. 31) and is therefore recursive—producing what it presupposes in the very act of its production. In this way, public land and private land can be seen as two categories in the same regime of colonial property created, recursively, through dispossession. Public land is neither conceptually nor empirically different from other kinds of landholding under this arrangement. Like private land, it is the spoils of theft

held under titled ownership by an illegitimately imposed state authority. Claims for an exceptional quality of public land works to historicise Indigenous dispossession and contribute to the mythology of a temporally distant and no longer relevant Indigenous sovereignty.

Our own involvement in public housing activism and research in Melbourne has abetted a solidarity praxis that positions Indigenous peoples as 'particularly present' (Barker, 2018, p. 20) and works to rationalise the theft of their territory as resolved. Claims like 'always was, always will be, Aboriginal land' and acknowledgments of the disproportionate effects and unexceptional quality of housing crisis for Indigenous communities are important but can become moves to innocence when restricted to settler exhortations about the injustice of colonisation (Mawhinney, 1998, as cited in Tuck & Yang, 2012, pp. 9–10). A purely discursive approach sidesteps the materiality of land theft, working to figuratively bury Indigenous territorial sovereignty under layers of settler title and the category of public land while simultaneously functioning as a performative gesture that recuperates what may be characterised as an aspirationally 'politically correct' settler subjectivity. In arguing to keep public land *public*, this epistemologically liberal discourse thus upholds the idea of a benevolent state that has deviated from its purpose. It compels a politic of redistribution that reaffirms the legitimacy of the state's right to dispossess. If struggles for public housing and public land can create and re-energise recursive dispossession then much more work needs to be done to unlearn our categories of public value.

In this paper we start by asking: how did Walker Street come into existence and what forms of land and property relations hold it up? As if conjured from thin air, the creation of land title in a settler-colony is a materially violent myth making technology that 'converts' Country into property. Title is the essential recursive mechanism of dispossession—creating what it presupposes and forming the presupposition in the moment of that creation. As Sarah Keenan (2019, p. 285) observes:

> [t]itle registries operate on the basis of fictional accounts of land which portray it as a market commodity with a short and entirely contained history…[allowing] its users and the land attached to them through property to be temporally extricated from the material constraints of history and relocated into the future. This radical temporal dislocation can reap great benefits for registry users, but those who cannot access the registry are left behind in a temporal era deemed to have ended, their current relationships with land rendered temporary. As such, title registries tend to produce racial-temporal categories of white subjects whose entitlement to land is transcendental, and non-white subjects whose entitlement to land is either confined to the past or to a future that never comes.

Title documents are legal events: constructing and organising a settler social, temporal and spatial reality (Grabham, 2016; Keenan, 2019). Titles organise a linear settler temporality that hooks possession *back* to an original moment of Crown grant and *forward* into a future secured by the

possibility of infinite additions to the list of owners' names. Settler title operationalises (visually, legally, discursively) what we call here a *possessory stratigraphy*, each new owner laid as a new layer on top of the former. Visually, title documents reaffirm a settler linearity of time, creating the impression of a temporal movement away from Indigenous sovereignty under thickening layers of white possession. Sequential titling conjures into being a fallacious stratigraphy of claims that function to disavow Indigenous sovereignty and to obscure that title transfers are live artefacts registering colonial theft. This helps sustain the discursive myth that Indigenous sovereignty is located, along with its attendant original moment of dispossession, in the past. Analysing title documents brings attention to the moments of title transfer, showing how Indigenous peoples are not merely erased within understandings of housing crisis but represented in such a way as to reconcile their erasure and ongoing dispossession. The transfer of land title *registers* and *reconciles* theft in the same twist. Thinking with title helps reveal dispossession as a current process rather than colonial afterlife (Moreton-Robinson, 2015; Wolfe, 2006).

Title documents are themselves an invention of a system of registration known as Torrens titling. The Torrens system of land registration, now established in many nation-states, is named after its inventor Robert Torrens, an English colonist in South Australia who became Registrar-General as well as Colonial Treasurer. There, Torrens first instituted a registration system, now widespread across the globe, that involved a record of land title being made on a central and publicly accessible ledger. Prior to Torrens title registration, land in the Australian colonies was held under common law deeds where legal ownership of land was attested through physical possession and had to be proven through conveyancing of the chain of deeds to affirm rights and transfer (see Keenan, 2019). Under Torrens' invention, central registration of title attests ownership through the registration of land parcel, name and any mortgages. Only the entity named on the title registry can be deemed the owner and all other or former relationships to land are 'legally disappeared' (Keenan, 2019, p. 8). This did away with the need to locate and prove a chain of deeds dating back to the Crown, and assured state-sanctioned ownership rights separate from physical possession, laying the foundation for a progressive distancing between owner and land under the colonial property relation. Transforming possession-based title to registration-based title meant that title documents themselves became self-actualising facts, drawing their 'legal legitimacy, and thus their marketability, from the singular act of registration' (Keenan, 2019, p. 289). Title documents accordingly become important in the way that settler legitimacy is actualised and rendered normal.

