

Translation of Series 49

The NLC - To represent Traditional Law

The research for these Radio Programs was undertaken by Yolŋu co-producers in their home communities. These Yolŋu co-producers were also the very Yolŋu people who usually fill the role of interpreters in government meetings and community court sessions. Their level of confusion around many of the academic English words and contemporary issues is deeply concerning and shows why most government programs fail due to poor communication and lack of access to information for these First Australians.

Yolŋu Researchers/Co-Producers:

Mainstream English First Language

Producers:

- | | |
|-----------------------|-------------------|
| - Maratja Dhamarandji | - Richard Trudgen |
| - Nikunu Yunupingu | - Timothy Trudgen |
| - Dianna Gondarra | |
| - Djiniyini Gondarra | |

It's important to understand that Yolŋu people speak English as a fifth or sixth language and English is still an uncharted language for them. Consequently, many questions that come from the community will revolve around the confusion Yolŋu people have about understanding academic/intangible English words and concepts, together with their very traumatic interface experience with the broader Australian community. This reality leaves most Yolŋu feeling as though their culture, language and way of life is inferior to mainstream dominant Australian people and culture.

The radio program/podcasts below reflect this lived reality and offers mainstream readers a rare opportunity to glimpse some of the real issues facing Yolŋu people. The production of these radio programs has also offered the Yolŋu researchers/co-producers, and their community, the first in a lifetime opportunity to gain answers and clarity regarding many of the subjects raised, in their own language.

INTRODUCTION

Even though I have spent over 40 years working with Yolŋu exploring many subjects I was still shocked to see the depth of the confusion that emerged for my Yolŋu colleagues as we discussed potential topics for these radio programs/podcasts. When the levels of confusion

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become apparent it's little wonder that the Gap is not closing. Little is achieved through most government programs, despite all the money and effort that goes towards them. How can it be expected that Yolŋu people will respond like others in the mainstream when they have no access to information in a language they can understand? Information is power so the lack of information has to be powerlessness.

At last they are now able to get real information in a consistent way, allowing some of the veil of confusion to be lifted across the Yolŋu lands.

Programs produced around these subject headings go to air on Yolŋu Radio and on <https://www.djambatjmarram.com/>

Richard Trudgen,

Podcasts number 1 Commonwealth Gov makes law for Land Councils. 279A

NY: Yo Wamut. RT: Gu Waku

NY: the subject around when the Gurindji walkoff occurred. When did they (the government) recognise the Yolŋu law, at this time?

RT: well. What was your 1st question you were talking about yesterday? What is the role and work of the NLC? Was that your 1st question?

NY: yes that was it. What is its real role or work? Are they working for Yolŋu or are they working for government?

RT: we have been looking at that history and that Gurindji mob, they started up that. They were the 1st. There were other people in New South Wales, Victoria. Aboriginal people have tried to get government to recognise Aboriginal Land for 200 years, way back.

NY: Hmm.

RT: but when the Gurindji they walked off, that Stockman strike, that shocked them right across Australia. In Sydney, Melbourne and Adelaide. And that was in 1966. So that didn't change it. But in 1966-67 up until 1970s and then the other big problem came up in Yirrkala around Nhulunbuy. In that time all of Arnhem land was under the Welfare Department and the mining companies who wanted to come into Arnhem land they didn't have to ask Yolŋu to look for minerals. That 1st company I think was the Nabalco. Nabalco came and they

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found bauxite in the Nhulunbuy Gove region they call it, Gove area. And they asked the government for a mining lease.

NY: did they carry out a survey program across the Estates?

RT: yes, they explored for minerals they did a lot of exploration work. They had an exploration lease from the Federal government to look around for minerals. But the Nabalco then became the 1st company, mining company, to ask for a mining lease.

And they promised lots of things. At one time they said that only a few Balanda, about 27 in total, would be mining the bauxite and carrying it to the port for loading on the ships. Then it has become a bigger operation now. And then Nabalco sold the lease to Alcan and so on. So that the mining companies have a lease in hand. But in the court case Milirrpum v. Nabalco and the Commonwealth government Yolngu people attempted to stop the mining - for the lease not to be given.

