Representations of Agreement-Making in Australian Post-*Mabo* Fiction

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One of the most significant developments in native title law and practice since the High Court of Australia's decision in *Mabo v Queensland (No 2)* (hereafter the "*Mabo* case/decision") has been what Marcia Langton and Lisa Palmer have called an "emergent culture of agreement making" in Australia since the early 2000s (2). Langton and Palmer define agreement-making broadly, to include agreements under the Commonwealth *Native Title Act 1993* and Land Rights Acts of the Commonwealth and individual States,[1] restitution, contracts between Aboriginal peoples and statutory authorities, and treaties. Writing in 2003, they drew attention to the structural conditions underlying such practices through their use of the word "culture," and recognised that the turn to agreement-making had not always led to "equitable outcomes for Indigenous parties" (2). Since then, the practice has become more entrenched, and criticism of it has persisted. The *Uluru Statement from the Heart* highlights its continuing importance by calling for a Makarratta Commission to "supervise a process of agreement-making between governments and First Nations," reinstating the longstanding aim of Aboriginal and Torres Strait Islander leaders of securing a treaty (*Uluru Statement*). If, as Geoff Rodoreda has argued, "it is a post-Mabo *literary* imaginary that works to describe, articulate, reflect and ultimately represent post-Mabo discourse in Australia today" (*Mabo Turn* 4), it is timely to inquire how and to what extent the phenomenon of agreement-making can be discerned in contemporary Australian literature. Through a study of four novels, Peter Goldsworthy's *Three Dog Night* (2003), Jessica White's *Entitlement* (2012), Melissa Lucashenko's *Mullumbimby* (2013), and Kim Scott's *Taboo* (2017), this paper argues that agreements form a significant yet notably contingent means of narrative resolution, their representation prompting a critical reflection on the ideology and practice of recognising Aboriginal sovereignty.

In the 2012 Eddie Koiki Mabo Lecture at James Cook University, Henry Reynolds identified the adoption of Indigenous Land Use Agreements under the *Native Title Act* as evidence of the "widespread acceptance of the existence of native title," taking heart from mining companies' strategic shift from litigation to negotiation in their dealings with native title holders (6). In her Boyer Lectures of the same year, Marcia Langton argued that the "right to negotiate" provisions of the *Native Title Act* had positioned native titleholders to reap economic benefits from the mining boom, and that such empowerment was part of the "profound" legacy of the *Mabo* decision (56). Acknowledging that the Act gave no "right to veto, but a seat at the table" (56), Langton averred that increased economic participation and wealth creation by First Nations people had resulted, and could with "ingenuity and leadership" continue to result, from the bargaining process. Others have presented a more sceptical analysis of this shift.

Reviewing the history of native title, historian and native title lawyer David Ritter concluded that governments and industry players only "accepted" native title after the adversarial court battles of the 1990s had reduced the rights of First Nations applicants. The discourse of agreements and contract law assumes the formal equality of the parties at the bargaining table, but in reality, corporations and governments have far greater economic and political advantages than their Indigenous counterparts, while Indigenous communities have limited rights of negotiation, and limited time periods in which to reach their decisions. Ritter concludes that "the deal-making which is now so prevalent reflects underlying power

relationships; it does not alter them" (174). Tanganekald, Meintangk Boandik law professor Irene Watson reaches a similar conclusion, arguing that the obtaining of "free, prior and informed consent" is jeopardised in such circumstances, and that equality of the parties ought to be fundamental to the making of a contract (155–56). The existence and the effects of such a power imbalance have been highlighted in a number of cases involving land rights or native title holders, mining companies and governments, from the 1970s case of the Ranger Uranium Mine to the recent case of the Yindjibarndi people against Fortescue Metals Group (Howey; Cleary; Howlett and Lawrence; Behrendt and Kelly 84).

