

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY THE TATI TATI ABORIGINAL CORPORATION

DATE OF DECISION: 21 MARCH 2013

Decision

On 21 March 2013 the Victorian Aboriginal Heritage Council (**Council**) made a decision on the Tati Tati Aboriginal Corporation (**TTAC**) Registered Aboriginal Party (**RAP**) application (**application**).

Application Area

The application area includes Hattah-Kulkyne National Park in the north-west. The boundary extends south along the Calder Highway as far as Lake Tyrrell. From the north western edge of Lake Tyrrell the boundary extends in a north easterly line to the Murray River at the northern boundary of State forest east of Haysdale. The boundary then follows the Murray River back to Hattah-Kulkyne National Park.

Reasons for Decision

Traditional and familial links

In accordance with the Act, Council accords priority to groups with traditional and familial links to a particular application area to give appropriate status and rights to Traditional Owner groups in cultural heritage management and protection. To achieve the objectives of the Act, Council gives preference to RAP applicants which are single, inclusive groups and representative of Traditional Owners in the respective application area.

TTAC names apical ancestors for the Application Area and states that Tati Tati People are the Traditional Owners of that area. TTAC provided research documents to support its claims which include genealogical information that links certain TTAC members with named apical ancestors. Council also considered TTAC's membership details and rules.

Council wrote to TTAC asking for confirmation of who it represents, an explanation of the links between certain TTAC members and named apical ancestors, and further evidence to clarify the basis of the extent of Country claimed. TTAC did not respond to Council's letter.

While Council does not dispute that TTAC represents some individuals with traditional and familial links to the application area, based on the information available to it Council did not consider that TTAC was necessarily an organisation representative of all Traditional Owners with connection to the application area.

Other relevant matters

Overlapping RAP applications:

Council wrote to TTAC asking whether it had discussed its RAP application with neighbouring Traditional Owner groups and also native title claimant groups with claims that overlap the TTAC application. TTAC did not respond to Council's letter.

On the information available to Council, it was not clear that TTAC meets the Council's principle to give priority to applications made by groups that represent Traditional Owners and are supported by Traditional Owners of the Country affected. While Council did not

dispute that TTAC represents some individuals with traditional and familial links to the Application Area, Council had regard to the competing claims made by Latji Latji Mumthelang Aboriginal Corporation (LLMAC), Barengi Gadjin Land Corporation (BGLC) and Murray Valley Aboriginal Cooperative (MVAC) that they represent Aboriginal people with traditional and familial links in the Application Area. The vast majority of the Application Area was covered by the LLMAC and MVAC RAP applications, and Council notes that the ethno-historical record of Traditional Ownership in the north west of Victoria is particularly complex. Council was therefore unable to determine the extent of TTAC core Country in the Application Area.

Public comments:

Council sought the views of Traditional Owners from the same region as TTAC in response to advertisements placed in local and national newspapers in August 2012.

Comments were received from one organisation that claims traditional connection to the TTAC application area. This organisation raised concerns about TTAC's ability to inclusively represent the Traditional Owners of the area included in the TTAC application. The comments were forwarded to TTAC and TTAC was given the opportunity to respond. TTAC did not respond.

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 TTAC is compatible with the Charter.

Summary

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

- It is not clear whether TTAC is representative of all Traditional Owners who are descendants of Tati Tati apical ancestors.
- The extent of Tati Tati core Country could not be identified due to a lack of evidence and the existence of overlapping RAP applications in the Application Area.

Conclusion

Taking all relevant matters into account, and relying on its own cultural knowledge, Council decided TTAC was not an appropriate organisation to appoint as a RAP for the Application Area.

Denise Lovett #

Chairperson
Denise Lovett
Victorian Aboriginal Heritage Council