

The skills based board and cultural authority

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Indigenous Governance

- Governance is not new to Indigenous people.
- Indigenous people have had complex systems of governance for tens of thousands of years.
- Adding the word “corporation” does not change this fact
- Despite colonization and dispossession, Indigenous people, including in urban settings, have maintained decision making processes which have evolved in accordance with their changing environment
- While we recognize the need for boards to understand and meet their legal obligations, we argue that the board will have little or no relevance to the Traditional Owners it is meant to represent if it lacks cultural authority.

The problem of compliance governance

- A skills based board is defined as a board of directors who collectively have the skills, knowledge and experience to effectively govern and direct the organization.
- However, increased regulation of both Indigenous and non-Indigenous corporations has narrowed the focus on what should be a broad skill set, to a governance model that is risk averse and obsessed with compliance.
- It is expected that each director must know and understand the legal and regulatory framework and obligations. They must all be able to read financial statements.
- The point here is that non-Indigenous corporations are also struggling with this increased level of scrutiny and are finding their focus being shifted from their original purpose to regulation.
- As such new models of governance are evolving across all sectors.

Creating and maintaining Cultural Authority

- Traditional Owner and Native Title Corporations are set up to benefit their members and their people.
- For a board to be able to govern and direct the corporation is must have cultural authority.
- To have cultural authority, it must have community buy-in and reflect the decision making processes of the group

Principles of codesign

- The codesign process starts from the premise that Traditional Owners have existing decision making and governance processes.
- Facilitated conversations are then held with Traditional Owners:
 - to draw out those processes formalize them into the governance structure;
 - Consider the skills matrix they need to govern and the legal obligations and risks that directors carry and workshop how traditional owners want these to be met within the governance structure.
- Examples: inclusion of independent directors; tiered structures with expert independent advisors on subcommittees; a compliance focused board with a second tier of cultural advisors and strategists.

Eastern Maar

- The Eastern Maar People have a positive determination of native title between the Eumerella and Shaw Rivers in southwest Victoria, an area of country we share with the Gunditjmara People. The Eastern Maar Aboriginal Corporation was authorised by the Eastern Maar People to be, and has been determined by the Federal Court to be, the Prescribed Body Corporate holding the native title rights and interests on behalf of the Eastern Maar people for that area.
- The State of Victoria has notified its intention to negotiate, under the *Traditional Owner Settlement Act 2010*, with the Eastern Maar people over the remainder of our traditional country to the east of the shared area.
- The Eastern Maar people have resolved that the Eastern Maar Aboriginal Corporation will be the representative Traditional Owner Group Entity for the Eastern Maar people for any settlement arising the *Traditional Owner Settlement Act 2010*.
- The Board of the Eastern Maar Aboriginal Corporation is structured in accordance with the traditional decision-making processes of the Eastern Maar Traditional Owner group.