Paul Cleary in *Title Fight* offers a book-length account of the Yindjibarndi experience. In this case, Fortescue Metals Groups, one of Australia's largest mining companies, presented a series of wide-ranging demands to facilitate its proposed mining in Yindjibarndi country (the Yindjibarndi are the traditional owners of an area near the town of Roebourne in the Pilbara region of northwestern Western Australia), but offered compensation terms that were much less than industry standards, and maintained its position during negotiations. In response, the Yindjibarndi invoked their right to "free, prior and informed consent" under the UN Declaration of the Rights of Indigenous Peoples, and put forward their own preferred terms and conditions. No agreement was reached, and the mining company successfully gained access to the land through an arbitration by the Native Title Tribunal. Fortescue also sought to divide the Yindjibarndi community, fostering relations with individuals and funding a rival community organisation. It used outside providers to carry out heritage surveys, rather than those accredited by the community. Maximising conflict in this way, a corporation can then assert its economic power by weaponising the law. The Yindjibarndi defended multiple lawsuits for over a decade, until the High Court upheld their rights in 2020.

Underlying such egregious examples of domination under the guise of agreement-making lies what Carole Pateman calls "the settler contract" and Charles Mills terms "the racial contract." Pateman and Mills argue that the western tradition of social contract theory excludes non-white peoples and operates in the context of imperialism to further white interests. They regard the doctrine of *terra nullius*, which involved a denial that society existed in this country before the arrival of the British, as a paradigmatic example, enabling the "expropriation" of the land and its resources by erasing the rights of the original inhabitants (38). Pateman argues that the settler contract has remained the implicit basis of the Australian polity, though its legitimacy has been undermined by the *Mabo* decision (73). This philosophical analysis suggests that a fundamental structural inequality inheres within the "culture of agreement-making" of contemporary Australia. It is to address this inequity that the *Uluru Statement from the Heart* reasserts the unceded sovereignty of First Nations peoples and communities, and calls for the institution of a "Makarratta Commission to supervise a process of agreement-making between governments and First Nations."

In this context of theoretical equality but actual disparity of power, it is not surprising that the discourse of agreement-making should begin to circulate in literary texts focused on white–Indigenous relations. A study of the forms and occasions of consensus-building or dispute resolution in contemporary novels may shed light on the emancipatory potential and the limitations of this important mode of "coming to terms" in recent Australian public culture. If the "settler contract" is indeed one of the "foundational structures" of Australian society (Huggan v), to what extent does it inform or constrain fictional imaginings of agreement by white and First Nations authors? To what extent is it "challenged or refused" (Brewster, *Deadman Dance* 97)? In a study of Kim Scott's third novel, *That Deadman Dance*, Anne Brewster draws on the ideas of Mills and Pateman to argue that the text critiques the "settler contract" while showing an alternative cross-racial model grounded in a short-lived early nineteenth-century experience (99). In the rest of this paper, I examine four novels that address these issues in a contemporary Australian setting. I begin with Peter Goldsworthy's *Three Dog*

Night (2003), an early instance of a narrative involving the formal reaching of agreement, albeit in a context of personal responsibility, rather than native title or land rights.

Three Dog Night sets up a familiar triangulation of desire (Girard; Sedgwick): the first-person narrator, Martin Blackman, a psychiatrist who is researching the role of internet pornography in mental illness, is newly married to Lucy Piper, a younger psychiatrist who specialises in pain management. Back in Adelaide after a decade in London, Martin introduces Lucy to his old schoolfriend Felix Johnson, a surgeon who worked with the Warlpiri people in central Australia, but now lives in the Adelaide Hills, terminally ill with hepatitis C. Felix is initially unwelcoming and offensive, but becomes attracted to Lucy. Although well-educated and intelligent, Martin exhibits what Larissa Behrendt calls a "psychological *terra nullius*," retaining a colonialist understanding of the landscapes they travel through, while Lucy is keen to know more about Aboriginal peoples and their dispossession (9). Felix, by contrast, has become an initiated member of a Warlpiri clan during his years of working in the desert. The plot centres on Felix's wish to return to Warlpiri country, to make amends for a professional failure that led to the death of a child, but also to die in the desert. He invites Lucy to accompany and care for him, without Martin. While relying on the motif of the desert journey, *Three Dog Night* is a "post-Mabo quest narrative," in which Aboriginal characters "are integral to the story . . . as traditional owners of the land" in which much of the action occurs (Rodoreda, "Reading Mabo" 27).

