

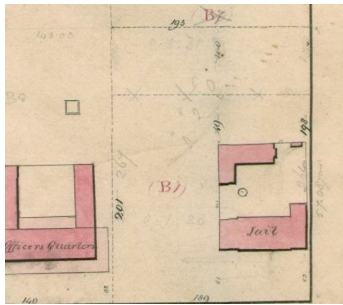
Historical Research
into the execution and burial of
Midgegooroo
at the Deanery site Perth

For

Palassis Architects

by

Allbrook Jebb and Associates P/L November 12th 2010



The execution and burial of Midgegooroo

Report to Palassis Architects

Dr. Malcolm Allbrook and Dr. Mary Anne Jebb

Background

On the 24th October 2010, Palassis Architects, a Subiaco-based firm undertaking conservation works and master planning on the Deanery in St. George's Terrace, commissioned Allbrook Jebb and Associates Pty. Ltd. (Drs Malcolm Allbrook and Mary Anne Jebb) to undertake a brief historical survey of events surrounding the death of Midgegooroo focusing on:

- The Deanery site, including former use of the site for Jail.
- Events leading to Midgegooroo's sentencing and his death, including any evidence regarding his place of burial at the time of death, or re-burial at a later date, either on site or elsewhere.
- The uncovering of a body or remains on the site in the 1920s, with the aim of ascertaining whether there is any link to Midgegooroo's death/burial.

At a meeting with the architects prior to starting work, the consultants were requested to give particular attention to historical information:

- That might help locate the actual site of Midgegooroo's burial;
- That might help locate the site where a skull unearthed during site works in 1923 had been found;
- The link between this skull and the burial place of Midgegooroo;
- That might illustrate the changing boundaries of the site on which the Deanery is located.

A total of 12 days was allocated to the project, with a final report due by 15th November 2010.

Methodology

The study focused on primary historical documents from the first four years of the colonisation of the Swan River Colony (1829 – 1833) and from 1923. A general survey of newspaper reports

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on the subjects of Midgegooroo and his son Yagan was also undertaken. Historical information on these subjects fell into the following categories:

- Reports of the *Perth Gazette and Western Australian Journal*, a weekly newspaper that started publishing in January 1833 (accessed on-line through the National Library of Australia's 'Beta' data-base)¹;
- Later West Australian newspapers;
- Colonial Secretary's Office Correspondence and Reports; Governor's Dispatches (Australian Joint Microfilm Project); Court Records 1830-1834 (Reports, indictments) Swan River papers (State Records Office of WA);
- Journal of colonial farmer (later Commissioner of the Civil Court and Advocate General) G.F. Moore, who lived for ten years at the Swan River Colony, during which he maintained a detailed journal, the only such private record for this early period of the colony (Battye Library, Acc 263A);
- Correspondence of other colonists during the period, specifically the Dodds family (Battye Library Acc 1607A), Alexander Collie (Battye Library 332A), F.C. Irwin (Battye Library Acc 910A), Henry Trigg (Battye Library Acc 1584A);
- Historical maps particularly the 1838 and 1845 maps of Perth by colonial surveyor Alfred Hillman;
- Contemporary books and reports, such as F.C. Irwin's *The State and Position of Western Australia* (1835).
- Heritage reports for the deanery (1995) and other buildings in the area (Government House, St George's Cathedral)

Wherever possible, the consultants examined original or microfilmed copies of original documents but in some cases also referred to secondary sources, including published books. A bibliography is attached.

¹ <http://newspapers.nla.gov.au/ndp/del/home>

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Executive Summary and Assessment

1. Structure of report

This report is presented in three sections:

- Executive Summary and Assessment
- Section 1: Historical significance of the execution of Midgegooroo
- Section 2: Historical report on the Deanery site in the context of the Midgegooroo episode.

The Executive Summary and Assessment summarizes historical evidence and present conclusions based on this evidence. Sections 1 and 2 present historical evidence, including references, to support the conclusions reached in the 'Executive Summary and Assessment'. These conclusions are based solely on an assessment of extant historical evidence.

2. Assessment of historical evidence

The consultant historians were requested to undertake a brief historical survey of events surrounding the death of Midgegooroo focusing on:

- The Deanery site, including former use of the site as the first Perth Jail, and evidence of changing boundaries of the site on which the Deanery is located.
- Events leading to Midgegooroo's sentencing and his death, including any evidence regarding his place of burial at the time of death, or re-burial at a later date, either on site or elsewhere.
- The uncovering of a body or remains on the site in the 1920s, with the aim of ascertaining whether there is any link to Midgegooroo's death/burial.
- The actual site of Midgegooroo's burial;
- The site where a skull unearthed during site works in 1923 had been found;
- The link between this skull and the burial place of Midgegooroo;

3. Boundaries of the Deanery site

An assessment of historical maps from the earliest period of Perth suggests that the western and northern boundaries of the site have changed significantly since its initial use as a colonial jail, the southern boundary adjoining St. George's Terrace has changed very little, while the boundary adjacent to Pier Street may have changed slightly with alterations to Pier Street which, according to a contemporary map, appears to have been in the late 1830s or 1840s. Pier Street was originally wider than the current dimensions, and continued down to a pier on the Swan River, the shore of which was considerably altered by progressive reclamations over the colonial period.

4. The first Perth Jail and the Deanery

Colonial maps show the location of the Perth Jail, which was constructed between 1830 and 1832 and was certainly operational by 1833. Initially the jail appears to have consisted of a main jail house, with a small guard room adjoined on the west side. Improvements appear to have been made sometime after April 1833 to change the position of three doors, to erect a seven foot high 'park paling fence the whole length of the Jail and to extend Twenty feet from each side.' A privy was to be constructed in one corner and 'on one side of the park paling to have a Gate four feet wide, with Padlock and Iron Bar.'

It appears that an additional building was constructed on the site in 1848 of '20 feet by 15 feet, divided into two rooms by a brick partition of 4 inches, no flooring'. Improvements were undertaken in 1849 'to add to the present lean-to 8 ft, to take down and refix two gratings, to turn the gutter, to raise the present fence round the Jail-yard five (5) feet.' The Jail functioned with increasingly crowded conditions until at least 1855 when the new Perth Jail in Beaufort St received prisoners. The old jail was demolished between 1855 and 1858, when the lot on the corner of Pier St and St. George's Terrace was given to the Anglican Church for the construction of a Deanery adjacent to the first Cathedral, which had been opened in 1845. The Deanery was complete by 1859 when it was occupied by Dean George Pownall. It is unknown what became of the old jail fittings, or whether any of the doors or grates were used in the new jail.

It appears from superimposing the location of the Jail buildings onto the current footprint of the Deanery that the jail and the Deanery were set at roughly the same distance from St. George's Terrace (apart from the entrance hall and a the bay window).² The jail extended west to a point where the entrance hall is situated. The eastern wall of the jail appears to have extended to a point close to the Pier St boundary.

5. Historical significance of the execution of Midgegooroo

The execution of Midgegooroo is significant in that it marked an dramatic change in colonial policies towards the Aboriginal people of the Swan and Canning River regions, and laid the basis for policies directed at dispossession that continued in Western Australia for many years. The main features were:

- An official intolerance of Aboriginal people who resisted colonisation by continuing to assert their traditional ownership and usage right of their lands.
- A preparedness to sanction ruthless measures to suppress Aboriginal resistance to colonisation through the use of strategies including (1) declaration of certain individuals as 'outlaws' (2) use of incarceration including transportation to remove alleged law-breakers
- Policies to establish ration depots and thus to prevent them from accessing traditional sources of food
- Policies to discourage Aboriginal people from entering town areas
- Removal of Aboriginal children from their home environments and families.

During the first four years of the Swan River colony, the colonial Governor Sir James Stirling set out to foster amicable relations with the region's traditional land-owners with the aim of bestowing on them the benefits of a new regime characterized as 'civilized', and thus a direct contrast with the 'savagery' and 'barbarity' which were supposed to be features of Swan and Canning River Aboriginal society. While this was official policy, there is plentiful evidence to show an increasing level of violence in relationships between colonists and traditional owners, and an increasing death toll particularly within the Aboriginal population. On at least one

² Map provided by DIA.

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occasion, there is evidence to show that the military was directly involved in hunting down and shooting Aboriginal people in the area between Lake Monger and Perth town.

The actions of Midgegooroo and his son Yagan, particularly during the first half of 1833 however, signaled a change in this stance of official tolerance. Following their alleged involvement in the killing of two farm workers near Bull's Creek they, along with another senior Aboriginal man named Munday, were declared outlaws and rewards were offered for the capture 'dead or alive'. It was widely known in the colonial society that each of these men was a significant member of the Aboriginal societies of the region. Midgegooroo and Munday were widely referred to as 'Chiefs' of their respective groups, while Yagan was known as the son of Midgegooroo and was clearly an important person in the region. By targeting these men, the colonial government was attacking the leadership and authority structures of the Aboriginal societies, and at the same time sending out a warning to other groups in the region. 'Intimidation' was the term used by Lieutenant Governor F.C. Irwin to describe the strategy which, in the absence of Governor Stirling, he was responsible for designing and enacting. His actions did not meet with the approval of his colonial masters in London, who believed that imprisonment was the better alternative. But by the time Irwin heard of London's disapproval of his actions, they were long in the past.

Midgegooroo's outlaw status appears to have deprived him of the right of a trial, including the chance to defend himself against the charges. The depositions gathered as evidence are remarkable for their brevity and lack of regard for the facts of the case at hand, but appear to have been purely aimed at confirming the identity of the man held in the Jail as Midgegooroo. They are not 'witness statements', and include evidence from a twelve year old boy recalling an event that took place over two years before, and other evidence about Midgegooroo's alleged wrong-doings over the previous two years. But they were good enough for Irwin, who made up his mind that execution was the appropriate punishment after consulting with other colonial officials. On the 22nd May 1833, the death warrant was read outside the Perth Jail (the site of the Deanery), and Midgegooroo was immediately taken struggling from his cell and executed by a firing squad. The whole episode, from the reading of the warrant to the execution, was said to have taken not more than thirty minutes, and was watched by an enthusiastic crowd of colonists.

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The method of execution was by firing squad, as far as can be ascertained the only time this has been used in an official execution in Australia. Even in the early nineteenth century, hanging was the preferred method of execution. In the British world, firing squads were sometimes used to execute prisoners of war, and thus it is tempting to classify Midgegooroo as such.

In the aftermath of Midgegooroo's execution and Yagan's subsequent shooting by a sixteen year old boy, the Aboriginal people of Perth arranged to meet with the colonial Government to arrange a 'treaty' of peace. They were told that, provided they abided by Government directions, their people would not be shot and agreed to stop robbing farms and stealing colonial property. In return they would be provided with rations to be issued from a new ration depot established at the foot of Mt. Eliza. They were further discouraged from entering the Perth town area and advised to offer their services as labour for the colonists.

Over the months following Midgegooroo's execution, members of his group continuously asked after his young son 'Billy' (or young Midgegooroo) who had been picked up at the same time as Midgegooroo and held on the Government Schooner 'Ellen', which was anchored off Garden Island. They were assured that the boy would be returned to them, but it took some time before he reappeared. Irwin wrote that his detention was part of a deliberate strategy to remove the child from the influences of his people and to turn him into a person who would become useful to the colonists as a worker or servant. His words are an eerie precursor of subsequent government policies of child removal, policies that in 2008 were denounced by the Commonwealth government as mistaken and misguided.

To conclude, the execution of Midgegooroo was an event of high significance in that it indicates a change in colonial government policies of tolerance and protection under the law, and foreshadows subsequent policies emphasizing (1) targeting of Aboriginal resistance to colonisation through removal from homelands (2) forcing compliance of Aboriginal people with colonial government directions (3) enactment of rationing as a way of regulating Aboriginal freedom of movement (4) prevention of Aboriginal access to European towns and properties (5) use of Aboriginal people as labour (6) removal of Aboriginal children.