Torrens titling was established in Victoria in 1862 through the *Real Property Act* which was instituted to 'simplify the Laws relating to Transfer and Enumbrance of Freehold and other Interests in Land' (Real Property Act 1862 Preamble). It brought 'all waste land and all lands set apart for public purposes remaining unalienated from the Crown' (ibid, XII) under

its provisions. Registered titles are publicly available documents. A search in the Public Records Office of Victoria revealed the existence of six title documents pertaining to the Walker Street estate, each registered under the Torrens system between 1874 and 1936 and registering successive transfers and exchanges of title on each plot since (see Table 1).

As Table 1 shows, some titles have exchanged hands more often than others, prompted either by sale on the private market or by the death of a title holder. This transfer is achieved by annotating the registration entry with a new title holder's name. On the historical Certificates of Title we sourced through the Public Records Office (see Figure 2) recording of title transfer is done in handwritten script identifying the name and profession of previous and new title holders with each declared as 'now the proprietor of the within-described estate and land by transfer'. The date and time of each transfer, along with a transfer number confers legitimacy and the force of state recognition through the signature of the Assistant Registrar of Titles, along with a variety of other marks including stamps, ticks and handwritten notations. Each transfer instance is a re-codification of dispossession, where the ongoing theft of Wurundjeri land re-conjures possessive property into being.

Table 1. Title transfers on Walker Street estate, 1874–1958.

Lot numbers	Title transfers
Allotment 1 and part of 2	2 July 1874 title registered
	Dec 1892
	Aug 1893
	Aug 1900
	June 1915
	Nov 1915
	March 1940
	June 1942
	Oct 1958 to Housing Commission
Allotment 3 and part of 2	12 June 1936 title registered
	Sept 1936
	Nov 1955 Aug 1958 to Housing Commission
Allotment 4	3 October 1884 title registered
	June 1906
	Dec 1911
	July 1941
	July 1950 Aug 1958 to Housing Commission
Allotment 5	6 October 1930 title registered
	Sept 1939
	March 1953 July 1958 to Housing Commission
Allotment 6	7 October 1882 title registered
	Oct 1882
	Feb 1886
	June 1906
	March 1929
	March 1929
	June 1942 Oct 1958 to Housing Commission
Allotments 7, 8 9	8 January 1903 title registered
	April 1942
	Dec 1958 to Housing Commission

Figure 2. Certificate of Title, allotment 1 and part of 2 on the Walker Street estate.

Title documents provide insight into both the legal mechanism of how stolen Wurundjeri land is exchanged and the symbolic function of these documents in their very material and visual expression. The fact of unceded Wurundjeri sovereignty is of course nowhere to be seen on this Certificate of Title. Instead, the Certificate identifies a 'first' owner, the person who registered the title serving the role of origin story so important to the myth-making work of the settler-colony (see O'Brien, 2010; also Said, 1993). Settler ownership magically appears out of nowhere, untroubled by existing relationships of law/lore, belonging and home. In the case of allotment 1 and part of 2 as shown in Figure 2, Wurundjeri sovereignty appears to have vanished.

Yet more than this, the layering effect of the registration of transfers of ownership does a particular kind of work in the settler colony. By rendering the first iteration of dispossession unsee-able, each successive transfer appears to push prior ownership claims further and further away temporally. Thinking with this as a possessory stratigraphy reveals a layering of white possessiveness that gives the appearance that settler claims are thickening over time, placing Wurundjeri sovereignty temporally in the far distant past if seeable at all and irrelevant to a future already foretold. This stratigraphy also bolsters colonial imaginaries of Indigenous absence in urban space, rendering Wurundjeri people and relations as anachronistic in contemporary considerations of land and belonging in

settler cities. Title documents themselves are therefore a tool in the settler apparatus bent on obscuring the reality that the land question is far from settled.

Certificates of Title at Walker Street also reveal the unexceptional character of 'public land' when analysed through the lens of recursive dispossession. The final transfer recorded on all six titles is in 1958, when each property is vested with the Housing Commission of Victoria. This transferred the land (back) to government ownership, converting it into 'public land'. Government, *via* its public housing agency, remains the title holder at the time of writing, with all titles now consolidated into one single title, Plan of Consolidation Number PC 367392U, identifying the site as held under Estate Fee Simple by 'Sole Proprietor Director of Housing'. Operationalised as just another transfer like all those prior, transfer to government ownership makes clear that the categories of public and private ownership are functionally equivalent in relation to Indigenous sovereignty. Both are organised through a unitary logic of possession (Macpherson & Cunningham, 2011) naming a single owner with enforceable rights derived from their status as owners. Despite the historicisation sought by land titling processes, the transferral of ownership within the ecology of the colonial property regime, including to the state, is simply one more iteration of dispossession.

We will return to this observation later. For now, our story needs to take up a genealogy of how these titles came to be conjured into existence and by what material and symbolic forms of violence. To do so, the next section examines the historical machinations of dispossession used to convert Wurundjeri Woi-wurrung Country into settler property at the site of the Walker Street estate. Processes of territorial appropriation and legislative change occurred hand in hand over the 18th and 19th centuries to establish, characterise and entrench a fundamentally exclusionary and racialised form of property rights in land (Harris, 2004; Moreton-Robinson, 2015). It is necessary to understand the detail of these processes in order to grasp how possessory stratigraphy functions.

