

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL TO VARY THE BOUNDARY OF THE TAUNGURUNG CLANS ABORIGINAL CORPORATION RAP AREA

DATE OF VARIATION: 21 March 2018

Decision to Vary Registration

On 21 March 2018 the Victorian Aboriginal Heritage Council (**Council**) made a decision to vary the boundaries of the area for which Taungurung Clans Aboriginal Corporation (**Taungurung**) is a registered Aboriginal party (**RAP**) and RAP applicant, and Gunaikurnai Land and Waters Aboriginal Corporation (**GLaWAC**) is a RAP, in accordance with s 155 of the *Aboriginal Heritage Act 2006 (Act)*.

Variation Area

The variation relates to the **Great Dividing Range**, as represented by the boundary of GLaWAC's Recognition and Settlement Agreement and as depicted in the **attached map** which is the boundary line.

Power to Vary

Section 155(1) of the Act gives the Council an express power to vary the registration of a RAP with the consent of that party and, if there are other RAPs for that area, with the consent of each of those parties.

Section 155(2) of the Act also expressly contemplates that a variation may include a variation to the boundaries of the RAP area.

Reasons for Variation

Consent of relevant Registered Aboriginal Parties

By letter dated 2 February 2018, Taungurung and GLaWAC wrote to Council setting out a record of their agreement about boundaries and shared areas for the purpose of RAP status under the Act (**Letter of Agreement**). The Letter of Agreement stated that:

- The Great Dividing Range, as represented by the boundary of the Gunaikurnai's Recognition and Settlement Agreement and as depicted in the attached map, is the boundary line between Gunaikurnai and Taungurung;
- The Gunaikurnai recognise the Taungurung as traditional owners to the north of that line and the Taungurung recognise the GLaWAC as traditional owners to the south of that line.

To give effect to the Letter of Agreement, the Council decided, pursuant to s 155 of the Act, to vary Taungurung's registration by varying the boundary of the area for which the Taungurung is registered.

The effect of the variation is to extend the area for which the Taungurung is registered as a RAP (**variation area**). The Council's decision can appropriately be characterised as a variation, as opposed to a new application, because it only relates to a relatively small area.

There is no other RAP for the variation area. However, the Letter of Agreement evidences the consent of the GLaWAC to the variation. The GLaWAC is the only other traditional owner group who has notified Council of an interest in this area. Council is unaware of any other group claiming to represent the Traditional Owners of the area.

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 vary the boundary is compatible with the Charter.

Conclusion

Taking all of these matters into account, Council decided that it was appropriate to vary the boundary.



Eleanor A. Bourke
Chairperson
Victorian Aboriginal Heritage Council

VARIATION AREA