6. Place of Midgegooroo's execution

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The historical evidence confirms that Midgegooroo was executed in the grounds of the old Perth Jail, the site now occupied by the Deanery. It is not possible from the evidence to conclude the exact spot where the execution took place, extant evidence only telling us that Midgegooroo;

1. ‘... was pinioned and blindfolded, and *bound to the outer door of the Jail* [our italics]. The Resident then reported to his Honor the Lieutenant Governor (who was on the spot accompanied by the Members of the Council), that all was prepared, - the warrant being declared final – he turned around and gave the signal to the party of the 63rd [which had volunteered] to advance and halt at 6 paces, - they then fired – and Midgegooroo fell.’ (*Perth Gazette* 25th May 1833)
2. ‘He was accordingly shot, in front of the jail at Perth on the 22 Ultimo.’ (Irwin, Dispatch to Secretary of State, 1st June 1833)
3. The native Midgegooroo, after being fully identified as being a principal in 3 murders at least, was fastened to the gaol door & fired on by a Military party, receiving 3 balls in his head, one in his body.’ (George Frederick Moore, 24th May 1833)

Extant site plans of the Perth Jail do not locate the position of the outer door. However, it is likely, but not certain, that this door faced St. George’s Terrace. The tender specifications of 20th April 1833 refer to the need for ‘a Gate four feet wide, with Padlock and Iron Bar’ to be located ‘on one side of the park paling.’ This seven foot high park paling fence was to be constructed along the side of the building about twenty feet from the building. This outer gate may have had the necessary strength and bars needed for securing a pinioned prisoner, and may well be the place where Midgegooroo was bound to face the firing squad.

In conclusion, it is certain that the site of Midgegooroo’s execution was on the current Deanery site, probably towards the front of the site facing St. George’s Terrace and possibly at some point along a line twenty feet from the front wall of the current Deanery, somewhere between the front entrance hall and Pier St. It has not been possible from the extant evidence to locate the precise site of the front door and thus the actual place of execution. It is clear however, that this is the site within about 25 meters of accuracy where he was shot. Further analysis of the plans and site drawings in conjunction with an architect might permit a more confident assessment of the locations of boundary walls, doors, gates and fences but unlikely to lead to conclusive evidence of the exact location of the ‘front door’ to which Midgegooroo was secured and then shot.

7. Place of Midgegooroo's burial

There is little evidence to indicate the exact location of Midgegooroo's burial, but it is likely that he was buried on site, the current Deanery town block. The *Perth Gazette* reported that grave-robbers ('resurrection men') were disturbed by a sentry in the act of digging up the body on the night following the execution, and were forced to fill in the grave. It is likely this sentry was a jail guard. Memoirs of Perth citizens with direct links back to 1833 were reproduced by *The West Australian* following the uncovering in September 1923 of a skull and bones which were later found to be those of an Aboriginal man and to have been underground for a considerable period. These add details to the probable place of Midgegooroo's interment as 'under a large mulberry tree at the corner of Pier Street and St George's Terrace'; and that the 'native chief was shot and buried on the spot' in the shade of one of the mulberry trees. Furthermore, memories are reproduced that the body of Midgegooroo was hung in a tree for some time after his execution as a warning to other Aboriginal people about the power of the government, and that Aboriginal people were then forced to watch the burial which terrified them.

The likelihood of the burial being the jail site is reinforced by other considerations: this is very early in Perth's colonial history before regulations were enforced for burials at designated cemeteries; the jail site was large enough for a grave to be placed in a corner of a yard or near a perimeter fence or boundary; and the body of the man executed in 1844 was buried near where he was hanged in sand hills.

In conclusion, what little evidence exists for the site of Midgegooroo's grave suggests that the most likely spot is towards the corner of the site, towards Pier and St. George's Terrace. The location might be further clarified by determining the location of the mulberry trees located near the corner, which might have been part of the group known as the 'Twelve Apostles' and for which photographic evidence exists. These trees were said to have been planted prior to the construction of the Deanery by the Rev. John Burdett Wittenoom, a keen gardener and Justice of the Peace, who arrived in the colony in January 1830 and whose house was located on the site of the current Weld Club in Barrack St.

8. The 1923 discovery of an Aboriginal skull and bones

The discovery of a ‘skull and bones’ in September 1833 by workers digging post-holes for the construction of a ‘new fence’ temporarily re-awakened interest in the execution and burial of Midgegooroo. We have not been able to locate the exact position of where these remains were found, although it is likely, but not certain, that the post-holes relate to the perimeter fencing. On the other hand, there is no record of new fencing being erected at this time, although the work referred to may have related to maintenance and replacement.

It is not known when a perimeter fence was first erected on the site, although the details of the 1833 tender suggest that a seven foot park paling fence was probably erected twenty feet from the front wall of the jail at that time.

It is possible that a perimeter fence was erected to enclose the front Deanery garden but this is purely supposition. However, timber picket fences were on the perimeter of the Deanery site at least until 1929 and possibly much later. By 1967 a low brick wall topped with a galvanized post and cyclone mesh fence ran along the St. George’s Terrace boundary and possibly along the Pier St boundary as well. The current boundary wall was completed in 1982. This activity suggests that the boundary fences/walls have been replaced or repaired a number of times since the time of Midgegooroo’s execution. Other ground disturbing work may also have been undertaken at various times for works such as the laying of water pipes and pavements in the parking areas and grounds and along the sides of St. George’s Terrace and Pier St.

The remains uncovered in 1923 were identified as those of an Aboriginal man and had been buried for some time. A number of people believed that these remains were those of Midgegooroo who they said had been buried at the corner of Pier St and St. George’s Terrace. This suggests that the skull and bones were found near that point. The skull then appears to have been handed to the police, who passed it on to the Museum which on the 29th September acknowledged having received it. Inquiries with the WA Museum have failed to find any trace of a 1923 donation however. It is not known if the bones said to have been found with the skull

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were also given to the Museum. A search of police files from 1923 has revealed no record of this event and there is no record of whether a skeleton was removed in its entirety or what was done with it.

Evidence from 1833 suggests that, if the skull had been that of Midgegooroo, it may have been readily identifiable. Firstly, contemporary reports say that Midgegooroo had a prominent bump on his forehead. In addition, the evidence of G.F. Moore suggests that, in his execution, Midgegooroo received ‘three balls’ in the head. The damage this would have caused would undoubtedly have shown up in his skull and would possibly have been sufficiently remarkable to have drawn comment. On the other hand, the contemporary use of muskets and large balls of approximately 0.58 inch diameter means that the skull would have been badly damaged and would probably have deteriorated quickly when buried.³

There is also the possibility that other prisoners who died at the jail may have been buried on site. Historical records indicate that there were a number of deaths of Aboriginal prisoners in the jail between 1833 until the time of its closure. While it is not known where these people were buried, there are a number of possibilities:

- Given the evidence of Midgegooroo’s interment on the site and possibly near the corner of St. George’s Terrace and Pier St, it is possible that others may have been buried at the same place;
- In March 1835, the *Perth Gazette* published rules and regulations relating to the burial of prisoners at Fremantle jail, specifying that prisoners dying in jail should be buried according to the regulations which stated that the instructions were to be received by the Colonial secretary or a magistrate.⁴
- By the early 1840s, there is evidence that some Perth colonists were beginning to agitate for the removal of the jail to a site further away from the central town area, and that there was increasing concern about the conditions at the jail, in particular the over-crowding. As the area bounded by St. George’s Terrace, Barrack St, Howick St and Pier St became increasingly popular as a residential area, as well as the location of the Governor’s residence, it becomes less likely that burials would have taken place on the site. Burials

³ Personal communication, honorary police archivist, 12th Nov 2010.

⁴ *Perth Gazette* 7th March 1835

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in Perth were regulated after the 1847 legislation, although many were in an area in east Perth designated for burials;

- The East Perth Cemetery was increasingly used as a place of burial after 1842, and prisoners may have been interred there;
- The use of a site near Redcliff for public executions continued until the opening of the Beaufort St jail in 1855. It is possible that executed people were buried near this site.

In conclusion, while it is possible that the human remains unearthed in 1923 were those of Midgegooroo, evidence of his distinctively shaped head and possible bullet wounds make it less likely that the skull was his. These remains were given to the Museum by the police, but there is no contemporary record on the catalogue.

It is not known whether all the skeletal remains found at the time were given to the police, although it seems likely that this would have been done. It is not known whether the post holes were extended in an effort to unearth a full skeleton and if so whether this too was removed from the site.

It is possible that other human remains may be buried beneath the site of the Deanery, but there is no concrete evidence to show this. It is possible there were burials of other Aboriginal men on the site from 1833 and before the burials Act was properly instituted (1847) and the jail moved to Beaufort St (1855). Works carried out at the site since the closure of the first Perth jail, such as the construction of the Deanery, erection of a succession of perimeter fences and walls, and other ground disturbing work such as the laying of water pipes and sewerage, suggests that the site has been disturbed many times over the 177 years since Midgegooroo's execution. The disturbances for some of the Deanery garden areas may not be very deep, so there may be areas in the north eastern and south eastern corners where a grave could be undisturbed.

It is not possible to be conclusive about the presence of skeletal remains on the site, although further investigations, such as the use of ground penetrating technology, may illuminate the issue. If this is to be done, it is suggested that the area at the corner of St. George's Terrace and Pier St is the most likely site in which skeletal remains might be found.

SECTION ONE: Historical significance of the execution of Midgegooroo

Midgegooroo: the historical figure

Everything we know about Midgegooroo (variously spelled in the record as ‘Midgeegaroo’, ‘Midgegarew’, ‘Midgegoorong’, ‘Midgegoroo’, ‘Midjigoorong’, ‘Midjigoro’, ‘Midgigero’, ‘Midjigero’, ‘Midgegaroo’, ‘Midgegaroom’, ‘Midgegooroo’, ‘Midgecarro’, ‘Widgegooroo’) is mediated through the eyes of the colonisers, some of whom, notably G.F. Moore, Robert Menli Lyon and Francis Armstrong, derived their information from discussions with contemporary Noongar people, in particular the son of Midgegooroo, Yagan.⁵ Largely due to his exploits in opposing colonisation and his relationship with Lyon and Moore, Yagan has a much sharper historical profile than his father.

Contemporary accounts of Yagan present him as a figure of considerable ambiguity and contradiction. To many, he was a common criminal, as G.F. Moore describes him ‘the Very Spirit of Evil’, who’s principal objective was to harass, threaten and kill the colonists. At the same time, even Moore ascribes to him an image of the noble savage who viewed Moore as an equal, and appeared to have a planned strategy to respond to what he perceived was unjust treatment of his people:

Yagan used emphatic language and graceful gesture with abundant action. I was heated & spoke the same way. Sometimes he advanced boldly & leaning with his left arm familiarly upon my shoulder he delivered a ‘recitave’ which I regret I could not understand, but the sound of it was that we had not acted peaceably & fairly towards them.⁶

⁵ At one point in his journal, G.F. Moore refers to Midgegooroo as ‘Worragonga’.

⁶ J.M.R. Cameron (ed.) 2006, *The Millendon Memoirs: George Fletcher Moore’s Western Australian Diaries and Letters, 1830 – 1841*, Hesperian Press, Perth, p. 236

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The ‘noble savage’ trope was clearly expressed by Robert Menli Lyon, who viewed Yagan as the ‘Wallace of his age’, a ‘prince of the country’, a ‘warrior’ and a ‘patriot’.⁷ Of the culture of Yagan’s people, Lyon believed that ‘the whole of each tribe are bards’;

... their evenings are generally spent around their fires, singing or rather chanting, their poetical compositions. I have reason to believe that their history and geography are handed down from generation to generation orally in verse.⁸

Yet another tradition views Yagan as an infantile figure, initially friendly to the colonists, almost a figure of fun, whose innate savagery asserted itself when he ‘shed his thin veneer of civilisation’.⁹ This characterisation was recorded much later when an old colonist identified only as ‘O’ contributed a three-part memoir of Yagan to *The Western Mail* in July 1915, which purported to be taken from a contemporary pen-portrait. Here Yagan is presented as ‘one of the most popular personages in Perth. No meeting was complete without him and no dinner party could take place without a song and a dance from Yagan.’ His father ‘Widgegooroo’ was described as ‘very quick with his spear when he wants something’ who appears to have been angry at his son’s friendship with the white people, and on one occasion after Yagan had his face shaved, ordered him to be beaten by the women of the tribe.¹⁰

Midgegooroo appears to have remained fiercely aloof from the colonists. There is limited evidence that he occasionally engaged in ‘friendly’ communications with some local farmers, for example Erin Entwhistle, a man he speared in 1831.¹¹ But unlike some of the other named Aboriginal people of the region, including Yagan, Weeip and Yellowgonga, he does not appear to have ever performed casual labour for colonists in any capacity, but moved with his wives and children around his home territory, from Fremantle, Point Walter to the Canning, and was seen as far afield as near Lake Monger and the Helena River. In 1830, Midgegooroo was recorded as an older man, short in stature with long hair and a ‘remarkable bump’ on his forehead, a physical description repeated on occasions over the next two and a half years, including in a deposition presented in evidence before his execution.¹² A memoir by Mrs. Edward Shenton in 1923

⁷ *Perth Gazette*, 20th April 1833

⁸ *Perth Gazette*, 23rd March 1833

⁹ *The Western Mail*, 16th July 1915

¹⁰ *The Western Mail*, 16th July 1915

¹¹ *Perth Gazette*, 25th May 1833

¹² CSR 27.123 – 7

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describes him as a ‘small man with an abnormally large head.’¹³ He was described as consistently hostile to the presence of Europeans on his country, ‘a dangerous and furious ruffian.’¹⁴ He had at least two wives, the older described as ‘rather tall and wanting her front teeth’, the younger of whom was named Ganiup, and at least four sons, Yagan, Narral, Billy and Willim, and at least one brother.¹⁵ He appears to have spent much of his time ‘taking care of the women and children of the tribe.’¹⁶

In 1832, Robert Menli Lyon, who had arrived in 1829 and soon afterwards asserted his sympathy with the local Aboriginal people, intervened on behalf of Yagan and two of his countrymen, Domera and Ningina who had been captured and awaited sentence for spearing a colonist William Gaze in June. Successful in persuading Lieutenant Governor Frederick Irwin to allow him to accompany the three prisoners to Carnac Island to ‘acquire a knowledge of their language and prevent that frightful state of things in which the deliberate shedding of blood will involve the settlement.’¹⁷ For a month, Lyon and the three Aboriginal men were alone on the island, during which time they taught him about the language and society of the people of the Swan River region, including the names of places.