NGARGAD

BINDJALI

BUANDIG

WERGAIA

DJA DJA WURRUNG

JARDWADJALI

DJAB WURRUNG

DHAUWURD WURRUNG

KEERRYAY- WOORROONG

WATHAURONG

GADUBANUD

TAUNGURUNG

WOIWURRUNG

BIPY WURRUNG

NGURAI-ILLAM WURRUNG

YORTA YORTA

JABULAJABULA

BANGERANG

WEMBA WEMBA

BARABABARABA

WAYWURRU

MOGULLUMBIDJ

GUNNAI

BRATAUALUNG

DHUDHUROA

NGARIGU

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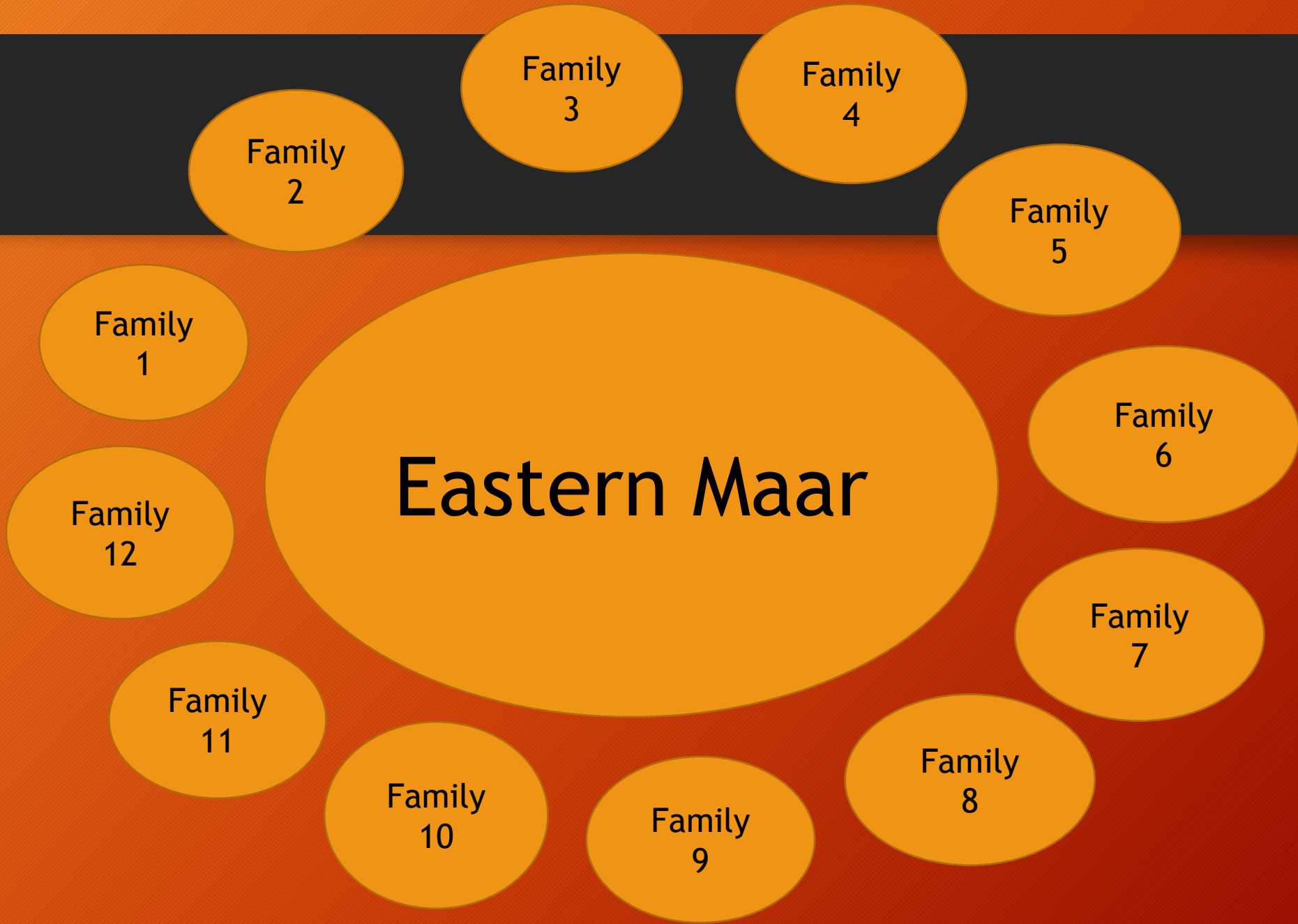
THAWA





The Eastern Maar Aboriginal Corporation

- The board of structure of EMAC was created through a process of co-design between the traditional owners, lawyers and anthropologists.
- The EMAC board is one director per family group, each family group not defined by apical ancestors (who cross family group lines) but by the contemporary Eastern Maar understanding of family. In the Eastern Maar context this is defined two ancestors back from the current oldest living generation.
- It is noted that with the passing of generations, there will be a need to review the family group structures.



EMAC and Compliance

- Currently EMAC is reliant on the advice First Nations Legal and our accountant to ensure we are compliant with regulatory frameworks.
- All corporations must review governance structures when undergoing major change. As we come close to settlement with the State of Victoria, we will need to review our governance structures in light of the skill set we require moving forward, including legal and regulatory knowledge.
- As CEO and Eastern Maar traditional owner I believe it would be to our detriment to forgo the family group model as it ensures community buy in and cultural relevance. This will need to be taken into account in our next co-design phase.