

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE EAST GIPPSLAND INDIGENOUS AQUACULTURE CO-OPERATIVE TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 7 December 2011

Decision

The Victorian Aboriginal Heritage Council (Council) has decided not to register the East Gippsland Indigenous Aquaculture Co-operative (EGIAC) as a registered Aboriginal party (RAP) under the *Aboriginal Heritage Act 2006 (Act)*.

Reasons for Decision

Part 10 of the Act requires Council to consider a number of matters in making a decision. Council considered the application in light of these matters.

In making its decision, Council considered all the information provided by EGAIC.

Council decided not to appoint EGIAC for reasons outlined below.

Land based agreements/titles

In considering the application, Council noted that:

- EGIAC is not a Native Title Holder or a Native Title Party for the RAP application area;
- EGIAC has not entered in to any native title agreement;
- EGIAC does not have any grant of land in fee simple made by the State or the Commonwealth;
- EGIAC has not entered into agreements with the State or any other party in relation to land and natural resource management.

Council noted that the EGIAC RAP application states that EGIAC includes traditional owner families with native title via the Gunaikurnai.

RAP application area

A map was provided to Council showing the area over which EGIAC is seeking to be a RAP. The area begins east of the Snowy River, then borders ridge lines and waterways generally following the watershed of the Snowy River.

Traditional and Familial links

In accordance with the Act, Council accords 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. To best achieve the goals of the Act, Council prefers to appoint RAPs which are single, inclusive groups and representative of Traditional Owners in the respective application area.

Council considered the EGIAC rules book which states that EGIAC membership is restricted to Aboriginal persons and, to be eligible for membership, a person must also be an 'active member' of EGIAC. Council noted that membership requires

payment of an annual membership fee and involvement in an aquaculture project in which EGIAC has an interest.

Council asked EGIAC for details about who is eligible to be an EGIAC member and who is currently a member. EGIAC provided some information regarding its membership to Council. While EGIAC would not provide Council with a list of its members, Council was given names of some EGIAC members.

Council noted that EGIAC claims to represent Traditional Owners throughout the Far East Snowy Gippsland region (Orbost and Cann River), including Gunaikurnai and Southern Monero Traditional Owners. However, Council felt the application was not clear about whether EGIAC represents all Gunaikurnai and Southern Monero Traditional Owners or just some.

Council also noted that EGIAC had not communicated with other Traditional Owner groups from the same region about its RAP application. Two of these groups provided comments about the EGIAC RAP application which Council took into account.

Council was of the view that while some members of EGIAC are Traditional Owners, information presented by EGIAC, and comments received from other Traditional Owner groups, demonstrated that EGIAC does not represent all Traditional Owners from the EGIAC RAP application area.

Historical and contemporary interest and demonstrated expertise in managing and protecting Aboriginal cultural heritage

Council noted information from EGIAC which said that EGIAC is part of working relationships in East Gippsland and is involved in the following types of activities:

- engagement with various Government agencies including Fisheries Victoria, a Catchment Management Authority, the Department of Sustainability and Environment (DSE) and Parks Victoria.
- running of local cultural camps for youth, families and Elders that focus on the preservation of connection to country, stories and site protection, and caring for rivers, lakes, forest, parks and country.

Expertise in cultural heritage management

Council noted claims by the EGIAC that its members have proven experience in the area of cultural heritage and sites management. Council also noted information about the qualifications of certain members.

Other matters

Other roles of EGIAC - Council noted a section in the EGIAC rules which states that the primary activity of EGIAC is to hold land and infrastructure which will be used to accommodate Indigenous aquaculture business development in East Gippsland.

Charter of Human Rights and Responsibilities - 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. Council formed the view that a decision not to register EGIAC is compatible with the Charter.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, Council decided EGIAC was not an appropriate organisation to appoint as a RAP for the area included in its RAP application.

Denise Lovett

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Chairperson
Victorian Aboriginal Heritage Council