Lyon was told that Midgegooroo (‘Midjegoorong’) was the principal man for ‘Beeliar’, ‘bounded by Melville water and the Canning, on the north; by the mountains on the east; by the sea on the west; and by a line, due east, from Mangles Bay, on the south.’ His main camp (‘headquarters’) was a place known as ‘Mendyarrup, situated somewhere in Gaudoo’ which, from other place names given by Yagan, may have been in the vicinity of Blackwall Reach and Point Walter.¹⁸

While Beeliar was Midgegooroo’s home territory and he was most often encountered at places throughout his country, he appears to have had the right to move and hunt in the country of his neighbours and, over the first few years of the colony was reported to have been at various places throughout the region including Lake Monger and the Helena River. Hallam and Tilbrook (1990)

¹³ *The West Australian* 11th October 1923

¹⁴ *Perth Gazette*, 25th May 1833

¹⁵ *Perth Gazette*, 25th May 1833. Moore comments that Yagan may in fact have been the biological son of Midgegooroo’s brother, although as an uncle he would likely have been considered his classificatory father.

¹⁶ *Perth Gazette*, 25th May 1833

¹⁷ Quoted in Bevan Carter *Nyungah Land*, p. 33

¹⁸ *Perth Gazette* 23rd March 1833; 13th April 1833

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speculate that this may have been conferred on him through his marriage ties. In particular, Midgegooroo appears to have been closely associated with Yellowgonga's group, whose country 'Mooro' took in the country north of the river Swan ('Derbal Yaragan') including the Perth city area and Lake Monger, and with Munday's group, whose country 'Beeloo' encompassed the land bounded by the Canning, Helena and Swan Rivers.¹⁹

Swan River Colony: the historical context

This paper focuses on the events that lead to the killing of Midgegooroo, but it is important to appreciate the context in which this tragic event took place and the way it has been portrayed in historical narratives of the colonisation of the Swan and Canning river region. Early relationships between the Aboriginal traditional owners and colonists at the Swan River colony have been documented by Neville Green and Bevan Carter.²⁰ Both document a story in which Aboriginal traditional owners of the Swan and Canning River areas consistently demonstrated their opposition to colonisation, initially manifested by shouted warnings and aggressive postures, but increasingly by hostility and violence. Lieutenant Governor Sir James Stirling, in his proclamation of the colony in June 1829, warned that Aboriginal people were protected by British laws and any colonist convicted of 'behaving in a fraudulent, cruel or felonious Manner towards the Aborigines of the Country' would be dealt with 'as if the same had been committed against any other of His Majesty's subjects.'²¹ Nonetheless, the first ten years of colonisation witnessed a significant level of violence in which a number of Europeans and Aboriginal people lost their lives. The actual death toll is unknown, but Carter in particular argues that the numbers of Aboriginal dead far exceeded the losses in the European community.

Green published the first major study of the period in 1984, while Carter's more recent account utilized public records and private accounts, including letters, to document the theft of traditional lands around Perth and the manner by which the traditional owners were dispossessed. Green's study was important as it systematically upset discourses representing colonisation as an orderly

¹⁹ Sylvia Hallam and Lois Tilbrook 1990, *Aborigines of the South-West Region, 1829 – 1840*, University of Western Australia Press, Nedlands, p. 208; *Perth Gazette* 23rd March 1833; 13th April 1833

²⁰ Neville Green 1984 *Broken Spears: Aborigines and Europeans in the southwest of Australia*, Focus, Perth; Bevan Carter c. 2005, *Nyungah Land: Records of Invasion and Theft of Aboriginal Land on the Swan River, 1829 – 1850*, Black History Series, Perth. See also Neville Green 1981 'Aborigines and white settlers in the nineteenth century' in *A New History of Western Australia*, University of Western Australia Press, Nedlands.

²¹ Pamela Statham-Drew 2003, *Governor Stirling: Admiral and Founding Governor of Western Australia*, University of Western Australia Press, Nedlands, pp. 136 – 137.

process that held out the promise of a better, more ‘civilized’ life for Aboriginal people who are almost universally characterized as ‘savage’ or ‘barbaric’.²² From this perspective, violence against Aboriginal people only took place in situations of absolute necessity, most often to counter acts of criminality, such as the spearing of colonists, killing of their flocks and theft of colonial property, including food. Midgegooroo and Yagan could thus be cast as criminals, their sustained activities against colonial appropriation of traditional lands punishable by their declaration as outlaws, whose capture ‘dead or alive’ was subject to a significant reward. In 1961 Alexandra Hasluck published an essay on Yagan in which she considered whether he could be classified as a patriot, an Aboriginal ‘Wallace’ who died defending his land or simply a criminal intent on robbing, harassing and sometimes killing the colonists. Although she titled her essay ‘Yagan the Patriot’, Hasluck concluded that there was little in the actions of Yagan (and by extension Midgegooroo) to suggest that he was engaged in a patriotic campaign, but plenty to suggest that he was simply an opportunistic criminal.²³

Green, however, demonstrates that violence against Aboriginal people around the Swan and Canning Rivers was widespread, and that at times, such as the infamous 1834 Massacre of Pinjarra, a systematic and official policy to assert colonial power. More generally, he tends to portray the violence of the early colonial years as an inevitable result of the ‘clash’ between two incompatible societies, in which Aboriginal resistance to colonisation was destined to be futile, their culture doomed to destruction in the face of a robust civilizing force. Carter by contrast, concludes that the violence and bloodshed of the early Swan River colony represented a systematic process of dispossession, a ruthless assertion of British power, including the use of violence and bloodshed, to kill an unknown but possibly large number of Aboriginal people. He does this by examining private accounts, including letters and travel journals, thereby demonstrating that many of the official reports, including governor’s dispatches and the journals of semi-official figures such as G.F. Moore, may well have sanitized accounts of the process of colonisation of the Swan River area that served to conceal the level of violence against Aboriginal people. Carter’s book sets out to counter historical perspectives representing dispossession as inevitable and the accompanying violence as occasional. ‘By about 1833’, he

²² This view of Swan River colonisation as benevolent has been remarkably pervasive, most prominently argued by historians such as Battye.

²³ Alexandra Hasluck 1961 ‘Yagan the Patriot’ in *Early Days: Journal of the WA Historical Society*, Vol. V, Pt. VII, 1961, pp. 33 – 48.

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writes, ‘the people on the Swan and Canning rivers were oppressed; their land was occupied; significant leaders like Midgegooroo and Yagan had been murdered; their food sources had been mostly destroyed and they were dependent on the British newcomers for rations. It was made clear to them frequently that if they did not behave in a way approved by the British they would be shot.’²⁴

Midgegooroo: Becoming an outlaw

It took some time before Swan River colonisers in the first four years of the settlement began to record the names of the traditional owners of the Swan River region, but it is highly likely that Midgegooroo would have been one of those who observed the first British explorations in 1827 and the subsequent establishment in June 1829 of the port of Fremantle, the capital at Perth, satellite settlements at Guildford and further inland at York, and the network of small farms around the area. His first appearance in the colonial record may have been in May 1830 when an old man, tentatively identified by Sylvia Hallam and Lois Tilbrook as Midgegooroo, was found and beaten by a military detachment plucking two turkeys which had been stolen from a farm on the Canning River. The next day, a group of eight Aboriginal men, including ‘Dencil’ attacked a farm near Kelmscott and injured a settler named J.R. Phillips ‘with whom they had always been friendly.’²⁵ If Hallam and Tilbrook are correct and the old man was indeed Midgegooroo, he would quite early have been subjected to European violence in retaliation for actions he did not fully comprehend.

In about February 1831, Midgegooroo was reported to have come to Lionel Samson’s store in Fremantle and was given biscuits by a servant James Lacey. ‘Midgegooroo was not satisfied, I was obliged to put him out of the store by force. As I was in the act of shutting the door he threw a spear at me through the open space of the door-way; it lodged in the opposite side. I went out of the store with a pickaxe in my hand to drive him out of the yard – he retreated when he saw me, and as I supposed he was going away, I threw down the pickaxe – he ran towards it, picked it up, and was in the act of throwing it at me, upon which I ran away, he then threw the pickaxe down the well.’²⁶

²⁴ Carter xi

²⁵ Hallam and Tilbrook, p. 62

²⁶ *Perth Gazette*, May 25th 1833

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A few weeks later, Midgegooroo was involved in an incident that came to play a crucial part in his eventual execution. In apparent retaliation for the killing of an Aboriginal man in the act of taking potatoes and a fowl from the farm of Archibald Butler near Point Walter, Midgegooroo and Yagan attacked Butler's homestead and killed a servant Erin Entwhistle, whose son Ralph, then aged about ten, gave a deposition identifying Midgegooroo as the principal offender:

They thrust spears through the wattle wall of the house – my father was ill at the time – he went out and was instantly speared. I saw the tall native called Yagan throw the first spear – which entered my father's breast, and another native Midgegooroo threw the second spear, which brought my father to the ground. I am quite sure the native now in Perth jail is the very same who threw the second spear at my father – I know him by the remarkable Bump on his forehead – and I had full time to mark him on the day of the Murder, for when my father fell, I and my brother ran into the inner room, and hid ourselves beneath the bed-stead. Midgegooroo came in and pulled all the clothes and bedding off the bed-stead, but there was a sack tied to the bottom of it, which he could not pull off, and by which we were still hid from him. I saw an old women rather tall and wanting her front teeth and who I have since been told by Midgegooroo himself is his wife, break my father's legs, and cut his head to pieces with an axe – Munday was one of the natives who attacked the house, but I did not see him throw a spear. My father had always been kind to Midgegooroo's tribe, and on good terms with them.²⁷

In May 1833, colonist Charles Bourne recalled having sat on a jury inquiring into the death of Entwhistle which heard the evidence of Ralph Entwhistle and his younger brother. 'The description they gave so fully convinced the Jury that Midgegooroo was one of the principle perpetrators of the murder, that the Coroner, at their request, promised to recommend to the Government to proclaim him and the whole tribe outlaws.'²⁸

Charles Bourne figured again in the story when, in about May 1832, Midgegooroo and his wife attempted to break into their house in Fremantle. 'My wife told me', he recalled, 'that they had thrown two spears at her, and I saw the spears laying on the floor. Their violence was such that my wife was obliged to take a sword to them.'²⁹

A police constable Thomas Hunt reported that he had known Midgegooroo for three years:

When I lived on the opposite side of the river [on the Canning River] he and his wife used frequently to visit my residence. He was always present when they attempted to plunder and acted either as the spy or the instigator. He has come to my tent door, and

²⁷ *Perth Gazette*, May 25th 1833

²⁸ *Ibid.*

²⁹ *Ibid.*

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pointed to any provisions which might be hanging up and openly thrust in some other of his tribe to take them away. I have frequently been obliged to make a show of hostility before he would desist. He has also set two native dogs at my pigs, which they have followed to the very door of my tent. He and his tribe have repeatedly robbed me whilst I was working at a saw pit on the Canning, and on those occasions I have watched him, and distinctly observed that he acted as a spy, and gave warnings when we approached. I have heard almost every person who has known him, speak of him as a dangerous and furious ruffian.³⁰

In May 1832, Yagan was arrested for the murder of William Gaze on the Canning River, an incident that led to his declaration as an outlaw, imprisonment on Carnac Island with Lyon, and subsequent escape. In March 1833, a number of Noongar men from King George's Sound visited Perth at the instigation of the Government. This was the second visit of King George's Sound people that year, apparently for the purpose of encouraging 'amicable relationships on the Swan like those at the Sound.'³¹ Yagan and ten of his countrymen had met the first visitors at Lake Monger and, when the next group arrived, he was keen to present a corroboree for them in Perth before an 'overflowing audience', which included the Lieutenant Governor Frederick Irwin.³² Yagan acted as 'master of ceremonies, and acquitted himself with infinite dignity and grace.'³³ Although Yagan's group was referred to as 'Midgegooroo's group', it is unclear whether the old man also attended.