Recursive dispossession of Wurundjeri Country

Though the history of colonial incursions into Wurundjeri and Boonwurrung Country began decades earlier, we trace the story of Walker Street back to the entrepreneurial activities of syphilitic mass-murderer and grazier John Batman in the early 1830s. After participating in the massacres of Tasmanian Aboriginal people in the Black Wars of the 1820s, Batman set his eyes on the fertile lands across the Bass Strait and set out in 1835 to expand his land holdings in what colonists had renamed the Port Phillip region. Batman did so through an agreement he described as a purchase of land in exchange for a yearly tribute between himself and a group of *ngurungaeta* or clan heads from the Kulin nation (Batman, 1835). Three of these *ngurungaeta* were brothers, all named on the

agreement document as JagaJaga, with the names of the other five listed as Cooloolock, Bungarie, Yanyan, Moowhip, and Mommarmalar (Port Phillip Association, 1835a). The location of this agreement has been identified by both Wurundjeri knowledge holders and some settler historians as a site on the Merri Creek a short distance northwest of the Walker Street site (Bunj Consultants, 2004, p. 10; Swift, 1928, pp. 1–2).[1] It is the site where the plaque in the grass, the conclusion of Will's tour, now stands.

While Batman and early colonial records referred to these *ngurungaeta* as representatives of the 'Duttigalla' tribe, following Wurundjeri historical information and assessments by scholars including Van Toorn (2006, p. 240, endnote 12), it is reasonable to assume that Batman had met with leaders from across the Kulin nation including Wurundjeri people. The treaty document purports to transfer ownership of some 600,000 acres spanning Wathaurung, Woiwurrung (Wurundjeri), Boonwurrung, Djadjawurrung and Taungurung lands to Batman in exchange for the payment of a yearly tribute of 'Fifty Pair of Blankets Fifty Knives, Fifty Tomahawks, Fifty Pair Scissors, Fifty Looking Glasses, Twenty Suits of Slops or Clothing & Two Tons of Flour' (Port Phillip Association, 1835a). The founding documents of the Port Phillip Association, drafted just a few weeks later at the end of June 1835, state that Batman acquired the territory for the purpose of pastoral expansion on behalf of a group of compatriots still in Tasmania (Port Phillip Association, 1835b). Serious questions remain regarding whether the 'Chiefs' Batman refers to actually signed or even sighted the document (Van Toorn, 2006, p. 84), let alone whether they shared Batman's understanding of its meaning (Johnson, 2018, p. 112). However, as Johnson (2018, p. 113) identifies, regardless of intent, Batman's endeavour to treaty with Aboriginal people in the first place had serious implications not just for Wurundjeri people but for the colonial property regime writ large.

At around the same time as Batman's exploration of the Port Phillip region, colonial authorities in Sydney were becoming increasingly concerned about opportunistic land-grabs by settlers. Keen to keep 'squatters' in check despite their activities being instrumental to the expansion of the frontier (Wolfe, 2006, p. 392), in 1833 the NSW Parliament passed a law to protect Crown lands from 'encroachment intrusion and trespass thereon and to prevent the unauthorised occupation thereof from being considered as giving any legal title thereto' (Crown Lands Encroachment Act, 1833 (NSW), s. 1). This Act established the office of the Commissioners of Crown Lands, authorising the Governor of NSW to police unlawful access or occupation of such lands. It also authorised Commissioners to make surveys of Crown lands and to erect 'beacons and landmarks' upon them, physically inscribing the Crown's claim onto stolen territory (Crown Lands Encroachment Act, 1833, s. 3).

Reflecting on the rise in claims of land against the King in 1834, NSW Supreme Court Chief Justice Sir Francis Forbes emphasised 'the distinction

between conquered or ceded foreign possessions' (Bennett, 1998, p. 227). He wrote:

> Where British subjects settle an uninhabited country, they carry the laws of the parent country with them - and among other parts of the law, the prerogatives of the Crown, become in force. By the laws of England the King is the ultimus heres, and becomes entitled to all the waste lands of the Colony. (Bennett, 1998, p. 227)

We can see here how the legal fiction of *terra nullius* facilitates Forbes' attribution of *ultimus heres*[2]. Having established the continent as inappropriately inhabited by Indigenous peoples, and therefore as functionally heirless, Forbes endorses the Crown's proprietary claim over the territory and affords it primacy in relation to the private claims of British subjects. That is, the Crown becomes the primary heir to the territory, and it is only by virtue of dealings with the Crown and its institutions that colonists can rightly assert a claim to land. The designation of the territory as 'waste lands' speaks to racialised assessments of land usage that deemed Indigenous peoples' relationships with the land insufficiently productive as to constitute their use recognisable to colonial observers. Property in this sense has always been about defining personhood (Roy, 2017) and who will get to count as fully human, based in racial hierarchy (Park, 2024; Wynter, 2003).

