

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE TATI TATI WADI WADI ABORIGINAL CORPORATION TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 11 June 2010

Decision

The Victorian Aboriginal Heritage Council (**Council**) has decided not to register the Tati Tati Wadi Wadi Aboriginal Corporation (**TTWW**) (formerly Tati Tati Aboriginal Corporation (**TTAC**)) as a registered Aboriginal party (**RAP**) under section 151 of the *Aboriginal Heritage Act 2006 (Act)*.

The Council took into account all the information provided to it in respect of the application, including information and documents provided by the TTWW (as well as the former TTAC).

Reasons for Decision

RAP application area

The TTWW RAP application area includes Hattah-Kulkyne National Park in the North, then South along the Calder Highway to its intersection with the Sunraysia Highway, then continuing east and south east along the Calder Highway to the intersection with the Peir Milan-Chinkapook Road. The boundary follows this road and includes Lake Tyrrell, continuing south past Sea Lake before turning east along the Sea Lake-Swan Hill Road and to the north of Lake Boga.

The Council considered the matters set out under s 151 of the Act, including (among other things):

- That TTWW is not a Native Title Holder (s 151(2) of the Act);
- That TTWW is not a Native Title Party (s 151(3)(a) of the Act);
- That TTWW does not refer to any Native Title agreements (s 151(3)(b) of the Act);
- That TTWW does not have any grant of land in fee simple made by the State or the Commonwealth (s 151(3)(e) of the Act); and
- That TTWW does not refer to Land and Resource Management Agreements (s 151 (3)(f) of the Act).

Council accepted evidence that some of the members of TTWW are also members of native title claimant groups in the RAP application area. However, Council took into account information that indicated the membership of TTWW varied substantially from membership of native title claimant groups and has established the principle of seeking to ensure that groups recognised under the cultural heritage laws as best as possible reflect those under native title arrangements.

Traditional and Familial links

TTWW claimed that it represented the interests of both Tati Tati and Wadi Wadi; and that TTWW relied on traditional and familial links of both Tati Tati and Wadi Wadi to the RAP application area.

The TTWW Rule Book approved on 21 March 2010 states that membership of TTWW is open to adult Aboriginal persons permanently residing in the “cultural heritage and native title boundaries of the Tati Tati Wadi Wadi people, including Robinvale, Euston Lake Benanee and surrounding areas of land and waters”.

The Council noted that some members of TTWW may have traditional and familial links to the Country of the TTWW RAP application area. However, based on the membership rules and other information provided by TTWW, the organisation was not specifically established to represent all the Traditional Owners of the application area collectively. On this basis, the Council decided not to appoint TTWW to represent Traditional Owners of the area.

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

Although TTWW and TTAC did not rely on these links the time of application, the Council noted that TTWW and TTAC provided details of the cultural heritage management experience of some of its members. The details given were provided as evidence of demonstrated expertise in managing and protecting Aboriginal cultural heritage.

Other matters

The Council noted that there is no RAP for the area over which TTWW had applied. The Council considered the mechanisms available under the Act for the continued protection of Aboriginal cultural heritage where an organisation is not registered as a RAP. Where there is no other organisation with RAP responsibilities, the Council noted that responsibility lies with the Secretary of the Department of Planning and Community Development.

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 and distinct cultural rights of Aboriginal persons set out under s19 of the Charter. The Council formed the view that a decision not to register TTWW 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 TTWW as a RAP.



Jim Berg
Chairperson
Victorian Aboriginal Heritage Council