In April 1833, an incident occurred in Fremantle that led directly to the declaration of Midgegooroo and Yagan as outlaws. A group of Aboriginal people, including a classificatory brother of Yagan named Domjun, broke into stores occupied by Mr. Downing. William Chidlow, who lived nearby;

... perceived two or three natives in the act of breaking into the stores; he aroused some of his neighbours and each being armed, they surprized the natives in the fact [sic.], Chidlow fired and Domjum fell; the guns of the persons who accompanied Chidlow were discharged at the natives, as they fled; and there is every reason took effect, but did not prove fatal. Domjum was conveyed to the jail where he received medical attendance; the ball lodged in his head, and although the brains were exuding from the cavity, he lingered for three days before he expired.³⁴

³⁰ *Ibid.*

³¹ Hallam and Tilbrook, p. 334. See also Tiffany Shellam's detailed account of this episode in 2009 *Shaking Hands on the Fringe*, University of WA Press.

³² Stirling was absent from the colony at this time, in England.

³³ *Perth Gazette*, May 16th 1833

³⁴ *Perth Gazette*, May 4th 1833

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The next morning, Yagan and a number of others crossed the Swan River near Preston Point and told Mr. Weavell's servant that they were going to the Canning River to 'spear 'white man', and fixing his spear into a throwing stick, he rushed into the bush, followed by his infuriated tribe.'³⁵

At noon, Yagan, Midgegooroo, Munday, Migo and 'about 30 Natives', who 'appeared to be friendly', encountered Mr. Phillips and four other white men, including Thomas and John Velvick, who were employed as farm laborers at the entrance of Bull's Creek on the Canning River. The white men were loading a quantity of provisions for Phillips' farm at Maddington, onto carts when Midgegooroo inquired about the number of men in the first cart which had already left the scene.³⁶ According to a witness, Thomas Yule:

There were about thirty natives present, amongst whom I saw Yagan, Midgegooroo, Migo, and Munday. Their conduct was perfectly friendly. They appeared very anxious to know how many persons were to accompany the carts and the direction they were going. A few potatoes were given to them which they had roasted and eaten. When the carts were loaded and departed, the Natives went off in almost a parallel direction. I saw two of them pick up spears at a distance of about one hundred yards from Flaherty's stores; I separated from Mr Phillips and came on to Fremantle.³⁷

Frederick Irwin described the episode in his dispatch to the Secretary of State for Colonies:

They left the place at the same time with the carts, and in a parallel, tho' distant line. The foremost cart had proceeded four miles and was in advance of the rest a quarter of a Mile, when the Natives suddenly surrounded it and murdered with circumstances of great barbarity, the two Drivers named John and Thomas Velvick, whose cries brought up the proprietor of the Cart Mr Phillips of the Canning, who arrived in time to recognize distinctly a Native of great notoriety throughout the settlement named Yagan, while the latter was in the act of repeatedly thrusting his spear into the body of one of the deceased. The surprise appears to have been so complete that the deceased had no time to take hold of their muskets which were in the cart. The fortunate and distinct recognition of the native above mentioned by Mr Phillips, a gentleman of unquestionable character, satisfactorily identified the tribe actually committing the murder, with that of which the native shot at Fremantle was a member, and the movements of which have above been traced from Fremantle to the vicinity of the scene of the murders. The Head or leader of this tribe, an elderly man well known by the name of Midgegooroo, is father of the above mentioned Yagan, and the native killed at Fremantle, and has long borne a bad character as the repeated perpetrator of several acts of bloodshed and robbery.

³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.*

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He, Yagan, and another of the tribe named Munday (remarkable even during the friendly visits of his tribe to Perth for his sullen behaviour and ungovernable temper) were recognized by several credible witnesses as being present, and making the enquiries before alluded to, before the loading of the Carts at Bull's Creek.³⁸

According to his account, Irwin immediately conferred with his Executive Council 'to take such steps for a prompt and summary retaliation, as the means at my disposal admitted.' A proclamation was issued and published in the *Perth Gazette* offering a reward of 30 pounds for the capture 'dead or alive' of Yagan, and 20 pounds of 'Midgegooroo' and Munday. The proclamation declared Yagan, Midgegooroo and Munday to be outlaws 'deprived of the protection of British laws, and I do hereby authorize and command all and every His Majesty's subjects residents in any part of this colony to capture, or aid or assist in capturing the body of the said 'Egan' DEAD OR ALIVE, and to produce the said body forthwith before the nearest Justice of the Peace.'³⁹

Irwin rationalized his actions to the Secretary of State in the following terms:

This pecuniary stimulus has had the hoped for effect, by bringing forward some efficient volunteers among the Settlers whose ----- and occupations have necessarily given them a more intimate knowledge of the haunts of the natives in the neighbourhood of the settled district than is possessed by the Military, but no volunteers have received permission to act unless headed by a Magistrate or a Constable. Parties of the Military have also been in constant movement, traversing the bush in such directions as reports or conjecture rendered most likely to lead to a discovery of the lurking place of the offending tribes. These parties have all received express instructions to attempt the lives of no other than the three outlaws, unless hostility on the part of others of the tribe should render it necessary in self defense. I am happy to say these measures have already been attended with considerable effect. The whole of this hostile tribe have been harassed by the constant succession of parties sent against them, and in some instances have been hotly pursued to a considerable distance in different directions.⁴⁰

Capture and execution of Midgegooroo

By the time Irwin's dispatch had been received in London, Midgegooroo had been captured and executed. Despite his efforts to convince his superiors that his actions were justified, Irwin was criticized by the Secretary of State, who would have preferred a sentence of imprisonment, believing that execution would do little to improve relationships between the traditional owners

³⁸ Australian Joint Microfilm Project, Dispatch from F.C. Irwin to Secretary of State for Colonies, June 1st 1833.

³⁹ *Perth Gazette*, May 4th 1833

⁴⁰ Dispatch from F.C. Irwin to Secretary of State for Colonies, June 1st 1833

and the colonists.⁴¹ But as Irwin intended, the search for Midgegooroo, Yagan and Munday proceeded quickly as the military and private settlers combed the region.

One volunteer party led by a colonist named Thomas Hunt (according to G.F. Moore, 'a most appropriate name' who had previously been a constable in London⁴²) headed south 'in the direction of the Murray' and came across a number of 'native huts' not far from the south shore of the Swan. They 'routed' the Aboriginal people there, and pursued a group south, shooting and killing one man who was believed to be the brother of Midgegooroo and according to Moore, bringing his ears home 'as a token.'⁴³

According to the *Perth Gazette*, throughout the period immediately after the proclamation, Midgegooroo remained near the property of the Drummonds on the Helena River 'employed as he usually had been of late in taking care of the women and children of the tribe' and clearly unaware of his outlaw status and his impending doom.⁴⁴ On Thursday 16th May, a military party led by Captain Ellis, acting on information that Midgegooroo was in the area, joined forces with a number of civilians, including Thomas Hardey and J. Hancock. After camping overnight, the next morning they came across Midgegooroo and his young son:

The old man finding a retreat impossible, became desperate; Jeffers, a private of the 63rd ... rushed forward and seized him by the hair, Captain Ellis seized his spears and broke them in his hand, he still retained the barbed ends, with which he struck at Jeffers repeatedly; the alarm he created by crying out for Yagan, and the apprehensions of his escaping, required the exercise of the greatest firmness on the part of Captain Ellis to accomplish his being brought in alive. The capture of this man as effected in a masterly manner, and redounds highly to the credit of Captain Ellis. ... Midgegooroo in his dungeon presents a most pitiable object.⁴⁵

In the same issue, the *Perth Gazette* went on to invite citizens to 'forward the ends of justice' by coming forward with their evidence of Midgegooroo's wrong-doings, indicative of the close relationship between the early colonial media, the Government and the nascent system of justice.

⁴¹ Simon Adams 2009 *The Unforgiving Rope: Murder and hanging on Australia's Western frontier*, UWAP, Nedlands, pp. 13 - 14

⁴² Cameron, p. 237

⁴³ *Perth Gazette*, 18th May 1833; Cameron, p. 232.

⁴⁴ Hallam and Tilbrook, pp. 210 - 211

⁴⁵ *Perth Gazette*, May 18th 1833

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The *Perth Gazette* constitutes one of the principle records of the events over the next few days, and it is difficult to be definite about the chronological sequence between Midgegooroo's capture on the 17th May and execution on the 22nd. It appears likely that Irwin spent the period weighing up his alternatives, consulting with the Executive Council as well as men such as G.F. Moore who, as well as being a private colonist, held the official post of Commissioner of the Civil Court. On Monday 20th May, Moore records a meeting with Irwin and hints that his personal view was that Midgegooroo should be transported but there was a strong public sentiment that he should be executed; 'there is a great puzzle to know what to do with him. The populace cry loudly for his blood, but it is a hard thing to shoot him in cold blood. There is a strong intention of sending him into perpetual banishment in some out of the way place.'⁴⁶ Irwin told the Secretary of State he had conducted a 'patient examination' and had received statements from 'several credible witnesses', twelve year old Ralph Entwhistle, John Staunton of the 63rd Regiment, Charles Bourne, constable Thomas Hunt, James Lacey, Thomas Yule (sworn before Magistrates at Fremantle) and John Ellis. Each gave brief details of Midgegooroo's alleged crimes, and identified the prisoner as the same man. Irwin reported that he gave 'much anxious consideration' to Midgegooroo's punishment:

The experiment of confinement, which had been tried to some extent in the case of the three Natives whose transportation to Carnac Island and ultimate escape I have reported to your Lordship in a former dispatch appeared to have produced no good effect on the subjects of that trial, and the age of the prisoner in question apparently exceeding fifty years, forbid any sanguine hopes from such an experiment in his case.⁴⁷

There was no trial, even in the sense of an informal hearing. Midgegooroo was clearly not allowed the opportunity to give evidence or defend himself and indeed it is probable that he did not understand what was being alleged.

By 22nd May, Irwin had made up his mind:

With the unanimous advice of the Council, I therefore decided on his execution as the only sure mode of securing the Colony from an enemy, who was doubly dangerous from his apparently implacable hostility and from his influence as an acknowledged Chief. The latter circumstance being also calculated to render his death a more striking example.

⁴⁶ Cameron, p. 233

⁴⁷ Dispatch from F.C. Irwin to Secretary of State for Colonies, June 1st 1833

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The *Perth Gazette* recorded the execution as follows:

In the absence of a Sherriff, the warrant was directed to the Magistrates of the District of Perth, the duty therefore devolved upon J. Morgan Esq., as Government Resident, who immediately proceeded to carry the sentence into execution.

The death warrant was read aloud to the persons assembled who immediately afterwards went inside the Jail, with the Constables and the necessary attendants, to prepare the Prisoner for his fate. Midgegooroo, on seeing that preparations were making [sic.] to punish him, yelled and struggled most violently to escape. These efforts availed him little, in less than five minutes he was pinioned and blindfolded, and bound to the outer door of the Jail. The Resident then reported to his Honor the Lieutenant Governor (who was on the spot accompanied by the Members of the Council), that all was prepared, - the warrant being declared final – he turned around and gave the signal to the party of the 63rd [which had volunteered] to advance and halt at 6 paces, - they then fired – and Midgegooroo fell. – The whole arrangement and execution after the death warrant had been handed over to the Civil Authorities, did not occupy half an hour.⁴⁸

Irwin reported simply: ‘He was accordingly shot, in front of the jail at Perth on the 22 Ultimo.’⁴⁹

Moore also recorded the execution although it is not clear whether he was a witness: ‘The native Midgegoroo, after being fully identified as being a principal in 3 murders at least, was fastened to the gaol door & fired on by a Military party, receiving 3 balls in his head, one in his body.’⁵⁰

According to the *Perth Gazette*, the execution was witnessed by a ‘great number of persons ... although the Execution was sudden and the hour unknown.’

