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

DATE OF DECISION: 3 DECEMBER 2009

Decision

The Victorian Aboriginal Heritage Council (**the Council**) has refused the Wandoon Estate Aboriginal Corporation (**Wandoon Estate**) application to become a registered Aboriginal party (**RAP**) under the *Aboriginal Heritage Act 2006* (Vic).

Reasons for Decision

RAP application area

Wandoon Estate applied to be a RAP for parts of central Victoria, including Melbourne and surrounding areas, much of the shires of Mitchell, Murrindindi and Strathbogie, as well as parts of Mount Alexander, Macedon Ranges and Baw Baw.

Traditional links

Council acknowledges that members of Wandoon Estate are Woi wurrung people. In the view of the Council, the Woi wurrung are the Traditional Owners of country in central Victoria, south of the Great Dividing Range.

The Wandoon Estate application area extended beyond the country that Council considers to be Woiwurrung country.

In August 2008 the Council appointed Wurundjeri Tribe Land and Compensation Cultural Heritage Council Inc (Wurundjeri Inc) as a RAP representing Woi wurrung people in their traditional country, south of the Great Dividing Range.

In appointing Wurundjeri Inc, the Council considered the Wandoon Estate application and took the view that Wurundjeri Inc has a broad and inclusive membership of Woiwurrung people. It also noted that all members of Wandoon Estate are currently members of Wurundjeri Inc. or are eligible for membership.

The Council received correspondence from Wandoon Estate following the decision to appoint Wurundjeri Inc. None of the information provided changed the Council's view that Wurundjeri Inc is the appropriate organisation to represent Woiwurrung people.

Consideration of appointing two RAPs

The Council notes that the Act allows for more than one body to be a RAP over a particular area in certain circumstances (s153(1)). However the Act does not compel the Council to appoint a second or subsequent RAP where these circumstances might be met.

The Council considered the possibility of registering Wandoon Estate in addition to Wurundjeri Inc. However, it decided that it was not appropriate to appoint two RAPs to represent Woi wurrung Traditional Owners in this case.

In arriving at this decision, the Council relied on its own cultural knowledge which reinforced the importance of a Traditional Owner group working in a united way, in the interests of their community.

Other competing claims to country

In addition to Wurundjeri Inc, the Wandoon Estate RAP application area overlapped with parts of the appointed RAP areas of:

- Dja Dja Wurrung Clans Aboriginal Corporation
- Gunaikurnai Land and Waters Aboriginal Corporation
- Taungurung Clans Aboriginal Corporation and
- Yorta Yorta Nation Aboriginal Corporation.

The Council decided it would not appoint the applicant for these areas as Wandoon Estate had previously conceded that these areas of overlap are not the traditional country of their members. The Council also relied upon its previous decisions regarding traditional ownership of these areas and correspondence from Wandoon Estate.

Because of its conclusion that Wandoon Estate should not be registered it was not necessary for Council to consider in detail the requirements of s153 (1) regarding the registration of more than one RAP for these areas.

The Wandoon Estate RAP application also overlapped with parts of the RAP application areas of:

- Dhudhuroa Waywurru Nations Aboriginal Corporation
- Gunaikurnai Land and Waters Aboriginal Corporation and
- Jaara Jaara Loddon Aboriginal Corporation.

The application also overlapped with claims to country from Boonwurrung people represented in Bunurong Land Council Aboriginal Corporation and Boon Wurrung Foundation Ltd whose RAP applications were declined by the Council in August 2009.

The Council decided that Wandoon Estate should not be appointed a RAP for any of these overlapping areas. In making this decision the Council took into account correspondence from Wandoon Estate about its members' traditional country.

Charter of Human Rights and Responsibilities

The Council gave careful consideration to the Charter of Human Rights and Responsibilities Act 2006 (the Charter), in particular the relevant distinct cultural rights of Aboriginal persons in s19(2)(a) and s19(2)(d) of the Charter. It has formed the view that a decision not to register Wandoon Estate 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 Wandoon Estate as a RAP.



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Eleanor Bourke
Chairperson
Victorian Aboriginal Heritage Council