

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN APPLICATION BY DJA DJA WURRUNG CLANS ABORIGINAL CORPORATION

DATE OF DECISION: 7 FEBRUARY 2013

Decision

On 7 February 2013 the Victorian Aboriginal Heritage Council (**Council**) made a decision relating to the Dja Dja Wurrung Clans Aboriginal Corporation (**DDWCAC**) Registered Aboriginal Party (**RAP**) application in accordance with the *Aboriginal Heritage Act* (2006) (**Act**).

Decision Area

The external boundary of the decision area begins north-east of Navarre following natural contours, being the ridgeline of the Great Dividing Range south of Navarre, Lexton, Creswick and Trentham. In the west of the decision area the boundary is the centreline of the Campaspe River from north of Kyneton until Rochester. From Rochester the boundary proceeds outside the Yorta Yorta Nation Aboriginal Corporation RAP boundary and follows a line in a westerly direction until Boort then south-west until meeting the 2008 DDWCAC registered area north of Charlton (**Decision Area**).

Variation Area

DDWCAC also requested that Council vary the existing DDWCAC RAP boundary. There are two areas (**Variation Area**) proposed to be removed from the DDWCAC registered area. The first is an area beginning south-west of Carlsruhe following the Calder freeway in a north-westerly direction until the Campaspe River then following the Campaspe River in a north-easterly direction until reaching a straight line of the DDWCAC registered area. The second part of the Variation Area is a triangle at the tip of the DDWCAC registered area bordered by Mt Terrick Road. The removal of the two parts making up the Variation Area reflects the common boundary agreements referred to in this document.

Reasons for Decision

Traditional and familial links

In accordance with the Act, Council gives priority to groups with traditional and familial links to a particular application area in order to give appropriate status and rights to Traditional Owner groups in cultural heritage management and protection. The Council has previously made decisions which recognised DDWCAC as an organisation representing Dja Dja Wurrung Traditional Owners that was able to demonstrate traditional links.

Native Title considerations

DDWCAC has a registered native title claim for the Decision Area and is a native title party for the purpose of this application for further RAP registration in the Decision Area.

Negotiations and regional meetings between RAP applicants and other TO organisations

DDWCAC is currently negotiating a Recognition and Settlement Agreement (**RSA**) under the *Traditional Owner Settlement Act 2010* (Vic) (**TOS Act**) with the State of Victoria in relation to its registered native

title claim. The State of Victoria has identified DDWCAC as the highest priority for settlement under the TOS Act.

As a result of the RSA process and the agreement-making entered into by DDWCAC with Wathaurung Aboriginal Corporation, Taungurung Clans Aboriginal Corporation and Wamba Wamba Barapa Barapa Wadi Wadi Peoples, a common boundary as between DDWCAC and each of those TO groups respectively was established and agreed. These agreements related to areas where RAP applications, registered areas and the interests of TO groups previously overlapped. DDWCAC notified Council in writing of the details of the agreements, amended the DDWCAC RAP application area and sought to vary the boundary of the DDWCAC registered area in order to give effect to the agreements reached with its neighbours.

Other relevant matters

Council gives priority to uncontested applications by inclusive groups with sustainable structures meeting the Act's requirements. Since DDWCAC's registration in 2008 and further registration in November 2012 it has carried out the responsibilities of a RAP, demonstrating expertise in cultural heritage management. An operational plan has been provided to Council.

Council sought the views of Traditional Owners from the same region as the applicant to inform its decision and considered all responses received.

The Variation Area

In accordance with the Act, Council obtained the consent of DDWCAC and that of neighbouring RAPs, where relevant, for the variation to the DDWCAC boundary in the Variation 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 the decisions to register DDWCAC in the Decision Area and to vary the DDWCAC registered area boundary in the Variation Area are compatible with the Charter.

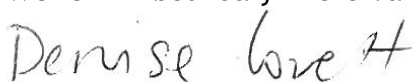
Summary

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

- Evidence before Council demonstrates that DDWCAC is an organisation representing Traditional Owners that continues to meet the requirements of the Act in the Decision Area and for the Variation Area.
- DDWCAC is a native title party in the Decision Area.
- DDWCAC has established agreed common boundaries with neighbouring RAPs and Traditional Owner organisations after a process of negotiation as part of the RSA process with the State of Victoria. DDWCAC and other organisations have provided details of this process and its outcomes.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, the Council decided that it was appropriate both to register DDWCAC for the Decision Area and also to vary the existing DDWCAC RAP boundary in the Variation Area.



Denise Lovett
Chairperson
Victorian Aboriginal Heritage Council