Some Yolngu say they won that court case but they didn't win. If they won the court case there'd be no mining here in Nhulunbuy, and Yirrkala. What they did win was that during the court case a small proportion of your law, your madayin law, was recorded and assessed. And Justice Blackburn he said. That's the judge, Judge Blackburn. What he said was, I have listened to what the Yolngu have said, all the witnesses and the workers for the Yolngu at Yirrkala. Missionaries and all the other supporters. And the lawyers the missionaries got for the Yolngu, they got some good lawyers. And Blackburn said, "I've listened to all that's been said and I can see a rule of law". Or something like that I haven't got the words in front of me. "I can see that you have a system of law". But because Justice Blackburn was just one judge, because he's only one judge he wasn't ready to say that your legal system really exists and that they shouldn't give a lease to Nabalco. So, the Yolngu lost the court case and the Nabalco ended up with a mining lease to be able to carry out mining.

RT: but all that information and news that came out in the papers, on the TV and on the radio right across Australia, a lot of Balanda across Australia started to say that this is not fair, this is Yolngu land and we should be recognising their law. For the original Australians. For the 1st Australians. So, when Gough Whitlam came to power he said I'll return land rights to the Aboriginal people. And he gave back the 1st land to ahh..... he gave that land back to that old man.

NY: Vincent Lingiari

RT: yeah Vincent Lingiari that's him. What do you call that mob?

NY: Gurindji

RT: Gurindji mob yeah. He gave it back to them as stockman with a lease in 1975. That Gurindji land was covered with a lease, it was not a reserve like here in Arnhem land was. There was already a cattle station there on their land. It was called Vestey's cattle station.

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Note: Wave Hill Station is located approximately 600 kilometres south of Darwin in the Northern Territory. Vestey's, a British company which ran the cattle station, employed local Aboriginal people, mostly Gurindji.

RT: so, Gough Whitlam bought the lease and gave it back to the Gurindji people. The cattle station lease. But the Whitlam government started to work on the Act for Aboriginal Land Rights. First of all he sent that Judge Woodward to do the enquiry. Mainly to Arnhem Land and central Australia. And then to Bathurst Island and Groote Eylandt. And he tried to work out how to make that act the Aboriginal land rights Act. An Act of law that they can make inside the Balanda parliament in Canberra. And like any Act of Law, when they start working on it it's not done in 1 or 2 weeks. It's done over a number of months or even over a number of years. That happened right up until the new election and Gough Whitlam lost that election and Malcolm Fraser the Liberal government won the election. Malcolm Fraser then said I will bring in the Aboriginal land rights act.

So first it came into being as a Bill and then they talk through more, looking for how they could recognise Yolŋu law but they said we don't know that law so how can we recognise it.

RT: in the end they said will make up that separate body. The separate body that will exist between the 2 systems of law, called The Lands Council. And we will pass the Aboriginal Land Rights Act Northern Territory 1976. They passed it and it became law in 1976. So they then made separate lands councils as we said in that last program. The NLC northern lands Council in the north of the Northern Territory. And the Central Lands Council in the middle of the Northern Territory. Then later on they made the Tiwi lands Council. And one other.....

NY: the one on Groote what is called? Anindilyakwa, Anindilyakwa.

RT: yeah the Anindilyakwa Council. So nephew we have got those lands councils that have a statutory responsibility back to the parliament in Canberra. Let's come back again and talk about what's their role, work and their authority.

Podcasts number 2 Role of NLC. Councils function not understood 279B

RT: Waku we are talking about the Lands Council. And what was your question again?

NY: what is their work and what is their purpose and role? All the Lands Councils. What is their work and why have they got that work?

RT: we have been telling that background story and we have got up to 1976 when they made that Aboriginal Land Rights Act of the Northern Territory 1976 in Canberra. And why did they make this Act of Law? They made this Act of Law to give authority back to all the Aboriginal Estate owners in the Northern Territory. Where no Balanda leases had taken the authority out of your law over your estates.

For example, in Arnhem Land and in the desert country in central Australia.

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Where no Balanda had taken over your land and so this act of law was to return the authority (from the British Crown) to your law and legal systems, into the hands of the Aboriginal estate owners. Aboriginal Land Rights Act. This act was to return your authority, land rights, your authority. This act was to return the authority into your hands.

