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Offensive sculpture to be removed

Commissioner Tuor of the New South Wales Land and Environment Court has upheld the decision of the Blue Mountains City Council to remove a controversial stone sculpture depicting Wandjina spirits from the grounds of a Katoomba gallery.

The sculpture was commissioned and is owned by gallery owners Vesna and Damir Tenodi. It has attracted deep criticism from Indigenous Australians for its use of Wandjinas, creation spirits sacred to the Worrorra, Wunumbal and Ngarinyin peoples of the Western Australia Kimberley region who are the traditional custodians. The creation and public display of such a sculpture, by a non-Aboriginal without any consultation, was deeply distressing and offensive to both the traditional custodians and the local Indigenous groups of the Blue Mountains.

The Blue Mountains City Council refused a development application by the Tenodis to situate the sculpture on the verge of their Katoomba premises. The Tenodis appealed this decision to the Land and Environment Court. The matter was heard in Katoomba on 20 June 2011.

The Arts Law Centre of Australia filed a submission opposing the sculpture on the grounds that it had been created and displayed in breach of the traditional laws of the Wandjina custodians and in defiance of the wishes of the local traditional owners. Arts Law argued that its ongoing public display in Katoomba was a public expression of racial, cultural and religious intolerance and, as such, had a substantial adverse social impact.

The Commissioner issued her oral judgment this afternoon upholding the Blue Mountains City Council decision for the removal of the sculpture.

In his submission to the Court, Worrorra elder and senior lawman Donny Woolagoodja said, "The sculpture is a caricature of the Wandjina spirit and its presence mocks and denigrates the spiritual beliefs of the Worrorra people. It exemplifies the racial and religious intolerance of those responsible for the sculpture and their contempt for our religious and spiritual beliefs."

Robyn Ayres, Executive Director of the Arts Law Centre of Australia, welcomed the decision. "This matter has highlighted the current gaps in legal protection afforded by intellectual property laws to Indigenous culture. Given this inadequacy, it is important that planning processes by developers and council take into consideration the impact of disrespectful use of Indigenous culture, particularly around public art," she said.

For further information please contact:

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