

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY WATHAURUNG ABORIGINAL CORPORATION TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 21 May 2009

Decision

The Victorian Aboriginal Heritage Council ("the Council") registers the Wathaurung Aboriginal Corporation ("Wathaurung Corp") as a registered Aboriginal party ("RAP") under section 151 of the *Aboriginal Heritage Act 2006* (Vic) ("the Act"). A map showing the area for which Wathaurung Corp has been made a RAP ("the RAP Area") is attached (**Attachment 1**).

Reasons for Decision

*Overview*

The Wathaurung Corp represents Wada wurrung<sup>1</sup> people who are members of the Kulin nation from the coastal country in the west of Port Phillip Bay. Members of Wathaurung Corp have continued to live on country and have an ongoing relationship with the land of Wada wurrung people. In recent times they have been involved in cultural heritage work, in particular as a applicant to become a RAP.

*Traditional and familial links*

The Council accepts that Wathaurung Corp is an organisation that represents Aboriginal people with traditional and familial links to the RAP Area. All members of Wathaurung Corp are descended from a Wada wurrung woman, Queen Mary, and her son John Robinson (also 'Robertson', b 1846). To be eligible for membership of Wathaurung Corp people need to establish a genealogical connection to John Robinson. Wathaurung Corp recently amended its rules and imposed further conditions that require members to be accepted as being Wada wurrung according to Wada wurrung tradition. While the amended rules add complexity to the membership rules, the Council accepts that these new rules are consistent with Wathaurung Corp being an organisation representative of Wada wurrung people.

The Council was not made aware of any person who identifies as Wada wurrung that is not a descendant of Queen Mary and John Robinson. However, the Council is aware that some individuals who consider themselves Wada wurrung might be excluded from membership of Wathaurung Corp because of uncertainty in their genealogical connection. Some of these people have made a separate RAP application (with other Wadda wurrung people) as Wadda Wurrung Aboriginal Corporation ("WWAC"), and many were also members of the RAP Authorising Group of Wathaurung Aboriginal Co-operative Ltd ("Wathaurung Co-op") whose RAP application was withdrawn on 22 April 2009. However, for the reasons that follow, Council decided that this should not prevent it from appointing Wathaurung Corp as a RAP.

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<sup>1</sup> The Council uses the word Wada wurrung, as an alternative to Wathaurung, Wathaurong and Wadda wurrung.

### *RAP application by WWAC and previous RAP application by Wathaurong Co-op*

Council had before it a current application by WWAC which covers all of the area for which Wathaurong Corp was seeking to be a RAP (as well as additional areas). Council previously had an application from Wathaurong Co-op which overlapped substantially with the Wathaurong Corp application. While the Council does not expressly have to consider the withdrawn Wathaurong Co-op application, many of the issues considered by Council in its deliberations on that application remain relevant, particularly in light of the recent application by WWAC.

The Council took a number of steps to resolve the overlapping applications between Wathaurong Corp and Wathaurong Co-op. The Council encouraged and assisted Wathaurong Corp and Wathaurong Co-op to meet and discuss their RAP applications and to reach an agreement which could be considered by Council. After a considerable time and having no agreement provided to Council, the Council informed the parties that it would proceed to making a decision.

A key issue raised by Wathaurong Corp was that it would not accept those members of Wathaurong Co-op or WWAC who claimed to be Wada wurrung, but whose genealogical connection to Queen Mary was uncertain. As stated above, a number of people associated with the former Wathaurong Co-op RAP application and the current WWAC RAP application fell within this category. The rules of WWAC establish two classes of Members: Class 1 members who can establish a genealogical connection to Queen Mary (or other apical ancestor to be determined) and Class 2 members who are other Aboriginal people not descendant of identified Wada wurrung apical ancestors. The Council understands that all of those members with uncertain connection to Queen Mary are Class 2 members of WWAC.

The Council considered all of the information put before it by the applicants as well as its own research and decided that it was not willing to make a decision on the ancestry of those members whose connection was uncertain. The Council noted that WWAC acknowledges that some uncertainty exists by classifying certain members as Class 2 members (non-Traditional Owners). Council noted that WWAC intends to undertake further research into ancestry of its members.

