

DECISION OF THE ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY MARTANG PTY LTD TO BE REGISTERED AS A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 2 February 2012

Decision

The Victorian Aboriginal Heritage Council (Council) has decided not to register Martang Pty Ltd (Martang) as a registered Aboriginal party (RAP) for the area of the application under the *Aboriginal Heritage Act 2006 (Act)*. A map showing the area for which Martang has been declined is attached.

Area

The application area was in two parts:

- The western part, an area centred around Gariwerd/Grampians National Park and further to the east covering the townships of Stawell and Ararat
- The southern part, a small area added to the application in February 2008, south of the Hamilton Highway and west of Mortlake.

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 and decided not to register Martang based on the following reasons.

Previous decision on Martang RAP Application

In September 2007 Council registered Martang as a RAP for part of Martang's application area. This previous decision was made on the basis that Council recognised Martang as an organisation representing Djab Wurrung Traditional Owners that was able to demonstrate strong traditional links to the area, accompanied by considerable support from members of the Djab Wurrung and neighbouring communities.

As part of the decision, Council indicated that it expected Martang to review its corporate structure to establish broad representation of Djab Wurrung interests.

In October 2007 Martang assured Council that it would address this matter as soon as possible.

Corporate Structure of Martang

From October 2007 the Council and Martang engaged in regular correspondence about Martang changing its corporate structure. Martang informed Council of a number of possible changes and that Martang had been involved in a process of discussion, negotiation and consultations in a number of areas for inclusion of a broader range of people who identified as Djab Wurrung. However, at the time of the Council's decision Council was not aware of any changes by Martang to its corporate structure to establish broad representation of Djab Wurrung community interests.

Traditional and Familial Links

The Council previously recognised Martang as an organisation representing Traditional Owners that was able to demonstrate strong traditional links to the area. The Martang application was accompanied by considerable support from members of the Djab Wurrung community.

Other s151 matters

The RAP Application stated that Martang is not a registered native title holder or a native title party. The Council was not provided with details of any native title agreement involving Martang or any other native title party. Martang referred to land purchased for Martang by the Indigenous Land Corporation in the vicinity of the Stawell-Pomonal Road and the Illawarra-Bellenen Road. Martang stated that it has been involved in numerous agreements with the Commonwealth and State Governments in areas such as water management, LandCare and heritage values. Martang provided a number of documents relating to various land and resource management projects for which Martang or its directors have participated.

Expertise in cultural heritage management

Since Martang's registration in 2007 it has carried out the responsibilities of a RAP, including evaluating 10 cultural heritage management plans, demonstrating expertise in cultural heritage management.

Public Comments

When considering a RAP application the Council seeks the views of neighbouring Traditional Owners to best inform its decisions. The Council placed advertisements in local and national newspapers in 2007 and 2009 asking for comment on the Martang RAP application. The Council also wrote to neighbouring RAP applicants in 2009 to advise them of the changes to the application area.

As with all overlapping RAP applications, the Council wrote to overlapping RAP applicants encouraging applicants to have discussions with each other to come to agreement about the most appropriate way of managing their cultural heritage under the Act.

The Council received letters of support from various Traditional Owners, Traditional Owner organisations and Aboriginal organisations. The Council also received two public comments supporting the application. Subsequent to Council's decision in September 2007, Council received comments from two Aboriginal organisations opposing the registration of Martang as a RAP.

In December 2009 the Council wrote to Native Title Services Victoria about the Gariwerd/Grampians area, seeking assistance to better understand the traditional links to Gariwerd/Grampians area. No response was received.

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 Martang is compatible with the Charter.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, Council has decided not to register Martang as a RAP for the application area. Of particular importance to Council was that Martang had not altered its corporate structure to establish broad representation of Djab Wurrung community interests.



Karen Jackson
Acting Chairperson
Victorian Aboriginal Heritage Council