The feeling which was generally expressed was that of satisfaction at what had taken place, and in some instances loud and vehement exaltation, which the solemnity of the scene, - a fellow human being – although a native – launched into eternity – ought to have suppressed.⁵¹

The aftermath

It appears from the extant record that, while there was a crowd in attendance at the execution, few if any Aboriginal people were present. The boy who was captured along with Midgegooroo, who was identified as his son ‘Billy’ (later referred to also as ‘young Midgegooroo’) was estimated to be between five and eight years old. He was removed ‘out of sound and hearing of what was to happen to his father and has since been forwarded to the Government Schooner,

⁴⁸ *Perth Gazette, Perth Gazette*, May 25th 1833

⁴⁹ Dispatch from F.C. Irwin to Secretary of State for Colonies, June 1st 1833

⁵⁰ Cameron, p. 233

⁵¹ *Perth Gazette* May 25th 1833

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Ellen, now lying off Garden Island, with particular instructions from the Magistrates to ensure him every protection and kind treatment.⁵² Irwin informed the Secretary of State that ‘the child has been kept in ignorance of his father’s fate, and it is my present intention to retain him in confinement, and by kind treatment I am in hope from his tender age he may be so inured to civilized habits as to make it improbable he will revert to a barbarous life when grown up.’⁵³

The Noongar population appears to have remained ignorant of Midgegooroo’s fate, possibly to ensure that the news would not reach the feared Yagan. Four days after the execution, G.F. Moore recorded an encounter with Yagan near his homestead when he arrived with Munday, Migo and seven others, possibly with the aim of finding out from Moore what had happened to his father. Moore, caught by surprise, decided to conceal the truth from Yagan, whereupon Yagan told him that if Midgegooroo’s life was taken, he would retaliate by killing three white men. Six days later, it appears that news of the killing had still not penetrated the Noongar community for, when Moore was visited on the 2nd June by Weeip, Yagan’s son Narral, and some women, they asked him again about Midgegooroo and his young son.⁵⁴ Moore again concealed the execution but assured them that his son ‘would come back again by & bye.’⁵⁵ Two days later, Moore recorded that thefts of sheep and goats continued on the Canning River, and expressed his despair at the prospects for a people in whom he felt ‘a very great interest’: ‘These things are very dispiriting. I fear it must come to an act of extermination between us at last if we cannot graze our flocks in safety.’⁵⁶ It was not until the 11th July that the colonists succeeded in killing Yagan, his death at the hands of sixteen year old James Keats on the Upper Swan, who duly collected his reward and left the colony.⁵⁷

The *Perth Gazette* recorded its satisfaction at the deaths and believed that most of the citizenry supported the ruthless actions of the Government. Midgegooroo’s execution, it claimed, met with ‘general satisfaction ... his name has long rung in our ears, associated with every enormity committed by the natives; we therefore join cordially in commending this prompt and decisive

⁵² *Ibid.*

⁵³ Dispatch from F.C. Irwin to Secretary of State for Colonies, June 1st 1833

⁵⁴ Hallam and Tilbrook consider that Naral was more likely to have been Yagan’s brother.

⁵⁵ Cameron, p. 238

⁵⁶ Cameron, pp. 238 - 239

⁵⁷ This story has been documented by Green (pp. 87 – 88), Carter (pp. 95 – 96), and Hallam and Tilbrook (p. 338)

measure.’⁵⁸ On the other hand, it is clear that a number of colonists were unhappy with the actions of the government. Robert Lyon, who published his account of the period in 1839 after he had left the colony, wrote that while the killing of Midgegooroo and Yagan was ‘applauded by a certain class’, they were ‘far from being universally approved. Many were silent, but some of the most respectable of the settlers loudly expressed their disapprobation.’⁵⁹ There was criticism also from other Australian colonies about the execution of Midgegooroo. *The Hobart Town Review* of August 20th 1833 was full of vitriol for Irwin’s actions:

It is hard to conceive any offence on the part of the poor unfortunate wretch that could justify the putting him to death, even in the open field, but to slay him in cool blood to us appears a cruel murder without palliation.⁶⁰

Irwin, however, was convinced that his actions were merited. Writing in England about two years after the events of 1833, he asserted that ‘these acts of justice so completely succeeded in their object of intimidating the natives on the Swan and Canning Rivers that recent accounts from the colony represent the shepherds and others in the habit of going about the country, as having for a considerable laid aside their usual precaution of carrying firearms, so peaceable had the conduct of those tribes become.’⁶¹

Shortly after the death of Yagan, the *Perth Gazette* expressed hope that the Aboriginal people of the Swan and Canning Rivers would stop harassing colonists. At the same time, the way in which Yagan met his death was ‘revolting to our feelings to hear this lauded as a meritorious deed.’ ‘What a fearful lesson of instruction have we given the savage!’ the newspaper lamented.⁶² Munday approached the Lieutenant Governor seeking to make peace, and his outlaw status was annulled.⁶³ Remarking on the apparent desire of Aboriginal visitors to the Perth town area to ‘renew the friendly understanding’, the newspaper nevertheless warned that ‘they ought ... never to be out of the sight of some authorized persons, who should have the power of

⁵⁸ *Perth Gazette*, May 25th 1833

⁵⁹ 1839, *An appeal to the World on behalf of the younger branch of the family of Shem*, J. Spilsbury and J. M’Rachern, Sydney.

⁶⁰ *Hobart Town Review*, August 20th 1833

⁶¹ F.C. Irwin 1835, *The State and Position of Western Australia, commonly called the Swan River Settlement*, London, p. 25.

⁶² *Perth Gazette*, 20th July 1833

⁶³ *Perth Gazette*, 27th July 1833

controlling the conduct of individuals towards them, at the same time as they protect the public from any aggression on the part of the natives.’⁶⁴

Early in September 1833, Munday and Migo were taken by a young colonist named Francis Armstrong, later to be appointed to manage a ration depot at Mt. Eliza, to meet the Lieutenant Governor. With Armstrong acting as interpreter, Migo and Munday told the Lieutenant Governor that they ‘wished to come to an amicable treaty with us, and were desirous to know whether the white people would shoot any more of their black people.’

Being assured that they would not, they proceeded to give the names of all the black men of the tribes in this immediate neighbourhood who had been killed with a description of where they were shot and the persons who had shot them. The number amounted to sixteen, killed, and nearly twice as many wounded; indeed it is supposed that few have escaped uninjured.⁶⁵ The accuracy with which they mark out the persons who have been implicated in these attacks, should serve as a caution to the public in regulating their conduct towards them. ... After all the names of the dead were given, they intimated that they were still afraid that, before long, more would be added to the number, but being assured again that it would not be the case, unless they “*quipped*”, committed theft, they said then no more white men would be speared. They seemed perfectly aware that it was our intention to shoot them if they ‘quipped’; they argued however that it was opposed to their laws, - which as banishment from the tribe, or spearing through the leg. The death of Domjun at Fremantle, who was shot in the act of carrying away a bag of flour, they say was not merited, that the punishment was too severe for the offence; and further, that it was wrong to endanger the lives of others for the act of one, - two of his companions having been severely wounded. They say that only one life would have been taken for this occurrence, had they not met with the Velvicks at the Canning, who had previously behaved ill towards them: the attempt which was made at the Canning to break their spears, it seems, increased their irritation.⁶⁶

Migo and Munday went on to describe the arrest of Midgegooroo:

They were not far off, and heard his cries; the party who took him were all known to them, and they followed them to within a very short distance of Perth; they evince some anxiety now to be made acquainted with the names of the soldiers who shot him, and still continue their enquiries about the son; both of which questions it is prudent to avoid answering, notwithstanding their proffered amnesty. Midgegooroo’s wives, when they had ascertained that he was captured, scratched and disfigured themselves, - a usual

⁶⁴ *Perth Gazette*, 10th August 1833

⁶⁵ Hallam and Tilbrook say that these numbers relate only to Munday’s group living in Beeloo country i.e. between the Canning River and the Helena, east of the Swan.

⁶⁶ *Perth Gazette*, September 7th 1833

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practice among them - , and when his death was fully ascertained, Yellowgonga and Dommera fought a duel for the one, and Munday took the other.

The Lieutenant Governor proposed that a meeting of all the Swan and Canning people should be held, but Munday and Migo told him this would have to wait until the ‘yellow season’, December, January and February when the banksias flowered. After the meeting, Migo and Munday were seen ‘in earnest conversation with members of their tribe, communicating, it was supposed, the results of the interview.’⁶⁷

A day later, the newspaper reported that a large ‘corrobara’ was held in Perth, but that it had been interrupted by ‘some blackguards throwing a bucket of water over them.’ It also reported that a few days previously, a white woman had taken some wood ‘from under a tree, which it had occupied Munday some time to cut.

As it was not intended for her, he called to her to put it down, she however persisted in carrying it off, he threw his saw down and was soon on the ground after her. He appeared terribly enraged; the female gave him some bread and he was pacified. The town would have been up in arms if Munday had speared the female, but there can be no question that she as richly deserved punishment as Domjum merited his fate.⁶⁸

Thus, the Aboriginal people of the Swan and Canning were able for the first time to put their side of the story before the government, and even the *Gazette*, which had been unrelenting in its calls for harsh punishment, conceded that they might have a point and that justice, Swan River Colony style, was at best inconsistent. Munday and Migo argued forcefully that their people had been extremely badly treated. Even in the context of the early nineteenth century, death was an extreme penalty for the theft of flour and biscuits. Their people had consistently been roughly treated, but their story had been left untold. The rough treatment at the hands of people such as the Velvicks had been left out of the discourse of ‘native barbarity’, and the dispositions about the role of Midgegooroo, Yagan and Munday in their deaths failed to mention that, on that day at Bull’s Creek, the colonists had tried to seize and break their spears.

The colonial government and the colonists of Perth, however, had no intention of sharing their new possessions with the traditional owners, who were henceforth to be dependent on government rations dispensed from ration points. Thus began the long and inexorable history of

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

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the dispossession of Western Australian Aboriginal people from their lands and the loss of their freedoms of movement. In Perth, the ruthless killing of Midgegooroo and Yagan certainly shocked the people of the Swan and Canning but, far from improving relationships between colonizer and colonized, violence and robbery continued for some years in the region and further afield.⁶⁹ Aboriginal people of the Murray River felt the full force of colonial fury just over a year after Munday and Migo had expressed their desire for a treaty, when a large number of their people were massacred in a combined action near Pinjarra in October 1834. As the Western Australian frontier spread over the vast land area of the colony, other Aboriginal people were to experience much the same pattern of dispossession, death, incarceration and government repression. For Aboriginal people, subjugation rather than co-existence was to be their fate for the next 120 years of colonial rule.

⁶⁹ There are a large number of references to support these statements in addition to the works of Green and Carter. These include Biskup (1973), Bropho (1986), Gribble (1987), Haebich (1988), Hawke and Gallagher (1989), Green (1995), Pedersen and Woorenmurra (1995), Reynolds (1998), Jebb (2002), and Auty (2005).

SECTION TWO: Historical report on the Deanery site in the context of the Midgegooroo episode

The Deanery site and Midgegooroo's burial place.

This section provides a brief historical overview of The Deanery site, including former use of the site for a Jail and changing Lot boundaries. It considers the place of burial following Midgegooroo's death and the possibility of re-burial at a later date, either on site or elsewhere.

Overview of Jail site

Midgegooroo's execution by firing squad on the 22nd of May 1833 occurred at the first Perth jail on the corner of Pier and St Georges Terrace near the current Deanery building.⁷⁰ The built landscape around the Pier Street and St Georges Terrace corner is referred to in many heritage documents as a colonial landscape of church and government administration. This is because heritage documents deal with the existing buildings, notably the Deanery, the old Perth Jail having been demolished and replaced by the Deanery and Deanery gardens in the late 1850s. Erecting the Deanery on the old Jail site marked a significant change in cultural landscape, from the semi-garrison landscape of the earliest colonial period to the new period of a city in which Church and State literally sat side by side, while policing, crime and punishment establishments were at a greater distance.

In the era when Midgegooroo was executed and buried and before the Perth Jail was relocated, this was a landscape dominated by the first buildings supporting colonial law and order; the soldiers barracks (1832), a military hospital, the Jail (1832) and public whipping post, Officers Quarters (1833) between Pier and Barrack street, with government offices, the Governor's residence and various administrative buildings on the south side of St Georges Terrace opposite the Barracks and Jail.