The Council decided the uncertainty in the ancestry of some members of WWAC should not prevent it from making a decision to appoint Wathaurong Corp. The Council noted that if further information came to light about the ancestry of these people they may become eligible for membership of Wathaurong Corp. The Council also noted that it could also consider any new information, should it be provided, in the context of the WWAC RAP application which remains before the Council for decision.

Wathaurong Corp also claimed that it would only accept people from WWAC or Wathaurong Co-op who were Wada wurrung according to its understanding of 'Wada wurrung law'. The Council noted this, but since it is unaware of any person currently being excluded from Wathaurong Corp because they are not Wada Wurrung by 'Wada wurrung law' the Council did not need to make a decision on the matter.

### ***RAP application by Ballarat and District Aboriginal Co-operative Ltd***

The Ballarat and District Aboriginal Co-operative Ltd (“BADAC”) RAP application overlaps much of the northern part of the RAP Area. Although a number of its members claim to be Wada wurrung people, BADAC does not claim to be a Traditional Owner organisation. Rather, BADAC’s membership is open to any Aboriginal person who resides in the Ballarat and Central Highlands region of Victoria.<sup>2</sup>

The Council did not consider that this RAP application should prevent Wathaurung Corp from being registered as a RAP. This decision is consistent with the Council’s principle of prioritising applications made by Traditional Owner organisations.

### ***RAP application by Framlingham Aboriginal Trust***

The Framlingham Aboriginal Trust (“Framlingham”) RAP application overlaps part of the Wathaurung Corp application area. Framlingham objected to the Wathaurung RAP application in relation to this area of overlap on familial as well as historic grounds.

The Council considered this objection but was satisfied that the area of overlap was Wada wurrung country. Council took the view that Framlingham does not represent the Wada wurrung Traditional Owner group and consequently decided the objection should not prevent Wathaurung Corp from being registered as a RAP for this area.

### ***Other overlapping RAP Applications by neighbouring organisations***

RAP applications have also been made by other Aboriginal organisations claiming to represent Aboriginal people with traditional or familial links to areas in the vicinity of the Wathaurung Corp RAP application, including:

- Dja Dja Wurrung Clans Aboriginal Corporation (Dja Dja Wurrung) and Jaara Jaara Loddon Aboriginal Corporation (Jaara Jaara) to the north;
- Martang Pty Ltd to the west;
- Boon Wurrung Foundation Ltd, Bunurong Land Council Aboriginal Corporation, Wurundjeri Tribe Land and Compensation Cultural Heritage Council Inc, and Wandoon Estate Aboriginal Corporation to the east; and
- Kuuyang Maar Aboriginal Corporation to the south and south east.

Only the Dja Dja Wurrung and Jaara Jaara RAP applications overlap with the RAP application from Wathaurung Corp. No decision was made over these areas of overlap and the areas of overlap will be considered separately by Council.

None of the other organisations had RAP applications before Council which overlap the Wathaurung Corp RAP application area and none of them objected to the Wathaurung Corp being appointed for the RAP Area.

### ***Native title***

The Council notes that as there are no current native title proceedings over the area for which Wathaurung Corp has been appointed, this decision is not inconsistent with

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<sup>2</sup> Rule 6(3) of the Rules of BADAC.

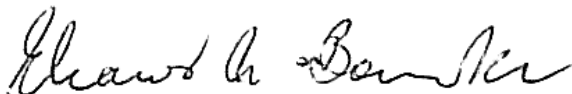
Council's principle that groups recognised as RAPs as best as possible reflect those recognised under native title arrangements.

### *Capacity of Wathaurung Corp*

The Council was provided with a draft business/operational plan, a draft strategic plan and a draft field manual for field representatives by Wathaurung Corp. Based on these documents the Council decided that it is satisfied that Wathaurung Corp has the capacity to carry out the functions of a RAP. In reaching this view, the Council also took into account the fact that Wathaurung Corp has been involved in cultural heritage management and protection in recent years in their capacity as an applicant for RAP status under the Aboriginal Heritage Act.

### *Conclusion*

Having regard to these matters, and relying on its own cultural knowledge, Council took the view that Wathaurung Corp should be registered for the RAP Area. The remainder of the Wathaurung Corp RAP application will be considered by Council at a later date.



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