Forbes' statement threw into question the legal validity (i.e., as recognised by the Parliament of NSW) of Batman's attempt to treat with Kulin leaders. Forbes advised then-Governor Bourke about the illegality of settlement outside the limits of the colony proper (Bennett, 1998, pp. 227–228). This prompted Bourke to issue a proclamation formally reiterating the doctrine of *terra nullius* and the Crown's supreme authority (Bourke, 1835). Bourke's proclamation made claims about both the type and relative legitimacy of three distinct forms of relationship to land in the early colony. These are encapsulated in the assertion that any 'such treaty, bargain, and contract with the Aboriginal Natives, as aforesaid, for the possession, title, or claim to any Lands lying and being within the limits of the Government of the Colony of New South Wales… is void and of no effect against the rights of the Crown…' (Bourke, 1835). Bourke thus begins by describing the perceived incapacity of Indigenous people to dispose of their land *because* their relationship to it is configured as non-proprietary. From this premise, he then distinguishes between legitimate (the Crown's) and illegitimate (unsanctioned settlers') proprietary claims, underscoring the Government's role in apportioning stolen Indigenous land. Property is created recursively through dispossession. In becoming an immediate and vast resource for Government revenue generation through private tenancy or sale reveals how the real value of property inheres in the way titles function as vehicles for credit creation and future wealth speculation.

A mere three years after Bourke's statement, surveyors' lines and fences enabled the first exchanges of stolen Wurundjeri land in the vicinity of

the Walker Street estate. Allotment and subdivision required the abstract measurement of land through plans and drawing, turning it into property. Long rectangular plots were laid out by colonial surveyor William Darke in 1839 to the north of the Merri Creek bend (Butler, 1983). These lots were listed for sale in the New South Wales Government Gazette in 1840 (see Figure 3). Defined as 'suburban allotments', the going rate was 3 pounds per acre—notably, in the same gazette, town allotments in Melbourne's burgeoning city centre were listed for 300 pounds per acre.

Bourke's proclamation and the subsequent creep of colonial infrastructure across the landscape created the appearance of having 'settled' the question of legitimate land ownership. However, with more orderly invasion proceeding apace, considerable attention remained on how to resolve the Aboriginal 'problem'. In the imperial core, this was being examined by the British Parliament across the Crown's colonies. The House of Commons Parliamentary Select Committee on Aboriginal Tribes (British Settlements) reported in 1837 with a sober assessment of the impacts of colonisation on native peoples. In a section assessing the conditions of Aboriginal peoples of 'New Holland', the Committee bemoaned the lack of attention to 'the territorial rights of the natives'. This lament epitomises an affective justification of land theft and genocide. The violence inflicted upon Indigenous people is thus framed as an incidental mistake rather than central to physically securing stolen land. Well before the closure of the colonial frontier, the Committee got to work at smoothing the dying pillow.[5]

The Select Committee's resolution was to establish 'more humanitarian' colonialism, and in 1838 Lord Glenelg, Secretary of State for War and the Colonies, directed NSW Governor Gipps to establish the Office of Protector of Aborigines, which would operate from the Port Phillip region (Watson

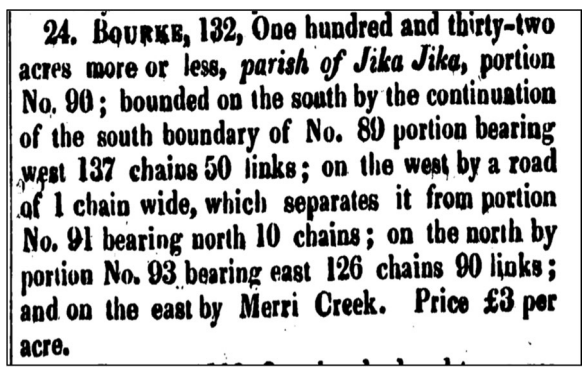
24. BOURKE, 132, One hundred and thirty-two acres more or less, *parish of Jika Jika*, portion No. 90; bounded on the south by the continuation of the south boundary of No. 89 portion bearing west 137 chains 50 links; on the west by a road of 1 chain wide, which separates it from portion No. 91 bearing north 10 chains; on the north by portion No. 93 bearing east 126 chains 90 links; and on the east by Merri Creek. Price £3 per acre.

Figure 3. Advertisement for sale of land allotments adjacent to Walker Street site. *Note.* Advertisements for the sale of land allotments by public auction in the Naarm region were first published in the NSW Government Gazette, and later in the Victorian Government Gazette. From *Supplement to the New South Wales Government Gazette of Wednesday, March 11, 1840.* (p. 246), by Government of New South Wales, 14 March, 1840.

& Chapman, 1923, pp. 252–255). George Augustus Robinson was appointed as the Chief Protector of Aborigines, with four Assistant Protectors, all charged with the management of the Aboriginal population (Government of New South Wales, 1838, p. 1085). Assistant Protector William Thomas was assigned responsibility for the Melbourne district and began in late 1841 to visit the area where the Merri Creek joins the Yarra River, a kilometre or so downstream from the site of Batman's treaty (Clark & Heydon, 2004, p. 2). A short-lived government mission had already been attempted and abandoned near Walker Street between 1837 and 1838, established in conjunction with the Native Police Corps (Clark & Heydon, 2004, pp. 13–15). Thomas and the Protectorate were issued instructions (Government of New South Wales, 1840, p. 752) that catalysed reinvigoration of missionisation near Walker Street with processes of forced displacement continuing apace across the mid to late 1800s. The mission system and Native Police force operated as a carceral nexus to manage Indigenous people under the Port Phillip Protectorate, including interactions with settlers and their ill-gotten property.