Felix's invitation sets in train a series of emotional and moral dilemmas. Lucy cannot "refuse him and look at myself in the mirror, Marty. But I can't accept him and look you in the face" (182). This decision is one of many borderline judgments in ethics, law, and desire that mark the ensuing journey, and that intensify when a jealous Martin joins them in central Australia. The plot investigates the respective claims of reason and emotion, morality and desire, Anglo-Australian law and Aboriginal law, and ultimately of secular rationalism and the Warlpiri *jukurrpa* (or Dreaming). In Felix's own case, he had contributed to a boy's death by delaying his treatment because he (Felix) was drunk. While exonerated by an official inquest, he knows that as an initiated man he is also subject to Warlpiri law. Fearing such punishment, he left the Northern Territory, but on discovering that he contracted Hepatitis C while belatedly operating on the boy, he considers whether this is a spiritual punishment in terms of Warlpiri cosmology, and decides to return in order to negotiate a settlement with the boy's family. His return to the desert, and incidentally, his seeking permission from the Land Council for Lucy to travel there, represents an acceptance of the jurisdiction of Warlpiri law, an acknowledgment of the traditional system of justice of the society in which he was living.

Felix is a figure of abjection, a fugitive from Warlpiri country, and an uncomfortable presence on the fringes of Adelaide society. Associated through his illness with bodily fluids and through his conduct with moral danger, he represents the threatening breakdown of boundaries in both the corporeal body and the body politic, and the return of that which was excluded. The boundary that is principally brought into view here is the separation of Aboriginal people from settler society, implemented through legislation and social practice in the earlier part of the twentieth century, but still present in psychological attitudes, as the Koori poet and psychologist Dennis McDermott has shown, and in the distribution of social space (123–25). The Howard Government's 1998 amendments to the *Native Title Act*, which overrode the *Wik* case, and reduced Aboriginal and Torres Strait Islander rights to native title, especially by promoting the use of Indigenous land use agreements, were an attempt to strengthen that boundary in law, and to restore a pre-*Mabo* vision of the national polity.[2] Felix's respect for Warlpiri beliefs and his acknowledgment of Warlpiri law, evident in his agreement to make reparations to the family of the young patient whose death he caused, and to bequeath some of his property to his Warlpiri friends Bedford and Dr Jerry Japaljarri, suggest a more constructive and ethical approach to what Peter Minter calls "the interface between Aboriginal

and non-Aboriginal cultures, polities, imaginaries and cosmologies" (187–88). Martin's narrative, in which this episode is embedded, however, is notable for its motifs of dirt and danger, suggesting the anxieties felt by mainstream Australian society at this time.

Goldsworthy presents the scene in which this agreement is reached as a tense negotiation between the victim's male relatives and Felix and his family in the presence of Lands Council lawyers, conducted with the two parties seated on the ground, facing each other in a horseshoe shape, with the lawyers at the apex of the horseshoe. Felix's "family" consists of Dr Jerry Japaljarri and Bedford, along with Martin, who is classified by the Warlpiri as his brother, but who is an ambivalent participant. The contract's English legalese sounds contrapuntally between the angry responses of the other family and Martin's barbed observations during this scene. In the deed of agreement Felix offers the family a sum of money in settlement of all claims against him. Although the mechanism of monetary damages derives from Western law, Dr Jerry declares that the terms accord with the "one . . . true way" of Warlpiri law, and that no traditional punishment is required, particularly since Felix is already dying (253). After initially disputing the amount and the method, the victim's family agrees, and all parties sign. Confirmation that the matter has indeed been settled occurs when the dead boy's father reaches out to Felix, assisting him to stand up. However, such agreement is a rare event in this novel: with the narrative so focused on pollution, triangulated desire and the blurring of classifications, the main protagonists are left unreconciled, and their conflicts unresolved. As such, *Three Dog Night* appears to contrast the capacity for conflict resolution in Aboriginal society with the damaging effects of possessive desire upon the social contract in white Australian culture.

