

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY DJA DJA WURRUNG CLANS ABORIGINAL CORPORATION

DATE OF DECISION: 1 NOVEMBER 2012

Decision

On 1 November 2012 the Victorian Aboriginal Heritage Council (Council) made a decision on a specific part of the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC) Registered Aboriginal Party (RAP) application.

Decision Area

The boundary of the decision area begins in the north-west of the DDWCAC appointed area below Glenloth at the Avoca River and proceeds in a straight line south-west until reaching the centre point of Lake Buloke. From Lake Buloke, the boundary follows the centreline of the Richardson River south until the Avon River near Banyena, then follows the Avon River to Beazleys Bridge and beyond until meeting the DDWCAC appointed area (decision area).

Reasons for Decision

Negotiations and regional meetings between RAP applicants

DDWCAC is currently negotiating a Recognition and Settlement Agreement (RSA) under the *Traditional Owner Settlement Act 2010 (Vic) (TOS Act)* with the State of Victoria in relation to its registered native title claim. The State of Victoria has identified DDWCAC as the highest priority for settlement under the TOS Act.

As a result of a process of negotiation and agreement-making entered into by DDWCAC and Barengi Gadjin Land Council Aboriginal Corporation (BGLC), a common boundary between BGLC and DDWCAC was agreed. This agreement resolved an area where the RAP applications previously overlapped. Both groups notified Council in writing of the details of the agreement, and amended their RAP application boundaries to give effect to the agreement they had reached.

The agreed common boundary between both RAPs is the western boundary of the decision area.

Traditional and familial links

In accordance with the Act, Council gives priority to groups with traditional and familial links to a particular application area to give appropriate status and rights to Traditional Owner groups in cultural heritage management and protection. The Council previously made a decision which recognised DDWCAC as an organisation representing Dja Dja Wurrung Traditional Owners that was able to demonstrate traditional links.

Native Title considerations

DDWCAC has a registered native title claim for the Application Area and is a native title party for the purpose of this application for further RAP registration.

Other relevant matters

Council gives priority to uncontested applications by inclusive groups with sustainable structures meeting the Act's requirements. Since DDWCAC's registration in 2008 it has carried out the responsibilities of a RAP, demonstrating expertise in cultural heritage management. An operational plan has been provided to Council.

Council sought the views of Traditional Owners from the same region as the applicant and from neighbouring areas to inform its decision. Council received no objections about the further registration of DDWCAC in the decision area.

Charter of Human Rights and Responsibilities

The Council gave careful consideration to the *Charter of Human Rights and Responsibilities Act 2006 (Charter)*, in particular the relevant distinct cultural rights of Aboriginal persons in s 19(2)(d) of the Charter. The Council formed the view that a decision to register DDWCAC in the decision area is compatible with the Charter.

Summary

Having regard to the information presented above as well as other relevant factors, the Council reached the following conclusions:

- Evidence before Council demonstrates that DDWCAC is an organisation representing Traditional Owners that continues to meet the requirements of the Act in the RAP application area.
- DDWCAC is a native title party in the decision area.
- DDWCAC has established an agreed common boundary after a process of negotiation with neighbouring Traditional Owners.
- Neighbouring Traditional Owners do not object to the further registration of DDWCAC.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, the Council decided that it was appropriate to appoint DDWCAC for the RAP application area described.



Mick Harding
Acting Chairperson
Victorian Aboriginal Heritage Council