

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

DATE OF DECISION: 10 September 2010

**Decision**

The Victorian Aboriginal Heritage Council (**Council**) has decided not to register the Wadda Wurrung Aboriginal Corporation (**WWAC**) as a registered Aboriginal party (**RAP**) under section 151 of the *Aboriginal Heritage Act 2006 (Vic) (Act)*.

In making its decision, the Council took into account all the information provided to it in respect of the WWAC RAP application.

**Reasons for Decision**

***RAP Application area***

A map was provided to the Council, showing the area over which WWAC claimed to be a RAP (**Attachment 1**). The area over which WWAC sought to be a RAP covered boundaries beginning at Geelong, Bellarine Peninsula and surrounds and extending south to Cape Otway. It includes the Western Plains around Colac, Winchelsea and Cressy, north to the Pyrenees, Beaufort, Ballarat and the Great Dividing Range.

The Council considered the matters set out under s 151 of the Act, including (among other things) that:

- WWAC is not a Native Title Holder (s 151(2) of the Act);
- WWAC is not a Native Title Party (s 151(3)(a) of the Act);
- WWAC does not refer to any Native Title agreements (s 151(3)(b) of the Act);
- WWAC does not have any grant of land in fee simple made by the State or the Commonwealth (s 151(3)(e) of the Act); and
- WWAC does not refer to any land and resource management agreements.

***Traditional and Familial links***

The Council considered the traditional and familial links claimed by members of the WWAC (s 151(3)(c) of the Act). WWAC claimed to represent the interests of Wadda Wurrung Traditional Owners, who it stated were not being adequately represented by other existing legal entities in relation to Native Title matters. WWAC also claimed to represent Aboriginal people with traditional or familial links, based on known connections to recognised Wadda Wurrung (Wathaurong) Apical ancestors.

In May 2009, the Council appointed Wathaurung Aboriginal Corporation (**Wathaurung Corp**), as a RAP for the majority of the WWAC RAP application area. That

appointment was made on the basis that Wathaurung Corp was an organisation that represented the Wada wurrung people.<sup>1</sup>

In its decision to appoint Wathaurung Corp as a RAP over much of the area claimed by the WWAC, the Council accepted that it was an organisation that represented Aboriginal people with traditional and familial links to the RAP area.

The Council considered all of the information put before it by WWAC as well as its own research and found that uncertainty existed in the ancestry of some members of the WWAC. The Council decided that it was not willing to make a decision on the ancestry of those members of WWAC whose connection was uncertain.

The Council also considered WWAC's membership structure and found that it was not an organisation that was able to appropriately represent Traditional Owners.

### ***Consideration of appointing two RAPs***

The Council notes that the Act allows for more than one body to be a RAP under particular circumstances (s153(1)), although the Act does not compel the Council to do so.

The Council considered appointing two RAPs and decided that it was not appropriate in the circumstances of the WWAC RAP application.

### ***Charter of Human Rights and Responsibilities***

The Council gave careful consideration to the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (Charter), in particular the relevant distinct cultural rights of Aboriginal persons set out under s19 of the Charter. The Council formed the view that a decision not to register WWAC is compatible with the Charter.

### ***Conclusion***

Taking all of these matters into account, and relying on its own cultural knowledge, the Council decided not to register WWAC as a RAP.



Karen Jackson  
Acting Chairperson  
Victorian Aboriginal Heritage Council

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