Jessica White's 2012 novel, *Entitlement*, provides a more positive and sustained fictional exploration of conflict and its resolution, of coming to terms, than Goldsworthy's text. White's novel concerns two extended families living on a farming property, one white and the other First Nations. The former has owned the property for three generations, but their son Eliot has been missing for eight years. Eliot's absence is a source of pain for all family members, but particularly for his sister Cate, the protagonist of the novel, with whom he had always had a close relationship. Cate and Eliot's parents Blake and Leonora and their uncle Charlie and aunt Sally wish to sell the farm as they can no longer manage it. Cate is opposed to selling, as she still hopes for Eliot's return. The second family living on the farm consists of Mellor, on whose ancestral country the farm is located, and his aunts. Mellor works on the property, as did his parents and forebears, until they were evicted by Blake's father. As a post-*Mabo* novel, *Entitlement* is equally attentive to Mellor's family history as to that of their white neighbours, and as respectful of Mellor's attachment to his country as it is to Cate and her family's love of their home. The history of Mellor's family is also scarred by the loss of children across at least two generations, removed by the state under the policy of the time—a parallel which opens out the symbolic implications of the "lost child" story in this novel (Pierce).

The farm is owned by a partnership of all family members, and includes Cate and Eliot, and Blake and Charlie's unmarried sister, Natalie, a lawyer who lives in Melbourne. The sale can only proceed if all members agree to sell. In a clear instance of Pateman's "settler contract," the novel opens with the family gathering to discuss the issue. The legal requirement for consensus is set against long-running emotional conflicts that have been exacerbated by Eliot's disappearance. His absence becomes for some a reason for selling, and for Cate the grounds for not selling. It transpires that Mellor has found Eliot's body during one of his regular journeys through his country, but has withheld this information on learning of the proposal to sell the land. Running through the background of the story are media reports of the Stolen Generations Royal Commission and John Howard's refusal to offer an apology on behalf of the government, as well as his legislation to curtail native title rights on pastoral leases. These

contentious political issues impinge directly on the lives of Mellor and his aunts, and are a public parallel to the discord between Cate and her family.

Mellor devises a plan to resolve the stalemate, while also protecting his own claim to the land. He presents Cate with a bold proposition: "Give me the land, and I'll tell you where Eliot is" (221). Her family are appalled by this idea, thinking primarily of the land's commercial value and their legal entitlement, but Cate counters with the emotional value of finding Eliot and laying him to rest, and with her willingness to buy the other partners out in order to effect the transfer to Mellor. Although it seems more like an ultimatum than a negotiation, Cate recognises Mellor's rights in the land, and sees the exchange as mutually beneficial. It is also motivated by Mellor's sense of Eliot's place in the land: "When a person dies, their spirit goes back into the land. Can't you understand now why you mustn't sell?" (257). Mellor has an inclusive concept of ownership, offering Leonora the chance to stay in her home, while he and his aunts will move into Charlie's house, honouring a principle of co-existence and shared possession. Leonora accepts, but Blake adheres to a settler-colonial idea of ownership as an exclusive right, and cannot recognise the equality of Aboriginal people, even those, such as Mellor whom he knows well. The connection between the two families is deepened by the news that Eliot had a child with Mellor's daughter, Rachel. For Cate and Leonora, the loss of Eliot will be counterbalanced by getting to know his daughter.

The novel has much less interest in the detail of the contract of sale than in the human relations between characters. *Entitlement* has a naturalistic awareness of sexual attraction and desire, and dispassionately observes social mores. Alongside a romantic ideal of mutual desire, it portrays the "entitled" attitude exhibited by white men in sexually abusing Aboriginal women. Agreement-making in this novel provides a daring but persuasive resolution of many of the text's conflicts, though not all, while the position of dominance held by Mellor in driving this bargain inverts the usual positions offered in settler-colonial Australia, drawing attention to that inequity.

