

## DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE GILBIE (DARTY DARTY) ABORIGINAL CORPORATION TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 22 October 2010

### Decision

The Victorian Aboriginal Heritage Council (**Council**) has decided not to register the Gilbie Aboriginal Corporation (**Gilbie**) as a Registered Aboriginal party (**RAP**) under the *Aboriginal Heritage Act 2006* (Vic) (**Act**).

### Reasons for Decision

Part 10 of the Act requires the Council to consider a number of matters in making a decision. Council considered the application in light of these matters and decided not to appoint Gilbie based on the following reasons.

### Overview

In considering the application Council noted among other things that:

- Gilbie is not a Native Title Holder or Native Title Party
- Two registered native title claims Latji Latji and Robinvale Aboriginal Community exist in the Country affected by the application (**the registered native title claims**) The application also overlapped the Wamba Wamba Barapa Barapa and Wadi Wadi Peoples and Yupagalk People registered native title claim
- Gilbie claimed traditional and familial links to the Country affected by the application through only the Pearce families
- Gilbie claimed historical and contemporary interest in the Aboriginal cultural heritage of the area heritage through a single person.

### Traditional and Familial links

Council consider the supporting evidence provided by Gilbie about the traditional and familial links of the Pearce families.

Council noted that it had written to Gilbie with several requests to provide further information.

Council noted that the application referred to reports by Benjamin R Smith and Clark and Ryan. Gilbie did not provide Council with a copy of these reports.

Council noted that in the application and correspondence

- Gilbie did not clearly identify a Traditional Owner group or sub-group through which connection to the Country affected by the application was identified or claimed
- Gilbie did not provide detailed information about Gilbie's members' connections to apical ancestors or to the Country affected by the application

- The membership of Gilbie was open to persons that are not Traditional Owners, and Council could not be certain that decisions made by Gilbie about cultural heritage would be made by Traditional Owners.

### **Native Title**

The registered native title claims involve a number of different people and families claiming traditional links for the area. Kevin Pearce, a member of Gilbie, identified himself as part of the Robinvale Aboriginal Community native title claim. Gilbie stated that other Aboriginal people recognise Gilbie's traditional links. Gilbie stated that it represented many Aboriginal people with traditional and familial links.

Council received correspondence from members of the two registered native title claims objecting to the Gilbie application.

Council noted that

- Gilbie did not indicate which families it represented, other than the Pearce families.
- Gilbie did not indicate how and what way these other families would be involved in decisions about cultural heritage.
- Gilbie did not provide any evidence or support for the statement that the application had the support of other people or groups with traditional links.

### **Historical and contemporary interest in the Aboriginal cultural heritage**

Council considered the supporting evidence provided by Gilbie about the historical and contemporary interest in Aboriginal cultural heritage. Council noted that it had written to Gilbie with several requests to provide further information.

Council noted that:

- Gilbie did not provide detailed information about demonstrated expertise in managing and protecting Aboriginal cultural heritage in the Country affected by the application
- Gilbie did not provide evidence of support of the application by other Traditional Owners of the Country affected by the application
- The application was contested by other persons and groups who claim traditional and familial links to the Country affected by the application.

### ***Charter of Human Rights and Responsibilities***

The Council gave careful consideration to the *Charter of Human Rights and Responsibilities Act 2006 (the Charter)*. It has formed the view that a decision not to register Gilbie 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 Gilbie as a RAP.



Jim Berg  
Chairperson  
Victorian Aboriginal Heritage Council