⁷⁰ Throughout this report we refer to the Perth Jail and the new Perth Jail. The new Perth Jail is in fact now called the Old Perth Jail, on Beaufort street part of the cluster of colonial buildings in the Perth Museum precinct in Northbridge.

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In this early period there was a small population of Europeans and a small number of buildings in a treed and bushy landscape. Until about 1838, when government house and gardens were joined to Stirling Gardens, Pier Street was a through road running across St George's Terrace to the river's edge which was closer than it is today as landfill has created the roadways along the river.

Most early Perth buildings were made of wood and rushes, wattle and daub, with some marquees or tents.⁷¹ By 1831 there were some brick buildings. Many of these early buildings were designed and built by Henry Trigg, builder and contractor for the government offices, who wrote in 1830 that the 'whole strength of colony building lines is now in my hands.'⁷²

In 1832 there were about 25 residences in Perth with the first legislative council meeting in a room of the Governor's wooden house on the corner of Barrack Street and St Georges Terrace.⁷³ In April 1832 the population of Perth was 360 civilians⁷⁴, with a company of about 84 men of the 63rd Regiment stationed at various places in the colony, with about 15 men in Perth, 10 near Freshwater Bay and an unknown number of wives and children resident in Perth. The soldiers' duties included assisting as guards.

For a period in 1834 Governor Stirling and family resided in the officer's quarters near the Jail. Captain Irwin, the most senior military officer of the colony and who deputized for Stirling when he was absent, was stationed in Perth and stayed often at the Officers' Quarters, next to the Jail. He was noted for his interest in religion and for establishing the first 'rush church' in Perth on the corner of Irwin and Hay streets. This temporary style of building was used for several years until 1837 when services moved to the court house, on the south side of St George's Terrace.⁷⁵ In January 1845 the first St George's Cathedral, positioned on the Barracks block, held its first service.

Although the area around St George's Terrace and Pier Street during the first few years resembled the centre of a garrison town, it quickly developed the elements of a growing township, where resident settlers, churches, schools, law and commerce were to be encouraged.

⁷¹ Statham-Drew, p. 191

⁷² Henry Trigg to Amelia, 16th January 1830, Acc 1584a (Microfilm)

⁷³ Statham-Drew, p. 208.

⁷⁴ Statham-Drew, p. 214

⁷⁵ St Georges Cathedral website, www.perthcathedral.org/About-Us/history.html

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As early as 1833 a regulation was promulgated to ensure a high standard of housing in the area near the Barracks and Jail.⁷⁶ However it was not until approximately 1856 when the new Perth Jail in Beaufort Street was opened, that the Jail, prisoners and public punishments were removed entirely from the eastern end of St Georges Terrace and the Pier Street corner site.

In 1849 there were signs that the Perth population wanted the Jail removed from such a central area where they lived, worked and prayed. A decision was made to close the Rottnest Island native prison and allow the island to be leased as farmland. Henry Vincent, the jailer, was relocated to Perth with Aboriginal prisoners who were to build a new and better Jail outside the township.⁷⁷

The Jail held European and Aboriginal prisoners and, after 1842, some Parkhurst Boys from England. It also housed men taken from Fremantle Jail to Perth Jail to build roads in 1846.⁷⁸ In 1848 the 'white and native prisoners' in Perth Jail were given an extra ration in recognition of their work on public roads and buildings.⁷⁹ However the Perth Jail seems to have been mostly referred to as the native Jail during the late 1840s when it became over-crowded.

In 1850 it was reported to be so over-crowded and in such bad condition that it was 'inhumane' to suggest that it might fit the regulations for prisons, and was a disgrace similar to 'the black hole of Calcutta'.⁸⁰ Forty native prisoners were confined in two rooms measuring 18 by 12 feet and 15 by 12 feet, with one small window and a bucket. Prisoners were chained and unable to move about at night.⁸¹ There had been many deaths in the Jail. Governor Kennedy decided to reopen Rottnest as a prison, stating that Perth Jail had resulted in natives being chained 'like wild animals'.⁸²

In 1852 funding was placed on the Estimates to build a new Perth Jail in Beaufort Street Perth.⁸³ In November 1854 the *Perth Gazette* announced that mechanics and laborers were shortly to

⁷⁶ Heritage Council of Western Australia, Register of Heritage Places – Assessment Documentation, 1995, p. 3.

⁷⁷ *Perth Gazette*, 27 July 1849

⁷⁸ *Perth Gazette*, 5 December 1846

⁷⁹ *Perth Gazette*, 19 August 1848

⁸⁰ *Perth Gazette*, 23 August 1850

⁸¹ Green and Moon, *Far From Home*, 1997, p.22

⁸² Green and Moon, *Far From Home*, 1997, p.23

⁸³ *Perth Gazette*, 25 May 1852

begin work.⁸⁴ The Jail was occupied in 1855. Rottnest Island was reopened as a native penal settlement also in 1855. In 1858 the Perth Jail administration was handed over to the Convict establishment and there were 70 prisoners in the Jail, with 30 engaged in macadamizing the road from the jetty.⁸⁵

In July 1858 the Perth Jail land on the corner of Pier Street and St Georges Terrace was given to the Church by the Crown so that the Deanery could be close to the Cathedral which had been opened in 1845. The two storey brick Deanery building was completed in 1859, as a residence and office for the first Dean of Perth, the Reverend George Purves Pownall.⁸⁶

According to the 1995 heritage assessment document, there was some ‘controversy’ over the site being used for the Deanery, given it had been a site of punishment and death, a Jail housing Aboriginal prisoners and Midgegooroo’s place of execution. According to the same document the Deanery garden was also once the site of the town stocks.⁸⁷ This is probable as the Perth ‘public whipping post’ was referred to in 1835 and is likely to have been near the Jail.⁸⁸ In 1916 Edward Stone described the area in detail ‘On the side of the prison was the officers quarters ... and at the left hand corner of the Deanery fence stood the stocks where I remember seeing a man detained for habitual drunkenness.’⁸⁹ He added that these stocks remained for years and he expected the stumps would remain in the ground should anyone look for them. Mention of the town stocks and the town whipping post having been in the area near the barracks was also made in 1933.⁹⁰

The Jail buildings and site

The Perth Jail where Midgegooroo was executed was a building designed by Henry Trigg in about 1832 to accommodate prisoners. According to Edward Stone’s 1916 memoir, the building was constructed of wood.⁹¹ In April 1833, tender were called to undertake improvements to the Jail. The work was required to be undertaken within the ‘shortest possible time’, suggesting that

⁸⁴ *Perth Gazette*, 24 November 1854

⁸⁵ *Perth Gazette* 11 June 1838

⁸⁶ Heritage Council of Western Australia, Register of Heritage Places – Assessment Documentation, 1995, p. 3.

⁸⁷ Oldham J. & R. *Western Heritage* (Perth, Paterson Brokensha 1961), p. 51, quoted in Heritage Council of Western Australia, Register of Heritage Places – Assessment Documentation, 1995, p. 3.

⁸⁸ *Perth Gazette*, 7 February 1835 mentions that Garbel had flogged a young native lad on the town whipping post.

⁸⁹ *The West Australian* 29 April, 1916 ‘Sir Edward Stone’s Lecture’

⁹⁰ *The West Australian* 5 January 1933

⁹¹ Mr Stone’s Lecture, *The Western Mail* April 29th 1916

it may have been complete by the time of Midgegooroo's imprisonment prior to his execution.

The tender specified the following works:

To alter the position of Three of the Doors of the Perth Jail.

To put up a close Park Paling Seven feet high, the whole length of the Jail and to extent Twenty feet from each side; with a Privy in one corner; on one side of the park paling to have a Gate four feet wide, with Padlock and Iron Bar.

To provide a good substantial Guard table and Guard Bed; and to repair the flooring of the Guard Room.⁹²

When Midgegooroo was executed, there are references to him being shot at the 'front' door, the 'outer Jail door' and one reference to him being secured to the door. It is possible this outer Jail door refers to the four feet wide gate, which included an iron bar and padlock.

Early drawings and documents give some indication of the changes made to the Jail buildings over its period of use. In September 1848 the government called for tenders for the construction of a Jail building of '20 feet by 15 feet, divided into two rooms by a brick partition of 4 inches, no flooring'.⁹³ In February 1849 the government called for tenders for Perth Jail improvements; 'to add to the present lean-to 8 ft, to take down and refix two gratings, to turn the gutter, to raise the present fence round the Jail-yard five (5) feet.'⁹⁴ In 1849 tenders were received to further enlarge the 'native prison' meaning the Perth Jail and remove the privy.⁹⁵ In 1850 the Jail was recorded as containing forty native prisoners in two rooms measuring 18 by 12 feet and 15 by 12 feet, with one small window.⁹⁶

Early maps, one from 1846 and the other undated, show the Jail buildings and some fenced areas.

⁹² *Perth Gazette* 20th April 1833

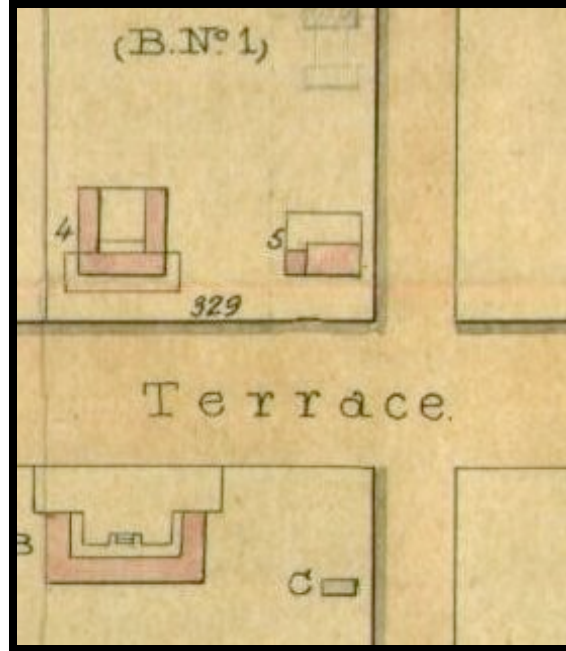
⁹³ *Perth Gazette*, 30 September 1848

⁹⁴ *Perth Gazette*, 30 February 1849

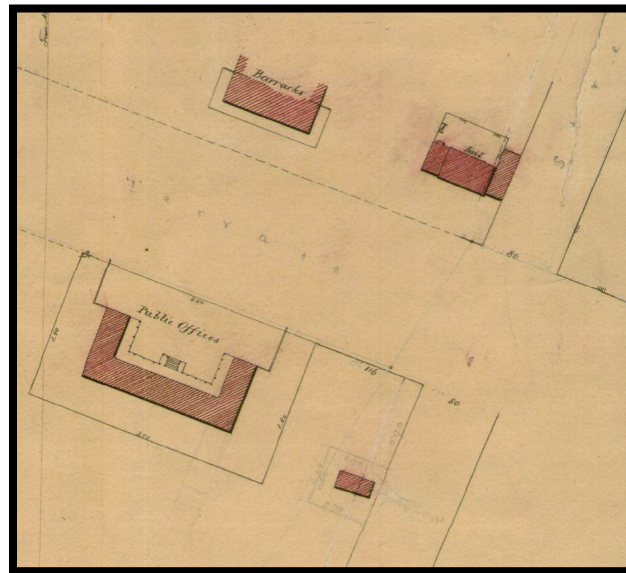
⁹⁵ *Perth Gazette*, 27 July 1849, p.4

⁹⁶ Green and Moon, p.22

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Jail building is marked no.5 on lot B. Section of 'Part of Perth Town site south of Howick St showing military buildings 1846'.⁹⁷ Jail building appears to consist of two sections, the smaller of which may have been the guardroom. It is possible that the extent of the yard might also be indicated, but there is no indication of perimeter fencing or walls.

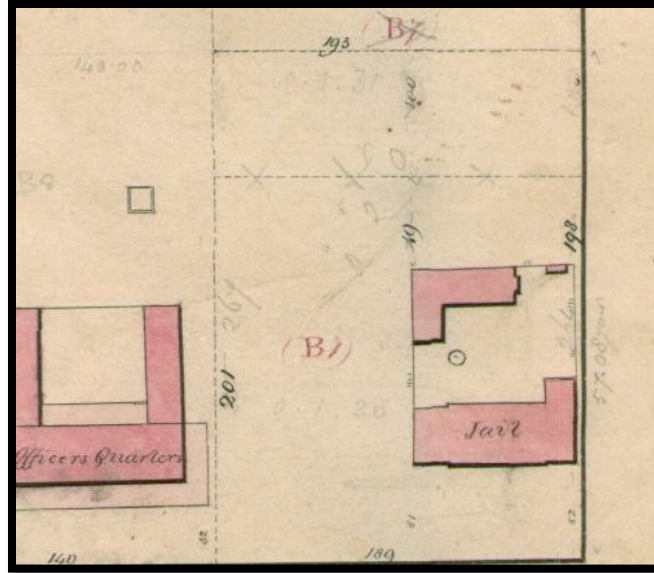


Jail building, top right hand corner. Section of 'Plan of Public Buildings in Perth' showing the Commissariat, Court House, Public Offices, Barracks on St George's Tce & Pier Street (Unsigned, undated)⁹⁸ The jail building lay-out may show the lean-to against Pier St.