A more cautious imagining of the possibilities of agreement-making is revealed in Aboriginal writing. The title of Melissa Lucashenko's *Mullumbimby* (2013) suggests the importance of place, both in the geographical and the social sense. By the end of the novel, Jo Breen, a Bundjalung woman whose forebears were members of the Stolen Generation, and who has purchased a small farm in Bundjalung Country, has learned some of the stories of her land and acquired deeper relationships with the local Aboriginal community. As a portrait of social relations, *Mullumbimby* highlights the presence of conflict as well as communal bonds. Upon buying the farm, Jo and her daughter Ellen encounter immediate suspicion or wariness from their white neighbours, Rob Starr and Darren Ferrier. However, these relationships are eclipsed in dramatic importance by conflicts between local Bundjalung people generated by a native title claim lodged by two other new arrivals, the brothers Twoboy and Laz Jackson. Anne Brewster has identified "the sometimes calamitous effects of native title claims on Indigenous communities and individuals" as a major theme of this novel (Review 250), while Philip Morrissey specifies these effects as "the crises of genealogical accreditation, traditional custodianship and social precedence that have arisen in Aboriginal communities since the passing of the Native Title Act in 1993" (121). Through Twoboy's struggles with the evidentiary requirements for native title claims, including "genealogical accreditation," and his indifference to the rights of other community members, *Mullumbimby* challenges the belief that native title is truly a "vehicle of empowerment" for the Bundjalung people of this region (Brennan). Instead, it is shown to generate rivalry and discord among claimants, even violence: "'Shitfights everywhere you look, first cousins not talking after fifty years, brothers bashing brothers'" (*Mullumbimby* 233). Twoboy's absorption in the case also leads readers to question his romantic relationship with Jo, when he demands that Ellen appear as a witness despite her and Jo's repeated objections.

The novel supplements this representation of ramifying conflict with a comic vision of ultimate harmony that draws on Aboriginal cosmology and Buddhism. Jo's belief that "there is a deep system and order" within nature (261) is borne out by the mysterious replication of landform patterns in Ellen's handprints. The implication of this parallel between her corporeal body and that of the land is that Ellen and Jo have returned to the home of their ancestors, as the elder Granny Nurrung explains (276). The normative dimensions of this account of the world are summed up in Anne Brewster's description of it as a "cosmological juridical imaginary" (Review 250): not only is law tied to the creation of the world, but when change occurs, it is "not at random" (*Mullumbimby* 261). In contrast to the limited scope of "native title," the novel presents an authentic Aboriginal sovereign ownership in Granny Nurrung's care for the lyrebird place and in her teaching of Jo and Ellen (Rodoreda, *Mabo Turn* 221). This sense of ultimate harmony is instanced in the resolving of the native title claim through mediation between Twoboy and Aunt Sally Watt's groups, and the revelation that Rob Starr has transferred his farm to Sam Nurrung in consultation with Granny Nurrung. However, both these agreements are negotiated off-stage as it were, a by-product of Lucashenko's decision to focalise the narrative through Jo. The Native Title Tribunal mediation leads Twoboy and Aunt Sally to mutually recognise the other family's title to adjoining lands, an attitudinal change only made possible by the death of the aggressive Oscar Bullockhead. This unexpected agreement suggests a limit to the novel's critique of the native title regime, however. Rob Starr's restoration of his farm to its traditional owners is a narrative surprise, given Jo's initially negative reaction to him. While the transfer has already been accomplished, Rob is shown assisting Sam Nurrung to learn about the land, so that he can manage it using both western and Bundjalung ways. Although his manner and dress are those of well-to-do rural masculinity, Anne Brewster has argued that his portrayal represents a "renovated [form] of whiteness" through his actions in "taking direction from the elders about the appropriate care for the land on which he lives" (Review 250). An ethical attunement to the rights of the other that goes beyond legal obligations is illustrated in Starr's secret purchase of a horse for Jo, to replace the one she lost when floods led it to be caught in the barbed wire of his new fence. His dealings with both Jo and the Nurrungs are characterised by "respectful relationships" (Kwaymullina iii). This reparative ethic is echoed in the tentative reconciliation between Jo and Twoboy in the novel's final scene.

It is in the volatile course of Jo and Twoboy's romance and other personal relationships that *Mullumbimby* explores the practicalities of "coming to terms," the difficulties of reaching agreement. Jo's observation of the "inevitable black hands grasping white ones in friendship" on display at the art show suggests Lucashenko's disdain for facile humanist symbolism (216). Any optimism implied by the agreements just discussed is moderated by the systemic racism shown in the violent mistreatment of Uncle Humbug by police while he is in custody. Generally in this novel disagreement is articulated—and managed—through dialogue, and especially through comic banter. The experience of negotiating in everyday life, usually from a subaltern position, affords the characters insights on this subject. Insisting on the limits of *Mabo* to a naïve relative, Jo declares the necessity of moderating their hopes: "there's a bloody great need to compromise in families like ours" (50). And Twoboy shows an astute structural understanding of Australian society: "My family never signed any contract agreeing to live in poverty all our born days" (58), thereby rejecting the settler contract in terms that echo the critique of Pateman and Mills.