The clearance of the people went hand-in-hand with the physical and discursive reorganisation of the land. While the Protectorate was being established, a colonist named Walker secured a plot of land in an 1840 sale (Butler, 1983). Just to the south of Walker's plot, colonial surveyors Hoddle and Larritt were imagining a village into existence on their maps and plans, with the site of Walker Street at its heart (Surveyor-General's Department, 1853). Batman had noted on his arrival there years prior that the area was 'finely wooded', and this vegetation had to be removed to allow development. Prisoners were used to clear the land in this part of Northcote, using a miniature bullock dray with a pole and crossbar (Swift, 1928, p. 11) to drag across the land and rip out the vegetation. Once cleared of people and vegetation, the township lots imagined on the map could be physically materialised. In 1853 a street pattern of four main streets was laid out. Each was named after the first colonisers, including Walker, who had been the first to purchase land stolen thirteen years earlier (Sellitto, n.d., p. 5) (Figure 4).

Wurundjeri people continued to live in the area and particularly close to the creek near the site of the infamous treaty signing (see Swift, 1928, p. 41). As colonial infrastructure was imposed, however, it became increasingly difficult to access previously abundant food and resources. Vegetation was ripped out, the water fouled, and fences, farms and buildings sprang up everywhere (Westgarth, 1846, p. 12). The theft and despoiling of their land saw the remaining Wurundjeri people reduced to hunger and impoverishment (Swift, 1928, p. 11) prompting regular visits to Assistant Protector Thomas's home on the other side of the Merri Creek for food and essential supplies.

The endless colonial expansion across their territory catalysed Wurundjeri leaders into further action and self-advocacy. In 1859 Wurundjeri *ngurungaeta* Simon Wonga (present as a child with father Billibellary at Batman's treaty) led delegations of Wurundjeri and Taungurong people to petition

Figure 4. Sale plan for allotments in the township of Northcote, 1853. *Note.* This sale plan for land allotments in the new township of Northcote was drawn up in 1853 by Assistant Surveyor Richard Larritt. From "SALE44; LARRITT," by Surveyor-General's Department, 1853, VPRS 8168/P0002, PROV.

government officials for access to land to live free and independently. At the same time, settlers were aggressively pursuing processes of displacement and confinement of Indigenous people to clear yet more land. An 1859 report by the Select Committee of the Victorian Legislative Council

on the Aborigines recommended centralisation of this racialised cleansing through the establishment of reserves to 'protect' Indigenous people from violence and disease. The Central Board for the Protection of Aborigines, established in 1860, oversaw widescale missionisation for the dwindling numbers of surviving Kulin peoples. Wurundjeri people continued their struggle 'in the teeth of Empire' (Simpson, 2014, p. 158), with *ngurungaeta* Simon Wonga and William Barak seeking lands to ensure their rights to live autonomously and self-sufficiently even if territorially constrained. Their efforts led to the establishment of Coranderrk Station in 1863, in the northwestern reaches of Wurundjeri Country.

Forced displacement and dispossession was central to colonial expansion in early Melbourne. In the Walker Street region, the removal of Wurundjeri people enabled further development and minimised the risk to settlers associated with physical proximity to the dispossessed. A church (All Saints[3]) built nearby on High Street and a police station on Walker St in 1859 established the beginnings of the village the colonial surveyors had imagined. The Bridge Hotel was built on a corner of Walker Street in 1864, next to the Merri Creek and the original wooden bridge that crossed it, first erected as a temporary structure and then successively upgraded and widened. Land sales in the township of Northcote proper were initially slow and most early lots were bought by speculators (Ward, 2001), purchased sight unseen at auction rooms in the city centre (Swift, 1928, p. 26) and left undeveloped. Some early prominent colonisers began to build grander homes to express in built form the social status and wealth that derived directly from the theft in which they were participating. Despite these exceptions, however, during that period Northcote was seen as a fringe series of subdivisions and allotments. It attracted 'institutions and industries intended for isolation' (Butler, 1983, p. 8) and was late to be allocated fixed rail services. With the lack of transport making the flat lands cheaper and the development of noxious industries, Northcote became a working-class district.

The 1860s was a time of intensive reorganising of colonial land governance to bring lands and bodies more securely under the emerging settler state's control. A series of laws tightened both the regulation of Crown lands and the colonial grip on the lives of Indigenous people through the centralisation of the Protection Board. Passage of the *Act for the Protection and Management of the Aboriginal Natives of Victoria 1869* (Vic) prescribed the location where Indigenous people could reside and facilitated the systematic removal of Indigenous children from their families as part of a genocidal process of population management (Human Rights & Equal Opportunity Commission, 1997, pp. 50–51). Such conditions were essential context for the emergence of 'Marvellous Melbourne', a land boom era of the 1880s (Cannon, 1995; Davison, 2004) that saw the fortunes of colonists trading in stolen land rise and fall. Just as Park (2024) identifies in the context of America, the 'dehumanizing racial logic of colonisation' underpins the building of 'new markets