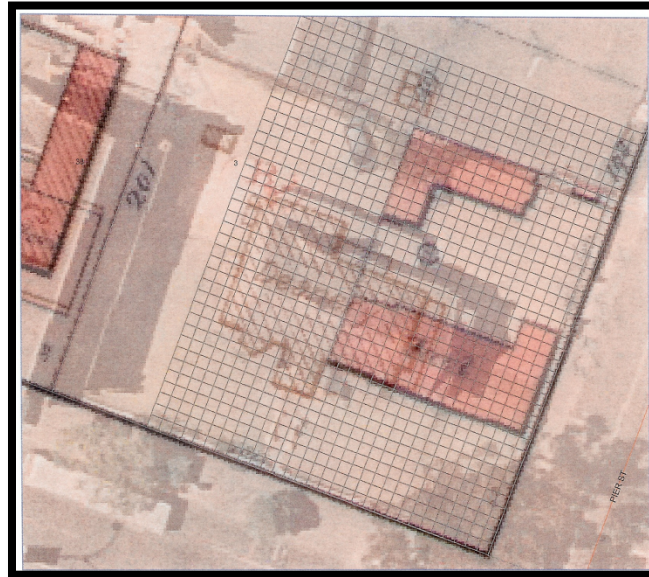
⁹⁷ SROWA Series 241 Cons 3850 Item 39b

⁹⁸ SROWA series 235 Cons 3868 Item 321 Perth 18/5

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1851 Drawing of the Jail and Officers Quarters.⁹⁹ An additional building has been added perhaps a Guard House. The circle on the plan may indicate the location of a well.



First Perth Jail buildings superimposed on Deanery Plan (DIA 2010)

⁹⁹ SROWA Ser 235 Cons 3868 Item 322 Perth 18/6 Perth 18/6. Plan showing Lots B1 -B4 & B7-B9 (Hospital, St Georges Church, Barracks Officers Quarters & Jail shown)

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Where was Midgegooroo executed?

Midgegooroo was executed by firing squad on Tuesday the 22nd of May 1833. His capture occurred on the 17th of May.¹⁰⁰ Irwin wrote that he was shot ‘in front of the jail at Perth’.¹⁰¹ In the *Perth Gazette* Midgegooroo was recorded as ‘pinioned and blind folded and bound to the outer door of the jail’ and Moore referred to him being secured to the ‘jail door’.¹⁰² Given the many references to his struggle prior to his shooting, and to his being ‘pinioned’ it is possible he was pinioned using a leather strap or chord and tied to a grate or grille that may have been part of the Jail door.

The execution was completed by six soldiers of the 63rd regiment. It took less than 30 minutes from reading of the death warrant to the shooting. It occurred in a place where there was room for a ‘crowd’ and members of the Legislative Council to watch, and where the firing squad of six soldiers were able to take six steps forward before firing.¹⁰³ It is uncertain exactly where the ‘front’ door was located on the site. However the extant drawings suggest it faced St George’s Terrace as did the Barracks building next door, with the set back from the street allowing for level ground. Reminiscences in *The West Australian* in 1933 follow many others in stating that Midgegooroo was ‘led out to the front of Perth jail, then in St George’s Terrace...’ and shot.¹⁰⁴ In 1916 Sir Edward Stone made reference to a person in the audience who had seen the ‘hole in the door made by the bullet fired at the native Midgegooroo’.¹⁰⁵

Where was Midgegooroo buried?

It is likely that men in Perth Jail who died in the 1830s and early 1840s were buried near where they died. Legislation to control burials in designated ground was not enacted until 1848 with the East Perth cemetery the main burial ground in the Perth area. However, prisoners were traditionally not buried in consecrated ground, but inside prison grounds or as in the case of John

¹⁰⁰ *Perth Gazette*, 18 May 1833. His capture has sometimes been recorded as the 16th of May however, it appears from documents that the group searching for him, camped a night (the 16th) and the next morning captured Midgegooroo and a child, his son ‘Billy’.

¹⁰¹ Lt. Gov. Irwin to Lord Goderich, June 1st 1833 (AJMP)

¹⁰² In 1916, Edward Stone recounted that he knew a person ‘who remembers seeing the hole in the door made by the bullet which was fired at the native ‘Midgegerwoo’ (*Western Mail* April 29th 1916)

¹⁰³ *Perth Gazette*, 25 May 1833

¹⁰⁴ *The West Australian* 5 January 1933. See also articles in newspapers in 1923, 1929 and 1933

¹⁰⁵ *The West Australian* 29 April, 1916, ‘Sir Edward Stone’s Lecture’

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Gavin¹⁰⁶ executed ‘without ceremony’ in 1844, and buried in the sand hills of Fremantle near where he was hanged. It is difficult to be certain exactly where prisoners were buried in Perth in the early colonial period but it is likely that they were buried near where they died and near the Jail site.

In Midgeooroo’s very early case, it is known he died at the Jail and likely he was buried near the jail. An article from 1833 states that the same evening of his execution on Wednesday, 22nd May:

A party of resurrection men, novel characters to us, in the course of Wednesday night, made an attempt to remove the body of Midgeooroo, but being surprized in the act, by the sentry, they were compelled to fill the hole up again.¹⁰⁷

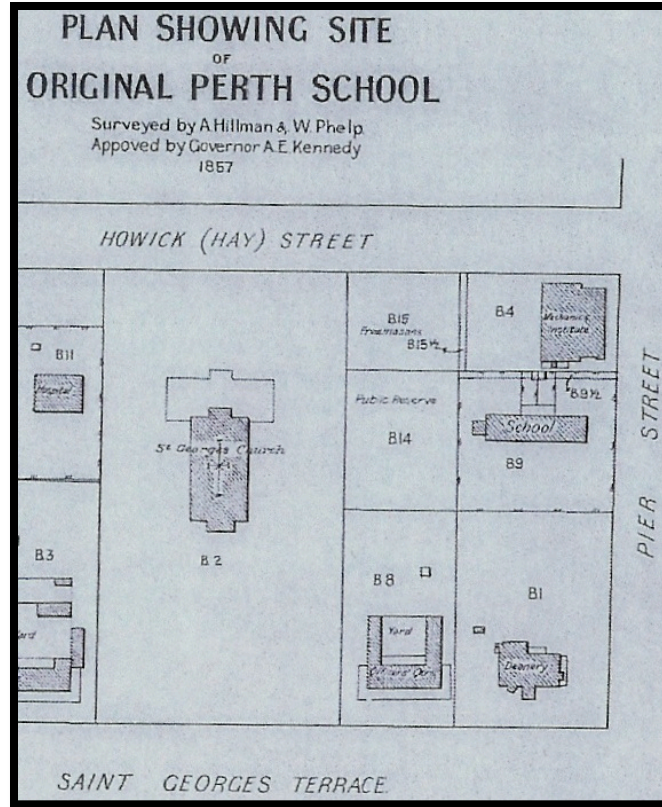
This suggests that his body was within or near the jail grounds where there was a sentry on duty. Midgeooroo was probably buried near his place of execution, the old Perth Jail near the current Deanery and Deanery garden. The Deanery was constructed in about 1858 and, although the Plan below is dated 1857, the Deanery building fund was in full swing in 1858 and nearing its target in April 1859. In August 1859 ‘the Deanery’ is referred to as an aside in a court case and Rev. Pownall is known to have taken up residence in November 1859.¹⁰⁸ Maps integrating the historical maps with a current map of Perth have been produced by DIA and provided for this report. (See Map City of Perth Central Business District, Location of Deanery, September 2010’.) This suggests that the eastern part of the Deanery corresponded with parts of the Jail, although the eastern wall of the jail (possibly the lean-to) extended almost to Pier St.

¹⁰⁶ David Hutchison, *Many Years a Thief*, Wakefield Press, c. 2007.

¹⁰⁷ *Perth Gazette* Saturday 25 May 1833

¹⁰⁸ *Perth Gazette*, 25 April 1859; *Perth Gazette* 26 August 1859

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SLWA, 1857 Plan showing site of original Perth school surveyed by A. Hillman and W. Phelps.

In 1893, a correspondent ‘A.T.’ wrote the *The Inquirer* recounting his memories of what he had seen as a boy:

One day, when passing the gaol I was much surprised to hear the report of guns in front of the building, and on going round to ascertain the cause I saw several soldiers drawn up in line opposite the door; to which was bound a native. That native was Midgecarro, who so died without having troubled judge or jury. The body, I think, was buried in the sand at the east end of the gaol.¹⁰⁹

In 1923 when a skull and bones were uncovered by workmen in the Deanery grounds, some Perth people wrote of memories of the site and the stories of Midgeooroo as told by parents and grandparents. These add some important details to the execution and burial of Midgeooroo that are otherwise absent from the contemporary reports, including the official report by Irwin. While memory as historical evidence is not always considered reliable, contemporary reports are so bereft of detail that reports by eye-witnesses, even if they are provided ninety years after the actual event, warrant consideration. Three stories were reported after the finding of the skull in

¹⁰⁹ *The Inquirer* 1st September 1893

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1923 that preserve memories from people who claim to have witnessed the execution and its immediate aftermath, and suggest a location for Midgeooroo's burial place, as well as saying that after his execution, his body was hung in a tree for general viewing and to serve as a warning to Aboriginal observers.

F. M. Courthope, who resided at the Deanery as a child, recalled the stories from her grandfather Reverend William Mitchell that 'under a large mulberry tree at the corner of Pier Street and St George's Terrace a native chief was buried.' She added that the 'native chief was shot and buried on the spot' which she had always understood to be in the shade of one of the mulberry trees, and that her father Archdeacon Browne and 'my brothers used to wish that they might be able to dig for the skeleton of the native'.¹¹⁰



The Deanery in about 1870, showing some of the mulberry trees¹¹¹

Stories of what happened to Midgeooroo include references to his body being hanged in chains from a tree near the jail, exhibited to deter others of their crimes against Europeans.¹¹² In 1934,

¹¹⁰ Mrs F. M. Courthope, *Perth Gazette*, 9 October, 1923

¹¹¹ Battye Library 009253D

¹¹² *The West Australian* 19 July 1934

C. Shenton recalled her mother's story of seeing Midgegooroo's body

... hanged on a tree at the corner of the fence (now the Deanery). My mother Mrs Lochee saw him hanging there when returning home after her lessons from Government House where she went every day.¹¹³

Another story by an unnamed correspondent who was also a child of Mrs. Lochee (nee Purkis), says that she was eight years old when Midgegooroo was hanged on a tree located in the corner of the Deanery fence. The correspondent recalled being told that Midgegooroo was a small man with 'an abnormally large head' and further wrote that '... his body was left hanging for some hours as a warning to the natives, and was buried in the presence of a number of the tribe, who were terrified.'¹¹⁴

This practice of chaining and displaying the bodies of executed people occurred in at least two other cases. In 1840, two Aboriginal men Barrabong and Doodjeep were sentenced to death for the murder of a European woman and her child by setting fire to her house.¹¹⁵ They were subsequently hung at the site of the crime and their bodies left hanging. On April 1850 an Aboriginal man named Kanyin was hanged and then taken to the place where the crime was committed, to hang in chains at a town outside Perth.¹¹⁶

The Skull found on the Deanery site

In September 1923 a skull and bones were uncovered on the Deanery site by workmen digging post-holes for the construction of a 'new fence'.¹¹⁷ It is not possible to identify exactly where on the site the fence posts were located, although the Deanery perimeter fences were in existence from the late 1850s. Repairs and minor alterations were done to the Deanery in 1918, 1932, 1936, and 1979.¹¹⁸

The skull was handed to a doctor who identified it is a male Aboriginal who had been buried for many years. The Deputy Chief Protector of Aborigines Aldrich went to Moore River Native

¹¹³ *The West Australian* 8 December 1934

¹¹⁴ *The West Australian* 11 October 1923

¹¹⁵ Adams, pp. 15 - 17

¹¹⁶ *Perth Gazette*, 19 April 1850

¹¹⁷ *The West Australian* 4 October, 1923

¹¹⁸ Taken from 'The Old Deanery, Perth; Strategic Conservation Plan – volume 2'.