A similar emphasis on contingency shapes Kim Scott's *Taboo* (2018), in which the process of agreement-making emerges from a context of traumatic history. A group of Wirlomin Noongar people return to the vicinity of the Kokanarup massacre, an area of their traditional country that has been considered taboo ever since the murder of their ancestors. In a gesture of reconciliation, the local white community wish to acknowledge and commemorate

the massacre by dedicating a Peace Park in the town. The novel shows the Wirlomin community members working together to devise an authentic response to that request, to "make it a Wirlomin place again" (94). It also focuses on Dan Horton, current owner of the farm on which the massacre took place, and a descendant of the perpetrators, and Tilly Coolman, who is meeting her Wirlomin relatives for the first time, and who was briefly fostered by the Hortons as a child. Dan invites the Coolman twins and Tilly to the property to show them some sites and traditional artifacts. At first his idea of reconciliation involves deflecting the reality of the massacre through a superficial and generalised offer of goodwill, that Tony Hughes-d'Aeth has analysed through the Lacanian concept of extimacy. While initially parodying abstractions such as reconciliation and "Community Development" (Scott 100), the novel also emphasises the world-building capacity of words, especially words in the "old tongue" of the Wirlomin Noongar: "It's language brings things properly alive" (98).

Only rarely is that language quoted in the text. Usually it is alluded to, its links to the land described, its implicit metaphors commented upon, in the English of the narrator. This strategy reflects the experiences of many characters, who are learning it or reconnecting with it. But it also has a relativising effect for the reader's perception of English, placing it in relation to the original language of the area, criticising the adequacy of some of its customary expressions, pushing it to articulate overlooked aspects of reality, and implying that the Indigenous language offers a more authentic understanding of the local world. The novel dramatises the way immersion in language, the remembering of songs and movements, and the physical dimensions of speaking and sensing the Noongar world by walking through it strengthens individual identities and helps to "reconstitute" their collective identity (109).

The prospect of agreement emerges slowly in the text. The Wirlomin characters observe that apologies and acknowledgments of their prior ownership of the land are symbolic actions, and don't expect the whites to give the land back (93). But after a heated discussion about the massacre, Dan tentatively asks if he could offer the Wirlomin group a collection of grinding stones that his family has collected over the years. Despite the economic disparity, they invoke the language of contract, rather than of charity: "Well, they can put what they got on the table. Doesn't mean we'll accept it" (225). Upon seeing and holding the stones, they accept the offer, and decide to lend some to the local museum. On the following day, showing the group further sites, Dan articulates a more substantial reconciliatory vision, of bequeathing the farm jointly to Tilly and to his son Dougie, not knowing that Doug is a drug-dealer and child abuser who uses drug dependency to gain control over addicts' families, including Tilly.

Doug is a modern manifestation of the original Horton brother who raped a thirteen-year-old girl and was killed under Noongar law, leading to the massacre. Both these men breach societal taboos that help distinguish permissible sexual relationships from those that are forbidden in the interests of protecting individuals and the community from danger. According to Franz Steiner's anthropological study of taboo, this concept functions through "the institutional localisation of danger," and applies to places and to dangerous or endangered persons (214). The tradition that Kokanarup was a taboo place reflects a judgment of earlier generations about the likelihood of danger in that region. For Melissa Lucashenko, Scott identifies a current taboo, about "telling the truths of Australian history" (Review). Such knowledge endangers the legitimacy of the settler nation. Although the word "taboo" is not applied to Doug in the text, his sexual subjection of Tilly and other young women through drugs while pretending to be their protector epitomises transgression and danger. The threat of child sexual abuse is also present within the community itself through the "bad twin," Gerrard. While the ideal of agreement-making presupposes rational and voluntary negotiations leading to a mutually beneficial result, the novel's emphasis on taboo addresses the reality of evil desires, and the knowledge of destructive compulsions within society, casting a shadow across the liberal culture of agreement-making.