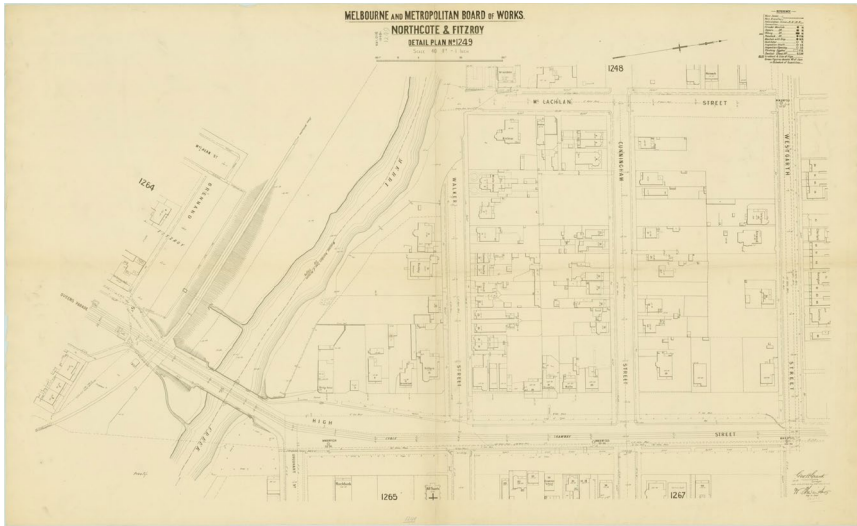

Figure 5. Melbourne and Metropolitan Board of Works plan for Northcote and Fitzroy. *Note.* This plan, drafted by Surveyor Geoff Grant and Engineer in Chief W. Thwaites in 1904, details the Melbourne and Metropolitan Board of Works' layout for sewerage supply to the suburbs of Northcote and Fitzroy. From "Melbourne and Metropolitan Board of Works detail plan, 1249, Northcote & Fitzroy [cartographic material]," by Melbourne and Metropolitan Board of Works, 1904, Maps Collection of the State Library of Victoria.

from other people's bodies and homes'. By this time, the neighbourhood around Walker St was 'well occupied' (Swift, 1928, p. 57) with further speculation catalysed by the 1888 announcement of a tramway along High Street (Swift, 1928, p. 75). The bust that followed the land boom catalysed many land speculators to subdivide their land into smaller plots and by 1904 a cluster of buildings had been erected at Walker Street (Figure 5).

The systematic removal of Wurundjeri people through genocidal policies of incarceration and land allotment and subdivision had fully cleared the way for settlers, assured protection of their property rights from the state's police and military.

While regulating the movement and dwelling of Indigenous people was a key concern during the early years of colonial governance in Melbourne, the housing conditions of settlers was increasingly being scrutinised by a state fixated on prosperity in the early 1900s. Extensive surveys and mapping of so-called 'slum' areas were conducted both by a Victorian Parliament Joint Committee in 1913, and again in 1936 by the Housing Investigation and Slum Abolition Board. The Board's 1937 report catalysed the *Slum Reclamation and Housing Act 1938* (Vic) which established the Housing Commission of Victoria (HCV) to oversee the implementation of slum reclamation and development of public housing.

From the early to mid-twentieth century, Northcote's working-class character had persisted, with the suburb becoming home to successive waves of Italian and Greek migrants in the post-war period. Housing conditions were poor. State scrutiny of housing conditions in Northcote came in the 1950s, towards the end of Victoria's slum reclamation era but with a renewed vigour for addressing poor housing in the post-war period (see Tibbits, 1988, p. 137). The dwellings at and around Walker Street had been examined by the HCV and its 1956/7 annual report recommended declaring the neighbourhood a slum ahead of reclaiming the properties (Housing Commission Victoria, 1957). The compulsory acquisition (aka eminent domain) of the six titles by HCV was gazetted on 12 Feb 1958 when the neighbourhood was declared 'unfit for human habitation and… in the opinion of the Housing Commission insanitary or unhealthy by reason of - the excessive number of buildings within the area; the bad arrangement of buildings within the area; and the bad arrangement or narrowness of streets within the area' (Government of Victoria, 1958). The gazettal reaffirmed the Crown's power as *ultimes heres*, the ultimate source of authority over land and vested the title in the government through its agency HCV (see Figure 2 and Table 1 above).

Promptly utilising its power and budget, HCV built a first set of 63 public housing units at Walker Street in a configuration of 4-story maisonettes that were lauded as a 'new approach to flat building in Melbourne' (Housing Commission Victoria, 1959, p. 13). Despite the fanfare of the provision of low-income housing and innovation in design and building technology (see Tibbits, 1988), the temporariness of public housing at Walker Street was baked in from the very start. In 1956, just prior to building the public housing at Walker Street, the Commonwealth and State Governments were embarking on a new Commonwealth State Housing Agreement (CSHA) for public housing provision. The clauses that in previous agreements prevented the sale of public housing assets was removed in the 1956 CSHA, opening the door to contemporary 'alienation' from the state *via* transfer or sale of stock.

