

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

DATE OF DECISION: 27 MAY 2011

Decision

The Victorian Aboriginal Heritage Council (**Council**) has decided not to register the Ella Maar Aboriginal Corporation (**Ella Maar**) 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 before making its decision.

Native Title

Ella Maar is not a Native Title Holder or Native Title Party.

Ella Maar did not refer to any native title agreements, grants of land or agreements in relation to land and natural resource management.

Traditional and Familial links

Council considered the materials provided by Ella Maar, including the genealogical report, and noted that Ella Maar asserted that members of Ella Maar had direct and indirect (through marriage) associations with listed language areas through listed apical ancestors.

Council also considered the fact that the Ella Maar application overlapped in part the Gundijtmara native title claims and the State of Victoria had publicly accepted the connection of Gunditjmara and the South West Native Title Group.

While Council did not dispute the traditional links asserted by the members of Ella Maar, it was concerned that:

- it was not clear how Ella Maar represented the various identified groups or language areas identified by Ella Maar;
- it was not clear how the identified groups were related to each other;
- the rules about who could be a member of Ella Maar were not clear;
- there did not appear to be appropriate procedures to make sure that the Traditional Owners for each group would be the decision makers.

In December 2010, Council wrote to Ella Maar identifying the concerns held by Council and asking for any comment. While Ella Maar responded to this letter, Council did not take the view that the information provided overcame the concerns held by it on these matters.

In March 2011, Council wrote to Ella Maar and advised that it had formed the preliminary view that it would not be appropriate to register Ella Maar as a RAP on the basis that it was not clear which groups Ella Maar represented and how, and as a consequence of the developments in the Gunditjmarra native title claim. Ella Maar was given an opportunity to provide any further information. In April 2011 Ella Maar provided additional information to Council and this was taken into account by Council, however it did not alter Council's preliminary views.

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

Ella Maar did not explicitly state a historical or contemporary interest as a basis for the application, but did refer to a letter of support from a local organization that identified Ella Maar as members of the Traditional Owner community for a part of the Ella Maar application area.

Council requested that Ella Maar provide information about the demonstrated experience of Ella Maar members in managing and protecting Aboriginal cultural heritage.

Ella Maar provided a response which included details about the general experience of some of its members, details of assessments carried out by Ella Maar and some details about some of the policies and procedures used by Ella Maar.

Council did not take the view that Ella Maar should be appointed as a RAP on the basis of its historical and contemporary interests in Aboriginal cultural heritage.

Charter of Human Rights and Responsibilities

The Council considered the *Charter of Human Rights and Responsibilities Act 2006 (Charter)* when making its decision. It believes that a decision not to register Ella Maar 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 Ella Maar as a RAP.



Karen Jackson
Acting Chairperson
Victorian Aboriginal Heritage Council