

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY WATHAURUNG ABORIGINAL CORPORATION

DATE OF DECISION: 20 March 2013

Decision

On 20 March 2013 the Victorian Aboriginal Heritage Council (Council) made a decision to register Wathaurung Aboriginal Corporation (WAC) as a Registered Aboriginal Party (RAP) in accordance with the *Aboriginal Heritage Act (2006) (Act)*.

Decision Area

WAC seek to be registered as a RAP for an area bordered in the south by the 2009 WAC registered area boundary and in the north by the ridgeline of the Great Dividing Range using the north-south watershed from near Newbury in the east to Mount Buangor in the west (**Decision Area**). In parts of the Decision Area the WAC RAP application area previously overlapped with the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC) RAP application area.

Reasons for Decision

Traditional and familial links

In accordance with the Act, Council accords priority to groups with traditional and familial links to a particular application area in order to give appropriate status and rights to Traditional Owner groups in cultural heritage management and protection. Council previously made a decision which recognised WAC as an organisation representing Wada Wurrung Traditional Owners demonstrating traditional links to the Country adjacent to the Decision Area.

Native title considerations

Council seeks to ensure that its decision-making as best as possible reflects relevant native title processes and outcomes. Council notes that DDWCAC has successfully negotiated a Recognition and Settlement Agreement (RSA) under the *Traditional Owner Settlement Act 2010 (Vic) (TOS Act)* with the State of Victoria in relation to its registered native title claim, including for an area adjacent to the Decision Area based on the common boundary agreed between DDWCAC and WAC.

Negotiations and regional meetings between Traditional Owner organisations

As a result of the RSA process and agreement-making entered into by WAC with DDWCAC, a common boundary as between WAC and DDWCAC was established and agreed. This agreement related to areas where the WAC and DDWCAC RAP applications previously overlapped. WAC and DDWCAC both notified Council in writing of the details of the agreements and DDWCAC amended its RAP application and appointed areas in order to give effect to the agreements reached with WAC. WAC provided detailed written descriptions of the common boundary and also provided mapping data to identify the common boundary. Council was also provided with a copy of a signed common boundary agreement between WAC and DDWCAC.

Other relevant matters

Council gives priority to uncontested applications by inclusive groups with sustainable structures meeting the Act's requirements. Since WAC's registration in May 2009 it has carried out the responsibilities of a RAP, demonstrating expertise in cultural heritage management. An operational plan has been provided by WAC to Council.

Council sought comments from Traditional Owners from the same region as the applicant to inform its decision. No comments were received.

Charter of Human Rights and Responsibilities

The Council gave careful consideration to the *Charter of Human Rights and Responsibilities Act 2006* (Charter), in particular the relevant distinct cultural rights of Aboriginal persons in s 19(2)(d) of the Charter. The Council formed the view that the decision to register WAC in the Decision Area is compatible with the Charter.

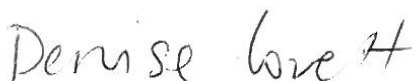
Summary

Having regard to the information presented above as well as other relevant factors, the Council reached the following conclusions:

- Evidence before Council demonstrates that WAC is an organisation representing Traditional Owners that continues to meet the requirements of the Act in the Decision Area, demonstrating expertise in cultural heritage management.
- WAC has established an agreed common boundary with DDWCAC after a process of negotiation completed as part of DDWCAC's RSA with the State of Victoria. WAC and DDWCAC have provided details of this process and its outcomes.
- Council provided Traditional Owner groups in the region with an opportunity to comment on the potential further registration of WAC. No comments were received.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, the Council decided that it was appropriate to register WAC for the Decision Area.



Denise Lovett
Chairperson
Victorian Aboriginal Heritage Council