



ABORIGINAL CULTURAL HERITAGE MANAGEMENT AND PROTECTION DEVELOPMENT PLANNING PROTOCOL

THIS AGREEMENT is made on the _____ day of _____ 2000.

BETWEEN:

GREATER GEELONG CITY COUNCIL ("the Authority")

and

WATHAURONG ABORIGINAL CO-OPERATIVE LTD of Morgan Street, North Geelong

1. AIM

This protocol provides the basis for the management, protection and enhancement of culturally significant Aboriginal sites. The effectiveness of the protocol will be reviewed and modified as required from time to time.

The Greater Geelong City Council in partnership with the Wathaurong Aboriginal Community will pursue funding to undertake heritage studies in designated growth areas to ensure that heritage values are documented and protected in the preliminary planning stages of new residential areas.

2. WATHAURONG ABORIGINAL COMMUNITY

The Wathaurong Aboriginal Community (the Community) is the custodian of Aboriginal sites within the Community boundary (refer to attachment 1- Wathaurong boundary description, attachment 2- Wathaurong boundary map and attachment 3- Wathaurong community statement on cultural heritage sites).

The municipal area of the Greater Geelong City Council is located within the traditional territory of the *Wada Wurrung* (or Wathaurong) Aboriginal clan groups. The Wada Wurrung were divided into perhaps twenty-five patrilineal clans with a population estimated between 1600 and 3300 persons in the early nineteenth century.

3. PLANNING RESPONSIBILITIES

The Greater Geelong City Council is the "Planning Authority and Responsible Authority" (the "Authority") for determining permit and rezoning applications under the Greater Geelong Planning Scheme. The "Authority" must take into account the requirements of Commonwealth and State legislation and the views of the Community in providing for the conservation and enhancement of places, sites and objects of Aboriginal cultural heritage. The "Authority" will work with the Community to identify, conserve and protect places of Aboriginal cultural value from development that may impact on sites. In instances where approval has been granted by the Community to disturb or destroy a site, this must proceed in accordance with the provisions contained within the relevant legislation.

4. ABORIGINAL HERITAGE MANAGEMENT AND PROTECTION

The "Authority" considers that without limiting the generality, developers, owners and Government instrumentalities on both private and public land will be required to commission an Aboriginal heritage impact assessment study for development applications that may result in places, sites or objects having significance in Aboriginal cultural heritage being disturbed or that will have a potential impact on known Aboriginal sites or areas of sensitivity.

The Aboriginal heritage impact assessment study will be undertaken to determine whether any Aboriginal sites exist, to identify the likely impact of the development on Aboriginal heritage values and to recommend measures to avoid or mitigate any potential impacts. The assessment study will be undertaken by a qualified archaeologist and will be paid for by the applicant. A Community representative will be engaged to assist the archaeologist in undertaking the study with the fees as per the Community scheduled rate being paid by the applicant. The archaeologist will consult with the Community throughout the course of the study and will provide heritage management advice to all concerned parties.

The "Authority" will direct developers to employ a consultant archaeologist, who will undertake an impact assessment study in consultation with the Community prior to the permit application being processed in the following situations:

- a) Planning scheme amendments lodged under the *Planning and Environment Act 1987* that would change the zoning of the land for greenfield areas and nominated growth corridors identified in the Urban Growth Strategy 1996 where the expected outcome is for increased works and development.
- b) Subdivision applications lodged under the *Planning and Environment Act 1987*:
 - i. for greenfield sites greater than 0.4 ha (4,000 square metres) in area, located within 500 metres of a coastline or a present or former natural creek, river, lake, swamp or marsh;
 - ii. for greenfield sites greater than 2 ha (20,000 square metres) in area, located greater than 500 metres from a coastline or a present or former natural creek, river, lake, swamp or marsh;
- c) Planning permit applications lodged under the *Planning and Environment Act 1987* that have any of the following characteristics (unless the application is for similar development on a previously developed location):
 - i. the area to be disturbed is within 500 metres of a coastline, including bays, and is greater than 100 square metres in size;
 - ii. the area to be disturbed is within 500 metres of a present or former natural creek, river, lake, swamp or marsh and is greater than 100 square metres in size;
 - iii. the area to be disturbed is located on the following land zoned under the Greater Geelong Planning Scheme as follows:
 - > Public Park and Recreation Zone;
 - > Public Conservation and Resource Zone; and
 - > Local Government and Other Public Use Zones.
 - iv. The area to be disturbed is greater than 3 hectares (30,000 square metres) in size on open space areas that do not fall within i, ii or iii above;
- d) Planning permit applications lodged under the *Planning and Environment Act 1987* that seek to develop or use land within 100 metres of a registered Aboriginal site, known as a registered site to the "Authority" where the development or use may impact on the registered Aboriginal site.

5. OBLIGATIONS OF THE WATHAURONG COMMUNITY

The Community agrees that it will:

- a) Provide basic training for Community members in site identification, recording and cultural heritage management procedures.
- b) Maintain a contact list of Community members who have received training and/or who have experience in site identification, recording and cultural heritage management procedures and are available to participate in impact assessment studies.
- c) In consultation with Aboriginal Affairs Victoria, provide a list of archaeological consultants for development applicants to use. The Wathaurong Aboriginal Advisory Committee will assist to maintain the list.
- d) Provide a clearly defined procedure for archaeological consultants to discuss the scope, progress, results and recommendations of heritage impact assessment studies with a Community representative.
- e) Provide cultural heritage management advice on minor works to be undertaken by the "Authority" in a timely manner (maximum 5 working days).
- f) Provide a response to archaeological consultants' draft cultural heritage management reports in a timely manner (within 10 working days).
- g) Respond to formal applications for consent to disturb or destroy an Aboriginal site in a timely manner (maximum 30 days).

6. POLICY

In considering an application to develop land in accordance with the above issues, the "Authority" will have regard to:

- a) Relevant objectives and strategies contained within the City of Greater Geelong Planning Scheme and (refer to attachment 4);
- b) Clause 15.11 (Heritage) of the State Planning Policy Framework (refer to attachment 5).

7. SUNSET DATE

The Protocol will operate for three (3) years from the date of this agreement being signed, unless the parties mutually agree to end the agreement at an earlier date or any Act of Parliament renders it null and void before hand. The parties agree to determine prior to the expiry of the Protocol to enter into discussion to determine any future arrangements.

8. RELEVANT ACTS TO BE CONSIDERED

Aboriginal cultural heritage management refers to all actions to protect and preserve Aboriginal archaeological sites, places and objects. The following Acts are designed to protect locations and objects that have significance to Aboriginal people from disturbance or destruction:

- > Archaeological and Aboriginal Relics Preservation Act 1972 (State)
- > Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Commonwealth)
- > Planning and Environment Act 1987
- > Subdivisions Act 1988
- > Extractive Industries Development Act 1995
- > Australian Heritage Commission Act 1975 (Commonwealth)
- > Mineral Resources Development Act 1990

9. REFERENCE DOCUMENTS

> *Aboriginal Archaeological Investigations in the Barwon Drainage Basin*, Occasional Report No 50, prepared by Aboriginal Affairs Victoria, 1999.

EXECUTED by the parties on the date set out at the commencement of this Agreement.

THE COMMON SEAL of WATHAURONG)
ABORIGINAL CO-OPERATIVE LTD was hereunto)
affixed in accordance with its Articles of)
Association in the presence of:)

..... Chairperson
..... Chief Executive Officer

THE COMMON SEAL of GREATER GEELONG)
CITY COUNCIL was affixed in the presence of:)

..... Mayor
..... Chief Executive