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Settlement to ask one of several aged Aboriginal people who had lived in Perth to provide information.¹¹⁹ One man, Tommy Bimpta believed the body was a woman called Bettie Mukerdam (originally married to a white man named Drummond) who was buried in the locality when he was a boy. He described her burial with her kangaroo skins. He was estimated to be between 70 or 80 in 1923 when the article was written, so his memories of witnessing the burial could be of events as early as the 1830s. He states that Bettie Mukerdam had come to Perth from Beverley to get red ochre and had stayed for years before she died. She had camped with a group of old Aboriginal people on the 'trotting ground' at the eastern end of the township below the cemetery and was receiving rations issued by Sgt Dale and collected from Shenton's store. The Deputy Chief Protector felt the evidence showed there was probably more than one burial at the Deanery site.

Evidence recorded in the depositions states that Midgegooroo had a distinctive lump on his forehead. Also according to an entry in Moore's diary, the execution by firing squad resulted in three bullets to Midgegooroo's head and one to his body.¹²⁰ This suggests that Midgegooroo's skull could have identifiable characteristics that were likely to have been mentioned in reports about the identification of the skull.

What happened to the skull?

The skull found at the Deanery site in September 1923 was handed by the police to the Western Australian Museum days after it was found, and note was sent to the Police Commissioner acknowledging receipt.¹²¹ However, the Museum reported that it had searched its collection and catalogues and was unable to find any trace of the skull either within its collection or catalogues.¹²²

Could there be other Aboriginal men buried at the Perth Jail site?

There were other Aboriginal men held in the Perth Jail after Midgegooroo's death and some died having been executed by hanging or through illness. For example in May 1837 four Aboriginal

¹¹⁹ *The West Australian* 4 October, 1923

¹²⁰ Cameron, p.233

¹²¹ General Secretary to Commissioner of Police, Perth, 29 September, 1923, copied by WA Museum staff for DIA, October 2010.

¹²² Discussion with Dr Moya Smith, Museum WA November 2010.

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men, one named as Goodup or Goordup, one from the Upper Swan, and two from York were held in the Perth Jail. One Aboriginal man who came from York to Perth with the prisoners died. Another mention of Aboriginal men in the Perth Jail from 1839 records two Aboriginal men escaping from the Jail, after being released from their irons.¹²³ Other burials in the grounds near the Jail may have occurred, as it is known that there were deaths of several prisoners housed in the Jail in the 1840s.¹²⁴ In 1850 the Colonial Surgeon Dr Ferguson stated that Ninnabung who had died at Perth Jail on 14th August 1850 was sickly when he got there.¹²⁵ In January 1854, a ‘native accused of the murder of a white man, a shepherd in Mr Hassell's employ at Kojonup died in Perth Jail.’¹²⁶ There are however, no details of where these prisoners were buried.

Executions other than Midgegooroo at Perth Jail

Other hangings and burials of Aboriginal men in the 1840s occurred in places away from Perth at the site of a crime, or alleged crime.¹²⁷ There is little evidence of other executions taking place at Perth Jail.

In 1850 three Aboriginal men were to be hanged ‘across the causeway’ from Perth at Redcliffe. One was hanged after a tragic and farcical process whereby his two companions watched his hanging and were then reprieved at the last minute by the Governor, whose secretary rode to the spot and after one death handed a letter of reprieve to the officials. This was a public event, and included amongst the onlookers Aboriginal and white prisoners from the Perth Jail.¹²⁸

In 1855 when the new Perth Jail was being constructed the *Perth Gazette* announced that public hangings would now be easier for the public to view, as they will in future occur in front of the new Perth Jail instead of the previous procedure of walking, men, carts and the public to the gallows at a place ‘beyond the Perth causeway’, also called Redcliffe.¹²⁹ In 1916 Edward Stone told an audience that a hanging at the causeway involved a procession from the jail, condemned

¹²³ *Perth Gazette*, 6 July 1839

¹²⁴ *Perth Gazette*, 15 July 1837

¹²⁵ *Perth Gazette*, 23 August 1850

¹²⁶ *Perth Gazette*, 20 January 1854

¹²⁷ Adams, pp. 13 - 15

¹²⁸ *Perth Gazette*, 19 April 1850

¹²⁹ *Perth Gazette*, 21 September 1855

man, soldiers with bayonets fixed, Sherriff, Minister of religion and a cart with the coffin.¹³⁰

Public hangings continued at new Perth Jail in Beaufort Street, with one gruesome description of four Aboriginal men hanged on one day in July 1865 with a crowd that included children watching the event.¹³¹ Other Aboriginal men hanged at Perth Jail after it had been relocated to Beaufort Street included: Miel hanged 17 August 1857 for the murder of a child; Emruee, Kinderduct alias Long Jimmy, Nalyeen all hanged 1862; Mackie hanged 1864; Briarty or Briley hanged 1871.¹³²

Changes to the site, road and verges effecting the boundaries and surfaces

When the old Jail was located on the corner of Pier and St George's terrace, Pier Street was a through road continuing south to the river's edge from St George's Terrace to a point near the government stores and commissariat. This was closed around the time the new Government House was built in the 1840s. An 1838 map shows street layout with Pier Street ending at St George's Terrace. However, several other maps undated but thought to be 1840s show the street as a through street.¹³³ It is likely that the street was closed in the 1840s when prisoner work gangs operating out of the Jail clayed Pier St, filled in a gully in front of Government house, built a stone retaining wall on the north side of St George's terrace and macadamized the roads nearby. Early drawings show the Pier St width as '80'.¹³⁴ Drawings of Government house and Gardens show Pier St closed from St Georges terrace with Pier street width marked at 52'9" having been reduced from 80.¹³⁵ When the Deanery replaced the Jail on the site, it left a side garden on Pier St where there had previously been buildings. Repairs and minor alterations were done to the Deanery in 1918, 1932, 1936, and 1979. Alterations to the garden areas which were open ground when the Jail existed and so potentially sites of a burial, were also undertaken in 1918, 1932, 1936 and 1982.¹³⁶

¹³⁰ *The West Australian* 29 April, 1916, p.8 'Sir Edward Stone's lecture'

¹³¹ *Perth Gazette*, 21 July 1865

¹³² Green and Moon, pp. 123, 168, 207, 225, 247, 214

¹³³ SROWA Ser 235 Cons 3868 Item 288 'Town of Perth, 1838, from actual survey'

¹³⁴ SROWA series 235 Cons 3868 Item 321 Perth 18/5. Plan of Public Buildings in Perth (Commissariat, Court House, Public Offices, Barracks on St Georges Tce & Pier Street). [unsigned, undated]

¹³⁵ SROWA Ser 235 Cons 3868 Item 320 Perth 18/4. Plan of Government House, Guard House & Public Offices in St Georges Terrace, Perth by W. Phelps, No Date

¹³⁶ Taken from 'The Old Deanery, Perth; Strategic Conservation Plan – volume 2'.

Other Burial sites rediscovered

In Melbourne Jail before the 1850s, bodies of executed men had to be interred inside the Jail grounds. In 1932 when these bodies were accidentally uncovered during earthworks ‘a furore’ erupted and they were re-buried at Pentridge Prison.

‘In Victoria, since the theft of the Kelly skull, there has been considerable speculation, controversy and discussion over the skull and burials. The records of the exact location and identity of the people buried both at the Jail and at Pentridge has been lost, further adding to the controversy.’¹³⁷ At Brisbane’s Boggo Road Jail, a site inside the prison was also excavated thought to be a burial site. After research and archaeological work no bones were found as the site had been excavated and altered too much on previous occasions.¹³⁸

Likewise in Western Australia, Rottnest burial ground was the subject of years of controversy and concern. Similar issues arose in the Kimberley at Bungarun Derby leprosarium, where unmarked graves were thought to have become part of public access ways, leaving them open to being built over or dug up at a future time. The Bungarun site was subsequently listed as a heritage place both under the WA Heritage Act to protect them from desecration. Ceremonies were held to recognize the sites’ significance.

¹³⁷ Diane Gardner, Old Melbourne Museum, Open Museum Journal, 2000, <http://hosting.collectionsaustralia.net/omj/vol2/gardiner.html>

¹³⁸ Boggo Road Historical website <http://www.boggoroadJail.com.au/PH%20burials.html>

Select Bibliography

Published Books and articles

Adams, Simon 2009 *The Unforgiving Rope: Murder and hanging on Australia's Western frontier*, UWAP, Nedlands

Cameron, J.M.R. (ed.) 2006, *The Millendon Memoirs: George Fletcher Moore's Western Australian Diaries and Letters, 1830 – 1841*, Hesperian Press, Perth

Carter, Bevan (c. 2005) *Nyungah Land: Records of the invasion and theft of Aboriginal Land on the Swan River, 1829 – 1850*, Black History Series, Perth

Green, Neville 1984 *Broken Spears: Aboriginals and Europeans in the southwest of Australia*, Focus, Perth

Green, Neville 1981 'Aborigines and white settlers in the nineteenth century' in *A New History of Western Australia*, University of Western Australia Press, Nedlands

Green, Neville and Moon, Susan 1997, *Far from Home: Aboriginal Prisoners of Rottnest Island, 1838 – 1931*, University of WA Press, Nedlands

Hallam, Sylvia and Tilbrook, Lois 1990, *Aborigines of the South-West Region, 1829 – 1840*, University of Western Australia Press, Nedlands

Hasluck, Alexandra 1961 'Yagan the Patriot' in *Early Days: Journal of the WA Historical Society*, Vol. V, Pt. VII, 1961, pp. 33 – 48

Hutchison, David 2007, *Many Years a Thief*, Wakefield Press, Adelaide

Irwin, F.C. 1835, *The State and Position of Western Australia, commonly called the Swan River Settlement*, London

Lyon, R.M. (attrib.) 1839, *An appeal to the World on behalf of the younger branch of the family of Shem*, J. Spilsbury and J. M'Rachern, Sydney

The Execution and Burial of Midgegooroo: A Report to Palassis Architects

Reynolds, Henry 1998, *This Whispering in our Hearts*, Allen & Unwin, St. Leonards

Shellam, Tiffany 2009, *Shaking Hands on the Fringe*, University of WA Press, Nedlands

Statham-Drew, Pamela 2003, *Governor Stirling: Admiral and Founding Governor of Western Australia*, University of Western Australia Press, Nedlands

Contemporary Newspapers

Perth Gazette and West Australian Journal (1833 - 1854)

The Western Mail (1915, 1916)

The Inquirer (1893)

The West Australian (1916, 1923, 1933)

Archives

Battye Library, Correspondence of Henry Trigg Acc 1584a (Microfilm)

Battye Library, Correspondence of G.F. Moore Acc 263A

Battye Library, Letters of the Dodds Family Acc 1607A,

Battye Library, Letter of Alexander Collie Acc 332A,

Battye Library, Letters of F.C. Irwin Acc 910A

SROWA Colonial Secretary's Office 2194/1923

SROWA Colonial Secretary's Records 27.123 – 7

Lt. Gov. Irwin to Lord Goderich, June 1st 1833 (AJMP)

Websites

Heritage Council of WA: <http://register.heritage.wa.gov.au/>

St Georges Cathedral: www.perthcathedral.org/About-Us/history.html

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Maps and plans

SROWA Ser 235 Cons 3868 Item 288 'Town of Perth, 1838, from actual survey'

SROWA series 235 Cons 3868 Item 321 Perth 18/5. Plan of Public Buildings in Perth (Commissariat, Court House, Public Offices, Barracks on St Georges Tce. & Pier Street).

[unsigned, undated]

SROWA Ser 235 Cons 3868 Item 320 Perth 18/4. Plan of Government House, Guard House & Public Offices in St Georges Terrace, Perth by W. Phelps, No Date

SROWA Series 241 Cons 3850 Item 39b. Part of Perth Town site south of Howick St showing military buildings 1846

SROWA Series 235 cons 3868 Item 295 Perth 18D.

SROWA Series 235 Cons 3868 Item 320 Perth 18/5. Plan of Public Buildings in Perth,

[unsigned, undated]

SROWA Series 235 Cons 3868 Item 322 Perth 18/6. Hillman 1851. Plan showing Lots B1 -B4 & B7-B9

SROWA Ser 235 Cons 3868 Item 293 'Part of Perth ... 27 January 1857'

SROWA Series 241 Cons 3850 Item 34a, Barracks and proposed Barracks 1862