



Aboriginal Flag Copyright Timeline

1967 → Cuban painter, Jorge R. Camacho Lazo creates *'The Night that Hides'* artwork. Contains a "little picture" in the artwork that looks like the Aboriginal flag. Harold Thomas studied fine art at the South Australian school of Art in the 1960's graduating with honours in 1971 with an special interest in European artwork.



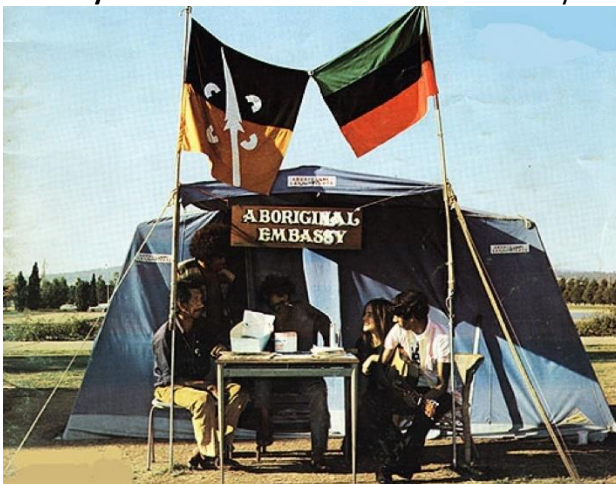
1971 → Harold Thomas designed the Aboriginal Flag.



Black – represents the Aboriginal people of Australia
Yellow circle – represents the Sun, the giver of life and protector
Red – represents the red earth, the red ochre used in ceremonies and Aboriginal peoples' spiritual relation to the land

12 July 1971 → Aboriginal flag was flown publicly in Adelaide at Victoria Square on National Aborigines Day.

Jan- July 1972 → The front of the Tent Embassy in Canberra before Harold Thomas's flag was flown later in 1972.



Source: The Koori Web

1972 → Aboriginal activist Gary Foley took the flag with him to the east coast, where it was adopted nationally by Aboriginal Australia in 1972 after it was flown above the Aboriginal Tent Embassy outside the old Parliament House in Canberra.

1980's → Harold Thomas asserts his ownership of the flag in pursuit of royalties including seeking money from Aboriginal Hostels and from the Aboriginal Development Commission (both not for profit, Government owned). He establishes a licencing agreement with Flagworld in the mid 1980's.

1991 → The Council for Aboriginal Reconciliation created via an act of Parliament initiated by the Hawke Labour Government.

1995→ Council for Aboriginal Reconciliation presents *Going Forward: Social Justice for the First Australians* to Paul Keating. This document contained 78 recommendations, number 66 recommends amendment to the Flags Act to give official recognition to the Aboriginal and Torres Strait Islander flags.

July 1995→ Aboriginal Flag was proclaimed as a Flag of Australia under the Flag Acts 1953. This was after the image of the Aboriginal flag was beamed around the world when Cathy Freeman draped herself in both the Australian and Aboriginal flags during a lap of honour after winning the 200 and 400 metre finals at the 1994 Commonwealth Games in Canada.

9 April 1997→ Federal Court of Australia officially recognised Harold Thomas as the creator of Aboriginal flag and not George Brown. This protects the flag under the **Copyright Act 1968** and so it may only be reproduced in accordance with this law or with Harold's permission. The Federal Court decision enabled Thomas to make a new application to determine the remuneration payable by the Federal Government in respect of its use of the flag.

1998→ Mr Thomas made the decision to award an exclusive licence for the manufacture and marketing of Aboriginal flags, banners and bunting to Carroll and Richardson Flags (now trading as Flag World or Flags 2000). At the same time he awarded a licence to Gooses T'Shirts for Clothing featuring the Aboriginal Flag.

17 Dec 2001→ ATSIC made a license agreement with Harold Thomas.

2003→ Flags 2000 (trading as Flag World) and Thomas brought a successful action against a man named Mr Smith, who had made and sold copies of the flag without permission.

Jan 2005→ Birubi Art Pty Ltd (owned by Ben Wooster) awarded sole copyright license holder for souvenir items bearing the flag image, excluding those items specifically listed to Carroll & Richardson (Flag World).

1 Jan 2008→ Aboriginal Flag was proclaimed as a Flag of Australia under the Flag Acts 1953 for the second time due to an administrative oversight.