Dan's proposal, offering equality on paper, would entangle the Wirlomin further in the legacies of the past, and undo the progress they have made in returning to Kokanarup. When Wilfred and the other elders explain why they could not accept Dan's gift on those terms, he listens. *Taboo* is a novel of journeys rather than arrivals; it ends before the characters reach the Peace Park, with Dan watching their approach. Rather than lamenting the loss of his truck and wheat harvest, in what Melissa Lucashenko describes as a "breath-taking scene" (Review), he is entranced and moved by the sight and sound of the procession with Tilly at its head. Although this open ending implies that reconciliation is an incomplete project, a brief epilogue many years later showing Tilly as an old woman driving to a "little property by the river" hints that Dan decided to disinherit Doug and return the land to its original owners (280). This glimpse into the future offers an image of hope, of eventual healing and justice, "something recreated and invigorated" (281). It repeats Tilly's earlier return home, with the difference that this time she is alert to the nurturing signs of Country that surround her. By ending with this single image, beyond the present, many of the issues existing in the novel's contemporary narrative world, including drug addiction, sexual violence, and competing property claims, are deliberately left unresolved. That these problems are all associated with the figure of Doug suggests that they are legacies of settler colonialism (Franks 410–11), which in turn lends support to Philip Morrissey and Marion Campbell's argument that *Taboo* is an allegorical text about the problematics of "reconciliation" (148).

During her keynote lecture at the 2022 ASAL conference, Evelyn Araluen reviewed scholarly studies of Australian literary responses to the *Mabo* case, and suggested that critics should assess fictional treatments of legal concepts in the light of their material operation. Among the fictional mediations of agreement-making considered here, only *Three Dog Night* represents the radical differences between the disputing parties and the fraught process whereby Felix and the Warlpiri reach their settlement. While the other three novels register the social and economic inequality between their white and Aboriginal protagonists, it does not significantly affect the possibility of agreement.

Mullumbimby, *Entitlement*, and *Taboo* imagine justice through the agreed restitution of land. This is a known phenomenon, but one that occurs rarely,[3] suggesting that the agreements in these novels outstrip contemporary probability. In this respect, they may further the broad emphasis upon agreement-making as a worthy ideal. In all four novels, however, the scope of consensus reached is clearly defined, and leaves visible the continuing existence of discord and oppositional forces in the culture, signified by the emphasis on dirt and the concluding estrangement of Martin and Lucy in *Three Dog Night*, Blake's obduracy in *Entitlement*, the bashing of Uncle Humbug in *Mullumbimby*, and the thematic focus on taboo in Scott's novel (Kertzer 2). In *Three Dog Night* and *Taboo* the incorporation of psychoanalytic concepts of abjection and taboo into the narrative registers the presence of irrational and violent realities alongside the supposedly rational and consensual practice of contract and agreement in modern Australian society. The doubling of Martin and Felix as rivals and "brothers," and the indistinguishability of the twins Gerald and Gerrard, suggests that a desire for domination shadows the discourse of agreement, a phenomenon also acknowledged in *Entitlement* and *Mullumbimby* through references to sexual abuse of Aboriginal women and girls respectively. Notwithstanding that recognition, all four novels construct agreement-making as an ethical engagement with the other that considers their wellbeing not just in terms of economic exchange. In this way these texts reflect critically on dominant approaches to agreement-making in Australia and look forward to a process grounded in equality.[4]

NOTES

[1] *The Aboriginal Land Rights (Northern Territory) Act* was passed in the federal parliament in December 1976. Some state governments have enacted their own land rights legislation.
[2] *Wik Peoples v. Queensland* (1996), the "*Wik* case," ruled that native title was not necessarily extinguished by pastoral leases, but could co-exist with the rights of pastoralists and graziers.
[3] One reported instance is the donation by Tom and Jane Teniswood of half their farm to the Tasmanian Aboriginal Land Council in 2019 ("Tom and Jane").
[4] I would like to thank Laurent Shervington, Tony Hughes-d'Aeth, Michael Griffiths, Maggie Nolan, and Jessica White for discussion of some of these texts and for responses to an earlier version of this paper, and the *JASAL* peer reviewers for their suggestions and comments.

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