

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE DHUDHUROA WAYWURRU NATIONS ABORIGINAL CORPORATION TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 11 March 2011

Decision

The Victorian Aboriginal Heritage Council (**Council**) has decided not to register the Dhudhuroa Waywurru Nations Aboriginal Corporation (**DWNAC**) 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 DWNAC based on the following reasons.

Overview

In considering the application Council noted among other things that:

- DWNAC is not a Native Title Holder or Native Title Party.
- DWNAC has not entered in to any native title agreement.
- DWNAC referred to various agreements but was not a party to these agreements.

Traditional and Familial links

Council noted that:

- DWNAC's application was on behalf of two groups - Dhudhuroa Traditional Owners and Waywurru Traditional Owners.
- DWNAC identified separate apical ancestors for each group, and asserted that these apical ancestors were Dhudhuroa and Waywurru people.
- DWNAC provided some supporting material to link the apical ancestors and the Traditional Owner groups (Dhudhuroa and Waywurru).
- DWNAC asserted that all the members of DWNAC were descendants of one of those identified apical ancestors.
- DWNAC provided some supporting material to link some of its members with some of the identified apical ancestors.
- DWNAC provided some material in relation to experience of its members in cultural heritage management and DWNAC governance and operational plans.
- Other groups asserted Traditional Ownership in the application area, and that the application area completely overlapped with an appointed RAP or a RAP applicant.

Council considered the materials and noted

- The rules of DWNAC only included two of the identified apical ancestors.
- The supporting materials provided by DWNAC in relation to apical ancestors contained scarce details about their link to Traditional Owner groups.
- The apical ancestors identified are also identified by other Traditional Owner groups as apical ancestors for other Traditional Owner groups.

Council wrote to DWNAC:

- Indicating that records of the place of birth, residence or death were ambiguous, and not sufficient in themselves to establish a connection between a person and a Traditional Owner group.
- Requesting further material to support the connection between the identified apical ancestors and the Traditional Owner groups.
- Indicating that the identified apical ancestors were also identified as apical ancestors by other groups.
- Requesting the results of consultations with other groups about these apical ancestors.
- Requesting further material on experience of DWNAC members in cultural heritage management and DWNAC governance and operational plans.

DWNAC provided responses and further material, but it did not provide sufficient material to support the connection between the identified apical ancestors and the Traditional Owner groups.

Historical and contemporary interest in the Aboriginal cultural heritage

DWNAC stated that it was working to develop relationships and treaties with dispersed Traditional Owners who lived within the application area and that negotiations are on-going.

However, Council decided not to appoint DWNAC on this basis alone.

Charter of Human Rights and Responsibilities

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



Jim Berg
Chairperson
Victorian Aboriginal Heritage Council