Note: the English word "rights" is not understood well by Yolŋu people. There are 8 meanings to the English word "rights" and most Yolŋu only apply 3 of them to it. That includes left-to-right, that is right is incorrect, that is morally the right thing to do. But it does not include your rights or right at law. So the word 'land rights' has made little sense to 99% of Yolŋu since the land rights act was established. It's not a problem in that their language cannot explain this, it's just that the English term is very confusing and has not been clearly taught to the whole population group. When you hear the word 'land rights' they usually apply the meaning of who has been given the authority by the Balanda over land. This is a common thing to do across languages because it's an English term that's usually being used by Balanda who have no understanding of who the real land owners are. Instead they have applied 'land rights' to the groups who were seen by the Balanda authorities, for one reason or another, anthropologically or whatever, as being the landowners, rather than the real landowners at traditional Yolŋu Madayin law.

This act is for all the lands councils in the Northern Territory not in other States. It only affects the Northern Territory.

These Lands Councils have the statutory responsibility in relation to this act. There are lots of different points in the land rights act and there are many subsections, something like 78 but there could be 200 or 300 in the Act. Unless you know the Act and all the subsections of it's very hard to know the role and work of the Lands Councils. But we can talk about the main points of the act.

What the government said at the time - we don't understand your law and so what we'll do is will make a new body called the Lands Council. So let's talk about the NLC because it's the main one that affects the Arnhem Land.

So in that Act they have Djungaya bureaucrats to work for the NLC and those Djungaya workers have a statutory responsibility under that Act.

NY: and who are these Djungaya bureaucrats, Wamut who are these Djungaya? All the workers or what?

RT: yeah all the office workers. All the workers, the field officers, consultants, the anthropologists and lawyers. All the workers in the NLC have a statutory responsibility for this Act. Just like Djungaya. They are really your Djungaya in relation to this Act, the Aboriginal land rights Act Northern Territory 1976. The Act says there has to be a Council.

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But the Balanda don't understand your Madayin law and your legal systems of law and the different bodies that exists at your law and systems of law and who has statutory authority under your system of law for different yirralka estates of lands. Your private yirralka estates they have no understanding about.

NY: Yo

RT: that Council. It should be the Yolŋu who are sent in who sit on that Council and who are going to agree or disagree to whatever comes before that Northern Lands Council. When they say that Northern Lands Council they talk about that "Aboriginal Council" that comes together and who discusses all the different issues that come in front of it and they agree or disagree, give authority or reject these things. This is where we run into little bit of a problem because the Yolŋu yirralka waṯaṯu estate owners don't elect the council.

NY: Yo that's true.

RT: And I don't even know how they do it now because they used to ring the local Aboriginal Councils and they used to ask those local Aboriginal Councils to send representatives. Today I'm not sure how it happens.

NY: they don't ask us or consult with us Yolŋu anymore.

RT: we will have to find out nephew how they are electing the people. Because it says on the northern lands Council website that they're doing elections. But you're saying you don't know anything about it.

NY: Yo yes

RT: but it says under that Act that Council should be making sure those workers, anthropologist, lawyers are really listening to your Madayin system of law.

NY: Yo yes

RT: they are the council that sits between Balanda law and Yolŋu law and they have all the authority. But a lot of those Yolŋu or who go to that meeting are still totally confused about what that meeting is for.

NY: Yo that's true. This is true Wamut. Myself and many other Yolŋu, landowners and so on, have been sitting here for a long time and the story we have is very different. Maybe some of them understand, maybe some of them are completely ignorant of the true situation. You see. They're confused. Confused about what is the role and work of the Northern Lands Council. And they just agree to everything.

They are really not sitting in the Yolŋu camp where they're getting all the information and feeding it back to the traditional landowners.

Even those who sit in the office, they do one day visits to the communities, give us information here and return. Then return to their offices. And this is where we are

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confused/mystified. Like us Yolŋu really don't know what is the real role and work of the Lands Council. This is our organisation.

RT: Waku your phone starting to cut out there. And we really need to take a break so will come back and talk a bit more about this subject.

NY: yes yes.

