

**DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY NINDI-NGUJARN NGARIGO MONERO ABORIGINAL CORPORATION.**

**DATE OF DECISION: 21 March 2013**

**Decision**

On 21 March 2013 the Victorian Aboriginal Heritage Council (**Council**) decided not to register Nindi-Ngujarn Ngarigo Monero Aboriginal Corporation (**NNNM**) as a Registered Aboriginal Party (**RAP**).

**Decision Area**

The NNNM RAP application covers a large area in the Alps and Far East Gippsland areas of Victoria. Generally far east of Victoria, described by NNNM as following the Genoa River from the Victorian NSW border to Genoa then to Gypsy Point over to Barracoota Lake, including Gabo Island, to Bemm River including the coastal waters, from Bemm River inlet up to Goongerah across to Gelantipy, from there to Mt Nunnion, to Bindi, to Benambra to Mt Hope and following the Alps to the border, along the Murray River (**Decision Area**).

**Reasons for Decision**

**Traditional and familial links**

One of the objectives of the *Aboriginal Heritage Act 2006 (Act)* is to accord appropriate status to Aboriginal people with traditional and familial links with Aboriginal cultural heritage in protecting that heritage. Consistent with this objective, Council accords priority to groups that are representative of Traditional Owners in a relevant application area and that are supported by the Traditional Owners of the Country affected by an application.

Membership of NNNM is open to persons over the age of 18 who can demonstrate descendency from Monero/Ngarigo people. Documents available from the Office of the Registrar of Indigenous Corporations show that NNNM currently has 17 members, 16 of which are listed as based in Victoria. Council is aware that many more Monero/Ngarigo people may be eligible for membership of NNNM than are listed. While Council does not dispute that NNNM represents some individuals with traditional and familial links to the Decision Area, Council is not able to conclude that the membership of NNNM is sufficiently inclusive of all Monero/Ngarigo people.

**Other relevant matters**

**Mediation and regional meetings**

Council has adopted the principle of encouraging RAP applicants to speak with neighbouring groups to resolve boundary and overlap issues and where possible to create co-operative arrangements with other groups. Council encouraged NNNM to do this. Council was informed on a number of occasions by NNNM of meetings with neighbouring groups to discuss overlapping RAP applications and interests. Council supported a facilitation process with NNNM's neighbours. Council asked for further details of any agreements or outcomes of the

meetings. NNNM did not provide Council with any further information about agreements or outcomes resulting from these meetings.

### **Overlapping RAP applications**

On the information available to Council, it was not clear that NNNM meets the Council's principle to give priority to applications made by groups who represent Traditional Owners and that are supported by Traditional Owners of the Country affected. While Council did not dispute that NNNM represented some individuals with traditional and familial links to the Decision Area, Council had regard to the competing claims made by Bidwell-Maap Nation Aboriginal Corporation (**Bidwell**) and Gunaikurnai Land and Waters Aboriginal Corporation (**GLaWAC**) that they represent Aboriginal people with traditional and familial links in the Decision Area. The large majority of the Decision Area is covered in parts by the RAP applications of Bidwell and GLaWAC, respectively, and Council notes that the ethno-historical record of Traditional Ownership in Far East Gippsland is particularly complex. Council was therefore unable to determine the extent of NNNM core country in the Decision Area.

### **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 distinct cultural rights of Aboriginal persons in s 19(2)(d) of the Charter. The Council formed the view that a decision to decline to register NNNM is compatible with the Charter.

### **Summary**

Having regard to the information presented above as well as other relevant factors, Council reached the following conclusions:

- Evidence before Council did not rule out that NNNM represented some people with traditional, familial, historical and contemporary links to the Decision Area
- Council was unable to conclude that NNNM is sufficiently inclusive of all Ngarigo/Monero people
- Council was unable to conclude that there had been any outcomes of negotiations with neighbouring Traditional Owner groups over competing claims in the Decision Area
- The lack of evidence available to Council and the overlapping RAP applications in the Decision Area meant that Council was unable to confirm the extent of NNNM core country

### **Conclusion**

Taking all of these matters in to account, and relying on its own cultural knowledge, Council decided that NNNM was not an appropriate organisation to appoint as a RAP for the area included in its RAP application.

Denise Lovett

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Chairperson  
**Victorian Aboriginal Heritage Council**