The neighbourhood around Walker Street remained relatively poor and working-class until the period of gentrification in Melbourne's inner suburbs took hold from the 1980s. Through the 1990s and 2000s, Northcote became trendy and sought after, driving land values higher. Gentrification catalysed the upgrade and redevelopment of individual plots as wealth flowed into the neighbourhood and lower income people were pushed out. Northcote and surrounding neighbourhoods were now high value areas of urban land, located in a well-serviced inner suburb of a growing city. At the same time, little to no maintenance and investment had been undertaken by the state housing agency at Walker Street. The planned decline and systematic disinvestment had been part of a strategy of residualisation, so that by 2018 a commercial real estate assessment of this and other well-located sites throughout inner Melbourne was made by Government (Kelly & Porter, 2019). This was the precursor and essential

justification for the renewal agenda to come, announced in 2018 as the Public Housing Renewal Programme (Premier of Victoria, 2018). Under this approach, high value 'walk-up' estates such as the one at Walker Street would be decanted of residents, demolished and redeveloped as a mix of private market and community housing. Due to be completed in 2026, the site is now completely privatised, incorporating a mix of private housing tenures and community housing dwellings managed by a Community Housing Organisation.

In a twist emblematic of shape-shifting settler colonialism, Wurundjeri people have in the past few decades been 're-appeared' on the site through a contemporary liberal mode of recognition in the planning system. Walker Street's location on the banks of the Merri Creek means the site is classified as an 'area of cultural heritage sensitivity' under the *Aboriginal Heritage Act 2006* (Vic) with the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation identified as the relevant organisation with whom to consult about development decisions. This move, far from affording Wurundjeri people recognition of their underlying sovereignty or any real power on the own lands, re-organises settler occupation of stolen land by providing a limited and liberal form of recognition to Wurundjeri interests through a fixed category of heritage (see Porter & Barry, 2016). It is a move that uses colonial logics of 'traditions' that are 'fixed in an authentic past and then used as a measure of a cultural-as-racial authenticity in the present' (Barker, 2011, p. 20). In so doing, the state uses property and planning to attempt a further reconciliation of dispossession and sovereignty to the past.

Concluding remarks

> On a warm day in November 2023, we attempt to re-trace Will's steps to find the plaque again, hoping to photograph it for this paper. It is grass flowering season on Wurundjeri Country, and the banks of the Merri Creek are teeming with insects and thick with new plant growth. It will rain soon. Yam daisies are a rare sight here now, and mobs of kangaroos have been confined to the larger bush corridors that traverse the city, hemmed in by suburban sprawl. The search for the plaque goes in fits and starts, trudging through knee-high grass interspersed with brief retreats back to the trail that lines both sides of the creek. The Walker Street site has been levelled, cordoned off by board fencing and populated now with a crew of workers beginning the rebuild. High on the bank just next to the estate is an assortment of what appears on first glance to be hard rubbish—a couch, some grating, scraps of old carpet. Evidence that people experiencing homelessness live here. People have always lived here. Even if the acknowledgement plaque is buried by new growth, we know it is here too.

In this paper we have shown how events of mass displacement in settler-colonial places fundamentally prefigure the re/structuring of settler property regimes. Displacement and reconfigured property relations are

recursive processes that bootstrap the dispossession of Indigenous peoples. This bootstrapping that we associate with Nichols (2020) *recursive dispossession,* helps construct an erroneous discourse that brackets 'original dispossession' as temporally past and therefore subjugated, politically and empirically, to contemporary housing struggles. Settler-colonial societies fundamentally rely on this mythology of a non-proximate and non-justiciable Indigenous sovereignty, and are becoming increasingly bold in gesturing towards such ownership given their active prevention of its physical enactment. Those myths are made and remade continually, requiring significant material and symbolic work, which we locate here in the placement of the 'original moment' of dispossession and colonisation that is deemed now past.

Our approach is to bring this placement into view by attending to the artefacts of land titling. Our analytical attention here has been on a public housing site that has been the subject of recursive dispossession and multiple enactments of displacement. Land title is a literal register of colonialism and Walker Street is one site where we can interrogate how the terms of settler property are actively being reconfigured. Our analysis demonstrates the titling of property as a layering of white possessiveness that scaffolds the myth of a thickening settler claim to territory whilst distancing Indigenous sovereignty: we call this a possessory stratigraphy.

The central argument we progress is that public land and privately owned land are each derived from the same structure and practice of recursive dispossession: they are simply two categories in the same regime of colonial property. Private and public land are functionally equivalent forms of colonial loot, albeit differently distributed. The exceptionality given to public land in academic, reformist and activist discourse belies this fact and contributes to the mythology of a temporally distant and no longer relevant Indigenous sovereignty in relation to housing policy and the quest for housing justice. For a more expansive and emancipatory aspiration of what we term *dwelling justice* (Porter & Kelly, 2022), much more work is needed that unsettles and problematises the exceptionalised position given to 'public value' in housing struggles. As K-Sue Park has observed in the US context, property is intrinsically linked to conquest and this itself 'constituted a project of building wealth and political power on the basis of a belief in global racial hierarchy and the willingness to use force in accordance with this belief' (2024, p. 1559). A politics for housing justice genuinely attuned to the racialised logics underpinning land, home and belonging cannot continue to turn towards the regimes constituted in those very logics for their resolution.