Podcasts Number 3 NLC covers 7 regions. 281

NY: Yo Wamut. RT: Gu Waku

NY: we've been talking about this subject, the Northern Lands Council. Who is the person with the most authority in the NLC? The one with the authority. Is it the CEO? The one with the authority at law to put things together. The person we can talk to. Who is it? To obtain information about the Northern Lands Council. And what is their role the Northern Lands Council. The one who sets down the laws in relation to our lands or whatever. We need to establish who is the one with the authority. Maybe you can tell us this Wamut.

RT: Yo good Waku. Waku am looking at the NLC website. Their website on the computer and so I'm reading their information. At the same time, I know the Act of Law called the Aboriginal Land Rights Act NT 1976. And it says both in the Act and it says here on the website. That the NLC northern lands Council, the full Council, is the major decision-making body within the organisation.

NY: Yo. That's what we are looking for, what we're asking. Yeah that's what we're asking because we're confused. We're just talking all over the place and trying to obtain information. Is the executive a separate body?

RT: the executive is separate. But let's talk first, and get a picture about this full Lands Council. When the Balanda were thinking that they wanted to give authority back to Aboriginal people for your estates of land and all that. Like we said before, the Balanda were totally confused about your system of law. Balanda know their law back to its foundation and how it is consistent with all the different Acts of law back to its foundation, but not to your foundation of law.

NY: yeah, yeah I see

RT: So, as I said before, but it doesn't hurt to repeat it here. So, they said 'we have to get an Aboriginal Council. A law Council body, who know Aboriginal traditional law. Like your Madayin systems of law, in your area. We have to get those leaders who know Yolŋu law and Aboriginal traditional law in those different places across the Northern Territory. And that Council will be the leading body, that full Council, what they call the full Council.

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NY: yeah, yeah

RT: and the NLC, the Northern Lands Council website says, "the Northern Lands Council full Council, (that's the full Council that sits in Council, inside, as the legal body), is the major decision-making body of the organisation." They are the true head body. Not that CEO. Not the anthropologist. Not the lawyers. Nobody else is above them. The full Council is the major decision-making body in the organisation.

NY: yeah, and who makes up this full Council meeting. Can it be both Balanda and Yolŋu , or just Yolŋu ?

RT: only Yolŋu, only Aboriginal people. It is made up of 75 Aboriginal people, sorry 78, Aboriginal people, as well as 5 women positions. It's a total of 83. Those 78 members they are elected, it says here on their website, elected from across the NLC's 7 regions. So, there 7 regions. Maybe we'll just look at those regions then?

NY: yeah let's look at those 7 regions, different places, where are they?

RT: let me give you them here.

NY: yeah that's the way you tell them to me.

RT: 7 big regions hey. One is East Arnhem land, where the sun rays first touch the land on the eastern side of Arnhem land to the east of Arnhem land up to Cape Stuart. Then from Cape Stuart down to Malyanak, close to Malyanak. On the western side of Ramingining. Then it comes across to Bickerton Island.

NY: yeah okay I see it.

RT: So the whole of Laynha area, the whole of Marthakal area, and the whole of Gatjirrk area, like that. East Arnhem.

RT: and one other one in West Arnhem Land. Like Maningrida, Goulburn, Croker, Jabiru and places like that, in west Arnhem.

NY: over around Coburg.

RT: yeah places like that. And then they have got what they call, Katherine region. It comes up to Bullman and Katherine area. The Katherine region. Then you've got what they call, Timber Creek and Victoria River district, is another area.

NY: where is this?

RT: timber Creek and Victoria River district. They usually say the VRD area. The Victoria River district. And the other one is called Ngukurr. Which comes from Malyanak across to Bickerton Island and to the south down to Nhumbulwar, Nyukurr, Roper River and places like that. And there is one more in the Borrooloola region. Or what they call a Berkeley area or Berkeley region. So we have 7 different regions.

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NY: but what? Let me ask Wamut. So you're saying that Northern Lands Council has these different regions?

RT: yes, the Northern Lands Council has these 7 different regions. But Waku let's come back and talk about this some more in a while.

Podcasts number 4 NLC council and executive. 282

RT: Yo Waku this morning we've been talking about who are the main people in the Northern Lands Council to make decisions. It's all the different Lands Council but let's talk about the Northern Lands Council because it's the one that affects Yolŋu people. And you asked to see who are the main decision makers?