"I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and noting the fact that the flag reproduced in Schedule 1 and described in Schedule 2 is recognised as the flag of the Aboriginal peoples of Australia and a flag of significance to the Australian nation generally, appoint that flag, under section 5 of the Flags Act 1953, **to be the flag of the Aboriginal peoples of Australia** and to be known as the Australian Aboriginal Flag with effect from 1 January 2008."

26 Jan 2010→ Harold Thomas refused to give Google permission to reproduce the design on its website.

30 August 2017→ Birubi Art website displays "A Statement from the Artist" signed by Harold Thomas which suggests that the only two companies that are licenced to produce flag products are Carroll & Richardson and Birubi. Harold is, however, still collecting royalties from Gooses Tshirts.

Harold Thomas - a statement from the designer of the Aboriginal flag

I, Harold Thomas, am the creator, conceptualiser, designer and the owner of the copyright of the Aboriginal Flag design and also the exact meaning to it:

Black represents the Aboriginal People of the past, present and future.

Yellow represents yellow ochre, the sun, giver of life.

Red is, the earth, red ochre used in ceremony, and our spiritual relationship to the land.

As a consequence I have sole right to determine how the Aboriginal flag design is utilised. The use of the Aboriginal flag has had many applications, ranging from very large flags, to small lapel badges etc.

There is a need to inform the community at large that I have granted two exclusive licence agreements to companies who can utilise the Aboriginal flag design for a range of products. They are:

1. **Caroll and Richardson – Flagworld Pty Ltd** 22-24 Miles St, Mulgrave Victoria 3170
2. **Birubi Art Pty Ltd** - Unit 2/38 Beach St, Kippa-Ring Queensland 4021

For more than 40 years I have responded to countless requests about the usage of the Aboriginal flag design. I have considered each one carefully and if they fall within the exclusive licence agreement, I have forwarded it on to the appropriate licensee. But there are individuals, manufacturing and retail businesses who have ignored the Copyright Law Act (which protects the owners of copyright). These groups are predominately non-Aboriginal persons.

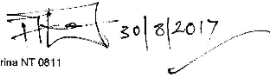
That is why it is so important for individuals to carefully check any item made with the Aboriginal flag design to see if it is a legal object. If not, enquire with the seller whether they have an arrangement with the licensed companies shown above.

Birubi Art Pty Ltd has an exclusive agreement with myself to produce for sale a broad range of product. The director of Birubi Art Pty Ltd, Ben Wooster, has worked tirelessly to protect the standard and quality of products that have the Aboriginal flag design.

I, Harold Thomas would like to make a sincere statement of how the Aboriginal flag design has been utilised by Birubi Art Pty Ltd, and Ben Wooster of Brisbane. I have been associated with Ben Wooster for more than 10 years. Ben's company Birubi Art has an exclusive licence agreement to utilise the Aboriginal flag design for their products that are made available for purchase to the general public, retailer, government departments, and a wide range of institutions.

Ben Wooster has maintained a professional standard of the highest order. He appreciates the sensitivity and is cognisant of what the Aboriginal flag design is to the Aboriginal people as well as others.

Harold Thomas
PO Box 41807 Casuarina NT 0811

 30/8/2017

March 2018→ ACCC announces Federal Court action against Birubi Art alleging misleading claims over authenticity of items sold between 2014 and 2017.

02 May 2018→ The Trustee for Gifts Mate (Owned by Ben Wooster) becomes active with ASIC, operating under the business names Creative Souvenirs and Bunji Art.

30 June 2018→ Ben Wooster sells nearly all of Birubi's assets to Gifts Mate. (Assuming this means the license as well, this is not something available as public record.)

28 September 2018→ Birubi Arts deregistered from ASIC.

23 October 2018→ Federal Court finds that Birubi Art misled consumers over the authenticity of Aboriginal art objects.

29 October 2018→ Birubi ceases trading, liquidator appointed.

23 November 2018→ Harold Thomas signs exclusive license for the flag on clothing with WAM Clothing who is part owned by Ben Wooster from Birubi Arts.

December 2018→ Harold Thomas contacts Gooses Tshirts and advises that he is withdrawing their licence arrangement because his son is now involved in the business. WAM contact Gooses soon after and demand all stock is to be sold within a very short timeframe or they face legal consequences. Gooses forward their final royalties to Thomas in January 2019.

6 June 2019→ Spark Health Australia (trading as Clothing the Gap) and the major sporting codes such as AFL and NRL received a cease and desist from WAM clothing. Campaign to #FreeTheFlag begins led by Laura Thompson at Clothing The Gap.

