

DECISION OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL IN RELATION TO AN
APPLICATION BY BRAMBUK INC TO BE A REGISTERED ABORIGINAL PARTY

DATE OF DECISION: 5 FEBRUARY 2010

Decision

The Victorian Aboriginal Heritage Council (**the Council**) has decided not to register Brambuk Incorporated (**Brambuk**) as a registered Aboriginal party (**RAP**) under the *Aboriginal Heritage Act 2006* (Vic).

Reasons for Decision

RAP application area

The area over which Brambuk sought to be a RAP included Gariwerd (Grampians National Park), and some additional areas around Stawell, Telangatuk and Edenhope (Attachment 1).

Traditional links

The Council's understanding is that Gariwerd is a place of cultural significance to many people, and is claimed to be the country of the Djab wurrung and Jardwadjali in particular.

While Brambuk identified itself as the corporate body representing traditional custodians of Gariwerd and some of the surrounding country, the Council did not accept this position. The Council notes that the Brambuk membership includes all Aboriginal people who are financial members of:

- Framlingham Aboriginal Trust
- Goolum Goolum Aboriginal Co-operative Ltd
- Gourditch-jmara Aboriginal Co-operative Ltd
- Kirrae Whurrong Aboriginal Co-operative and
- Winda mara Aboriginal Co-operative

The Council noted that some members of the Brambuk Board, and possibly the broader membership of the five organisations, have traditional and familial links to the Country of the Brambuk RAP application area. However, the Council noted that neither Brambuk nor any of its constituent organisations are specifically established to represent all the Traditional Owners of the application area collectively. Furthermore, the five organisations, and therefore Brambuk itself, allow for Aboriginal people who are not Traditional Owners, and potentially non-Aboriginal people in certain circumstances, to become members. On this basis, the Council

decided not to appoint Brambuk to represent Traditional Owners of Gariwerd and surrounding areas.

Historical and contemporary interest and demonstrated expertise in managing and protecting Aboriginal cultural heritage

The Council considered information provided by Brambuk regarding its historical and contemporary interest in the area and expertise in cultural heritage management. It noted that Brambuk had been involved in managing Aboriginal cultural heritage in the area of their RAP application for a number of years, including as an Aboriginal community under the previous cultural heritage laws.

The Council accepted that the organisation has an historical and contemporary interest in the area of their application as well as expertise in managing and protecting Aboriginal cultural heritage.

Charter of Human Rights and Responsibilities

The Council gave careful consideration to the Charter of Human Rights and Responsibilities Act 2006 (the Charter), in particular the relevant distinct cultural rights of Aboriginal persons in s19(2)(a) and s19(2)(d) of the Charter. It has formed the view that a decision not to register Brambuk is compatible with the Charter.

Other Matters

The Council noted that there is no RAP registered for the area over which Brambuk had applied. The Council considered the mechanisms available in the Act for the continued protection of Aboriginal cultural heritage where an organisation is not registered as a RAP. Where there is no other organisation with RAP responsibilities, responsibility lies with the Secretary of the Department of Planning and Community Development.

The Council noted that in exercising his or her functions under the Act, the Secretary will do so in accordance with the provisions and objectives of the Act, and in compliance with obligations required to be observed under the Charter, among other considerations.

Conclusion

Taking all of these matters into account, and relying on its own cultural knowledge, the Council decided not to register Brambuk Inc as a RAP.



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Mick Harding
Deputy Chairperson
Victorian Aboriginal Heritage Council