And it's clear that the NLC council is the top body, according to the Land Rights Act, and according to their website. And that full Council should discuss issues, ask lots of questions, they have the authority to ask lots of questions if they want.

NY: yeah. Right here Wamut, it's them that should be doing all the discussing, ah.

RT: Yo, yes NY: Yo

RT: and those NLC workers are just workers for the council, they are not bosses for the council. They should be there, all the workers including the CEO, and the lawyers, and anthropologists and other different workers, there's lots of them. They are there to help at Council meetings. When Balanda were thinking how they could give back the authority to Yolŋu people. We have to remember that Balanda are extremely ignorant for your law. Including the anthropologist, including the lawyers, including the workers in the NLC. Like I've been trying to learn your law for 40 years but I'm still just like a child in my understanding. Well when I look at a lot of anthropologists, from what they say, I can see they're younger than me. There is a little bit of information, little bit here and a little bit there, but not all of it.

So when the Balanda wanted to give that authority back to Yolŋu people, over your homelands and Estates, they were thinking "we have to have a middle legal body". A knowledgeable body that would exist between Yolŋu law, your foundation of law, and what laws would produce **mägaya-mirri** – peace, order and good government's according to your law. What ways of law would also create consistency within your system of law.

And at the same time they can have Balanda staff help join up those 2 systems of law, because most Yolŋu were completely ignorant of Balanda law. So, the full Council is that in between body. And it's that in between body when it's in Council, when they're in Council in the meeting. Not when they return as individuals to their homes, they have no authority then. Only when they sit together in Council in a Council meeting, in the full Council.

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It's okay for them to discuss the issues, and ask many questions. And if they're still confused they can say we are not going to give consent or anything because we're still confused around this issue. And you could just say that to everybody. And if the lawyers say, "no, hurry up, hurry up". Just say back to them. You have no authority. You have no authority to tell us to make a fast decision. You've got no authority according to your law and you have no authority according to our traditional law.

NY: yeah this is something they----, Wamut. Something like—yan

RT: Gu- say it.

NY: we've have seen many times, giving us the hurry up, hurry up. Northern lands Council, Yo. Northern lands Council. Inside the stomach of the council in the full meeting. They have been known to say--. They **ɲurru-dakthun** compete against and vie with us, you see, Northern Lands Council, they jump out in front of us and usurp our authority for control of the meeting. And they don't explain things to us properly or tell us in a clear way. And they don't speak in a good way where the Yolŋu can receive understanding, they don't.

RT: asked what is the word ɲurru-dakthun (compete against, vie with).

NY: in the stomachs of the meeting, in the Northern lands Council meeting, inside, inside the law Council. Yo

RT ɲurru-dakthun (compete against, vie with) inside. [RT had it wrong at this point. But a good conversation came out because of this investigation that went on in the middle of this recording.]

NY: Yo ɲurru-dakthun (compete against, vie with) its meaning is. ɲurru-dakthun they talk like this. When Yolŋu are talking, like the landowners for example, the yirralka estate owners. And then the anthropologist or whoever covers over their story. And then the anthropologist tells the story. There is no chance for the Yolŋu person to get a word in edge ways. The anthropologist overtakes the landowners story overtakes, ɲurru-dakthun.

Note: this situation is due to Balanda who work with Yolŋu not being trained according to the Yolŋu cultural mores structure of communication. In this cultural structure communication is not assertive and requires much longer spaces of silence than most Balanda can cope with. So, they jump in and fill in the conversation. From a Yolŋu point of view that is extremely rude and closes down the conversation for them because they cannot cope with the rudeness. Some Yolŋu can become extremely angry when this continues to happen during important conversation and can lead to aggression. Please see: <https://www.whywarriors.com.au/product/cross-cultural-active-listening/>

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RT: yeah we'd say in English they assert their authority and their information over the top of you .

NY: Yo, Yo that's what I'm saying.

RT: so nephew, Council, as the top decision-making body, they come together twice a year because it's a big group of people. So they can't deal with everything just 2 times a year to get everybody together. But those 2 council meetings are very important meetings when the NLC workers will put a lot of those big issues in front of the council. And we'll talk about that a bit more in another program. But they also have the separate regional Council's

NY: Yo.