Our analysis of land title in this paper has shown how a possessory stratigraphy is at work in the material and discursive arrangement of land title documents. This can help develop a methodology for attending to the mundane objects and institutions of settler states that empirically document theft, dispossession and racialised hierarchies of home and

belonging. Despite an omnipresent Wurundjeri sovereignty, the originating actions of their dispossession are buried out of sight in and through the artefacts of settler property. Batman's treaty trinkets, the spectacle of prisoners on ploughs ripping out vegetation and the smell of gunpowder have all receded from view. Keenan, in conceptualising Torrens titling, views its materiality as a mechanism for time travel fundamentally disconnected from actual history and the actual realities of the land itself:

> in the world idealised in Torrens' title registration, there are no dangers (such as squatters, indigenous people, travellers or climate change): all the neighbours are happy, all the boundaries are fixed; the violence of the enclosures and colonisation are long past, and the future has already arrived. Like uncertainty, history and human struggle have disappeared from view, and the only threat worth noting is the one an error poses. (Keenan, 2019, pp. 290–291)

Title documents and the ownership realities they self-actualise can be understood usefully as one of the ways settler societies promulgate the myth of disappearing Aborigines and fix settler ownership rights. The representation of Indigenous peoples as disappeared performs as Rifkin observes a 'routine and ubiquitous excision of Indigenous persons and peoples from the flux of contemporary life, such that they cannot be understood as participants in current events, as stakeholders in decision making, and as political and more broadly social agents with whom non-natives must engage' (2017, p. 5).

Yet while they appear to be 'dissolving distinctions between law and nature' (Grabham, 2016, p. 47), when attending to the reality of Indigenous sovereignty, there is no such dissolution. Conceptualising title transfer as contingent upon and reproductive of a colonial mode of relating to territory, the stratigraphy supposedly imposed turns out to be much flatter and thinner than it first seems. The transfer of titles over time comes into view as one thin layer immediately and always proximate to Wurundjeri sovereignty. Not a layering creating depth and distance, but a shuffling around of value extraction on one surface. Since invasion title at Walker Street has transferred from Crown to private hands, back to public land, and now back to private ownership. All these transfers are movements within the same colonial property layer. Not a deepening of ownership and possession but the *same kind* of patriarchal white possession (see Moreton-Robinson, 2015). Taking this view allows us to better attend to the contested nature of settler colonial urbanism in contemporary Melbourne (see Tomiak et al., 2019), where Indigenous political and territorial claim-making can be recognised beyond the confines of overt public protest. What is at stake here is not only a better relationship with Indigenous sovereignty-never-ceded, but the realisation that a system that prioritises property value above all other values including 'land as a home' (Park, 2024, p. 1562)—derived as it is from the

production of that value from bodies deemed dispensable—is ineluctably driven to mark new and other populations as dispensable in future rounds of credit creation and wealth extraction. The ongoingness of displacement as a feature of urban renewal should hardly, then, be a surprise.

Part of the mythology of public land is that it is a better class of land because it is more available to a just restitution of Indigenous land, yet this view is seen to be at best misleading from our analysis here. Settler sovereignty projects a view of its own completeness inviting us (indeed, requiring us all) to believe that the deal is done. As Indigenous people have been saying since invasion, this is simply wrong. We question a theory of change that relies upon settler state benevolence and the maintenance of property relations founded in racial violence. It is not just a question of who owns the land, but how this occurs—the relations to land as place and territory that make different modes of ownership possible (see Gouldhawke, 2020). The renewal of public sites in the settler city serves to advance the mode of colonial racial capitalism that concurrently extinguishes and reconfigures the connections to place which support the capacity to dwell well. Certificates of title that signify a proprietary interest and surreptitiously assume a non-proximate Indigenous interest, are the very mechanisms that drive those extinguishments of connection, facilitating new rounds of value extraction into the future.

In the context of a housing crisis, however unexceptional for those dwelling in the teeth of empire, we acknowledge the profound enhancement of life that can be realised through more public housing on stolen land. However, this must be grounded by 'good relations manifested in the material' (Liboiron, 2021, p. 19) and in lawful relation to Country and its people. Not all land relations are theft, but all colonial property relations are. Redress requires going beyond a distributive procedural logic of settler territory and its liberal distribution of stolen goods, to a relational and restorative approach that might begin to correct historical and ongoing harm.

Notes

1. This is not uncontested, however. Eidelson (1997, p. 32, as cited in Bunj Consultants, 2004, p. 10) has noted that numerous different locations have been identified as the treaty site over time and by a range of commentators. The density of references to the bend in the Merri Creek near Walker Street, by both Wurundjeri Woiwurrung and settler historians, however, informs our conclusion about the significance of this particular site.
2. *Ultimus heres* translates as 'ultimate heir', a Scots law concept referring to the Crown's assumption of ownership over deceased estates with no surviving heirs (Attwood, 2009, p. 76).
3. Notable also as the space where public housing action groups would meet from 2018, meetings which eventually formed the Save Public Housing Collective with which the authors of this paper are involved.

4. The Yes In My BackYard (YIMBY) is a pro-development and anti-planning response to the Not In My BackYard (NIMBY) movement that has been characterised as conservative and anti-development.
5. This refers to terms widely used through a period of colonial history framed through racist, eugenicist ideas of the role of colonial powers as easing the passing of a dying race. The phrase itself is often linked to language in the mid 19th Century when the Protectorate systems were established, this kind of language was used in legislation, policy and public discourse at this time.

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