Michael Connolly from Dreamtime Kullilla-Art were issued with cease and desist notices from WAM Clothing as well as Harold Thomas to cease using the flag in all print, digital, physical media and social media platforms as they were deemed to be framing in a negative light.



11 June 2019 → WAM and Harold Thomas release a statement after Laura Thompson from Clothing the Gap appears on Channel Ten, The Project TV. Harold Thomas remarks in this statement “It’s taken many years to find the appropriate Australian company that respects and honours the Aboriginal Flag meaning and copyright and that is WAM Clothing.

I have done this with Carroll & Richardson, Gifts Mate and the many approvals I’ve given to Aboriginal and Non-Aboriginal organisations who have deep interest in the Aboriginal plight.

The Aboriginal Flag is doing its job as it was intended to do, to bring unity and pride to all aboriginals. At times we get the few who snigger and are disenchanted. I can’t satisfy all black people who wish to break up the Aboriginal unification.”

24 June 2019→ Harold Thomas speaks out on CAAMA Radio in Darwin about the #PrideNotProfit petition started by Spark Health and the Aboriginal Flag copyright issue.

24 July 2019 → [Carla Scotto](#) a non-Indigenous Melbourne based climate change illustrator reaches out to Clothing The Gap to allow us to use her 'Always Was, Always Will Be' art exclusively on our tees, instead of the Aboriginal flag. This went on to be our best seller!



25 July 2019→ Court found Birubi Art and Ben Wooster breached Australian consumer law. Birubi art Fined \$2.3 million fine by the Federal Court for selling thousands of pieces of fake Aboriginal art.

28 July 2019→ Laura Thompson (Clothing the Gap), Nova Peris (former Senator and Olympian) and Michael Connolly (Dreamtime Kullilla-Art) travel to Canberra to lobby politicians. The #PrideNotProfit petition (www.change.org/pridenotprofit) was tabled by Labor MP Ged Kearney in the Senate with over 47,000 signatures.

1 August 2019→ A motion about the Aboriginal flag copyright was passed unanimously in the Senate by Senators Siewart, Hanson Young and Dodson that (a) notes:

- (i) that, in 1995, the Aboriginal Flag was recognised as a 'flag of Australia' under the *Flags Act 1953*
- (ii) that the designer of the Aboriginal flag owns the flag's copyright and has licensed the rights to use the flag on garments to a company which is now requiring people to ask for permission to use the emblem and pay a fee,
- (iii) that the license has now been expanded to physical and digital media,
- (iv) that many First Nations communities feel they are at the mercy of a company seeking to profit from their flag and
- (v) the concerns in many First Nations communities that their flag is licensed to a company; and

(b) recognises that the Aboriginal flag is one of Australia's national symbols and a central part of first people's National identity and that the flag should be about people and pride not profit; and

(c) calls on the Federal Government to do everything they can to ensure that all First Nations peoples and communities can use the flag whenever they want without cost or the need for consent.

25 Oct 2019→ ATSIC agreement is tabled in the Senate Estimates committee followed by a discussion about the government policies and beliefs about the Aboriginal flag copyright issue.



17 March 2020 → WAM Clothing releases their new range of 'Always Was' NAIDOC tees that look remarkably like the [Clothing The Gap x Carla Scotto](#) range.

19 March 2020→ Federal court of Australia case - Carroll & Richardson - Flagworld Pty Ltd v PayPal Australia Pty Limited [2020]. Carroll and Richardson (Flagworld) with the exclusive license to reproduce the Aboriginal flag on flags, banners and buntings is seeking to sue the operators of the *Free the Flag* website for alleged copyright infringement for selling flags featuring a reworked version of the Aboriginal flag. Flagworld is also seeking to sue a Queensland-based company called Nichoff Inc for copyright infringement for allegedly selling flags on eBay featuring Mr Thomas' design with no changes. Source: Copyright fight brews over sale of Aboriginal flags.

TO BE CONTINUED ...

Please note:

- This document is a work in progress. If you believe there to be any inaccuracies, omissions or have any suggestions please don't hesitate to email hello@clothingthegap.com.au
- Help required: If anyone has time and would like to help by reference this timeline with the source list below please email hello@clothingthegap.com.au this would be an incredible help as we continue to roll out this national campaign with no financial supports.

If you would like to support the #FreeTheFlag Campaign please jump onto our website <https://clothingthegap.com.au/pages/free-the-flag-journey>.



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