RT: so the 7 regional areas have a separate Council and they meet in each region. So East Arnhem, what they call East Arnhem. Which includes Milingimbi, Ramingining, Malyanak, Galawinku, Gapuwiyak, Yirrkala, Mangarr, Laynha. All the Laynha area. They have one regional Council. And that's the very important Council that has authority as well. And then they have a number of other committees. One is the Executive Council.

NY: so out of the full Council, the Yolŋu who are on the full Council, they become the Executive Council or what or who they want.

RT: yes the full Council they say who they want on the executive Council.

NY: Yo, Yo

RT: nephew we're running out of time again as always with this very important subject so we have to come back another day. We'll come back another day everyone and talk some more about this important subject. The NLC and what is its work and role.

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Glossary

CKB - Cultural Knowledge Base

Balanda: Balanda comes from the word “Hollander”, from the Yolŋu contacts with people from former Dutch colonies in Asia; and is used to refer to European or English-speaking “Western” person or people.

Balanydja: Balanydja was a payment for goods or service rendered under djugu contract. The payment received at the completion of a contract is called 'balanydja'. All the goods that Yolŋu received as payment from the Macassans were called balanydja.

dhäruk- bakmaram Talk around the Law (Madayin Law) issues, not our own thoughts, ideas or desires, but only the legal position according to the Madayin Law.

Djaka measurement

Djungaya: traditional police, master of ceremonies, lawyer, public servant, manager. Nurruru Djungaya is the head Djungaya, similar to the CEO of an organization.

gakal the way something presents itself, the life cycle, its characteristics, persona.

ganydjarr power strength. Authority

liya Njorra'mirri mala political leaders

Madayin [ma – day – in]. The underlined d is the d sound made with the tongue curled back in the mouth.

The Madayin is the name for our complete system of Law including all the laws, legal processes and practices, plus legal objects, law chambers and the places that have been proclaimed through the processes of Madayin law. Even animal or fish production sites can be called a Madayin wäŋa – Madayin place/home.

It is not easy to translate Madayin into English as English does not seem to have a word like Madayin. The closest to it is when we say, “The Westminster system of law”. “The Westminster system of law” includes all the laws, legal processes and practices of the Westminster system.

Madjapala An instrument of order that is used to formalise a formal contract to initiate marradjiri. (Called mayawala' in North East Arnhem Land.)

Mägaya peace, tranquillity, harmony, completeness, health, peace, prosperity, fullness, perfectness, rest, safety and absence of agitation or trouble, protection for all.

mägaya - dhukarr (peace, security, serenity –road, process, way of life) that come from the Madayin Law and the Madayin dhukarr processes given to us by Wanjarr.

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midikirri do badly, do wrong, go wrong.

ṅurru-dakthun compete against, vie with. Compete eagerly with someone in order to do or achieve something.

Wamut - Wedge Tail Eagle is the skin name for Richard Trudgen. See skin names in "Yolŋu Names" <https://www.whyyarriors.com.au/shop/>

Märr: (spiritual power, strength) The spiritual power or force of strength that is imparted to an article of primary produce, a manufactured product, or a service provided. In all cases märr is enacted where sweat is produced. It is a person's 'sweat' that transmits the worker's spiritual power, or force of strength into the article or service. Per quote "This märr will increase to dangerous levels if not discharged through reciprocal trade or payments".

Ringitj alliance

rom midikuman (makes the law putrid).

Rom waṭaṅu walala – Rom- Law, waṭaṅu- denotes ownership, walala- they (3 or more). The extended citizens of a yirralka estate. The larger group of interconnecting tribes and clans that have a right under Madayin law to monitor, protect and to discipline or past judgement on an offenders if necessary. And to support the wäṅa waṭaṅu - landowners, yirralka waṭaṅu - estate owners in decisions over their property and estates.

Wäṅa waṭaṅu: Land or property owners

yirralka waṭaṅu: estate owners.

Yolŋu: Yolŋu traditionally means human or humans, person or people. It also now means an Aboriginal person or people from northeast Arnhem Land, usually used by outsiders. However, if you asking a Yolŋu person if they are Yolŋu you really asking if they are a human being.

Yuwalk: true; truly.

Richard Trudgen
Why Warriors Pty 2019.