



Victorian **Aboriginal Heritage Council**

# Annual Report

January to December 2011

Progress  
against Council's  
statutory role

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# About the Council



**T**he Victorian Aboriginal Heritage Council (the Council) was established under the *Aboriginal Heritage Act 2006* (the Act) and is the only statutory authority in Australia comprised entirely of Traditional Owners. The Council is in its fifth year of operation, and remains united in its commitment to fulfil its legislative responsibilities and realise its vision of a community that respects Aboriginal cultural heritage and the cultural responsibilities of Traditional Owners.

This annual report conveys the work the Council has undertaken in 2011, various aspects of which deserve particular mention and are outlined below.

In May 2011, the Minister for Aboriginal Affairs Victoria and the Council launched the Council's second strategic plan, *Strategic Plan 2011-2014*. The plan builds upon the

Council's achievements to date and outlines the Council's key aspirations and the measures it will use to monitor its progress in the next three years. A well-attended event was held to mark the launch with all key stakeholders represented. The event also afforded the Council the opportunity to formally thank the outgoing Chair, Jim Berg, for his leadership, and welcome the incoming Chair, Denise Lovett, to her new role.

One of the Council's key priorities for 2011 was to positively influence the Review of the Act (the Review) and the Parliamentary Inquiry into the establishment and effectiveness of Registered Aboriginal Parties (RAPs) (the Inquiry). The Council made submissions to both the Review and the Inquiry, in which it highlighted the Act's achievements, particularly the recognition of Traditional Owners as the primary guardians, keepers and knowledge holders of their cultural

heritage. The Council stressed its primary concern that the Act provides a system that effectively protects Aboriginal cultural heritage in Victoria and its belief that RAPs are the best vehicle to ensure that this objective is achieved.

Determining RAP applications continued to be a major component of the Council's work, with 4 applications received in 2011 and 13 applications under consideration at 31 December 2011. The Council also worked closely with the *Right People for Country* Project to support Traditional Owner groups to reach agreements and work towards achieving maximum, appropriate RAP coverage of the State.

The Council is proud of its achievements in 2011 and aims to build on the progress it has achieved and the strong foundations it has laid down through its work to date.

# Progress against Council's statutory role

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**Receive and determine RAP applications**

Council to decide which Aboriginal groups will exercise cultural heritage responsibility.

Summary of applications:

As at 31 December 2011, applications from 13 organisations under consideration by the Council.

- 4 new applications received during the year (total to date 41)
- 1 decision to extend the area of a RAP - Gunaikurnai Land and Waters Aboriginal Corporation (total registration decisions to date 16)
- 7 applications declined (total to date 24)
- Secretariat received 1 invalid application which did not meet minimum legal requirements (total to date 10)

Council conducted a meeting at Gariwerd in June 2011 as part of its alternate dispute resolution program. In addition, Council worked with other members of the Steering Committee for Right People for Country to consider applications from Traditional Owner groups seeking to pilot agreement making projects. In total, 4 projects received funding involving the following Traditional Owner groups:

- Bunurong/Boon Wurrung
- Wadi Wadi
- Dja Dja Wurrung
- Taungurung
- Wadawurrung

Council also participated in the process established by the Native Title Unit within the Department of Justice to develop the threshold guidelines for Traditional Owner settlements under the *Traditional Owner Settlement Act 2010*.

## Decision making roles of the Council under the Aboriginal Heritage Act 2006

## Progress Update

### Suspend or revoke RAP registration

Council may view this as a general oversight role over RAPs – both to support RAPs to be successful as well as taking action where a RAP is not properly performing its responsibilities.

Council attended two RAP Forums in 2012 to meet with all RAPs. Council also travelled to Gunditjmarra Country and met with the Gunditj Mirring Traditional Owners Corporation.

### Consider cultural heritage management plans (CHMPs) for approval where the Secretary of the Department of Planning and Community Development (the Secretary) is the sponsor and there are no RAPs in place or RAPs choose not to evaluate plan

No applications received.

### Consider applications for access to the Aboriginal Heritage Register

Council receives requests from the Secretary for approving requests to access the Aboriginal Heritage Register that relate to areas for which no RAP has been appointed.

- 4 applications considered in 2012, 3 from researchers and 1 from Native Title Services Victoria, representing Wamba Wamba Wadi Wadi Barapa Barapa Native Title claim group
- 2 approved (1 researcher and Native Title Services Victoria request)
- 1 declined (1 researcher)
- 1 pending (1 researcher)

### Facilitate mediation between RAPs

The legislative power specifically relates to mediation between RAPs.

No applications received.

## Advisory roles of the Council under the Aboriginal Heritage Act 2006

## Progress Update

### Advise on the training and appointment of inspectors

- Council can advise the Minister on the training and appointment of inspectors
- The Minister can specify course or training required by inspectors
- The Minister must consult with the Council prior to appointing inspectors.

No advice was sought by the Minister in relation to the appointment of inspectors in 2011.

The first training day for inspectors involving the Council was conducted in 2011. The program for the day will be reviewed prior to it being conducted again.

The Council also began work on the development of a policy in relation to the appointment of inspectors. Work on this policy will continue in 2012.

### Advise on fees for the payment of RAPs

- The Secretary may develop guidelines for the payment of fees to RAPs who participate in cultural heritage assessments
- The Secretary must seek advice from the Council before making these guidelines.

No advice sought in this area in 2011.

### Repatriation of ancestral remains and return of secret or sacred objects

- Advise Secretary and Museum of Victoria on repatriation of human remains.

Council received reports from Aboriginal Affairs Victoria (AAV), considered the draft protocol between AAV and the Coroner's Court, met with Museum Victoria and the Department of Sustainability and Environment about the return of remains.

Council resolved to undertake a project to review all aspects of the return of ancestral remains. Work will begin on this project in 2012.

No advice sought in relation to the return of secret or sacred objects.

## Advisory roles of the Council under the Aboriginal Heritage Act 2006

### Advise on protection orders, audits, requirements for cultural heritage management plans, permits, compulsory acquisitions etc

The Minister can seek advice regarding the exercise of her powers in relation to:

- Interim or ongoing protection declarations
- Proposals to require a cultural heritage management plan
- Whether a cultural heritage audit is necessary
- Whether compulsory acquisition of land is appropriate
- Any other matters requested by the Minister.

### Advise Secretary on the exercise of his powers under the Act

Secretary can request advice from Council on exercising his powers.

## Progress Update

Two audits were conducted in 2011, one in relation to the Kow Swamp Regulator (plan number 11276) and another in relation to the new Chiltern Quarry (plan number 10379).

Council was not requested to provide advice in relation to the Chiltern Quarry Audit.

In relation to the Kow Swamp audit, the Minister requested the Council's advice in relation to measures that might be implemented with the RAP following the audit. The Council has consulted with the relevant RAP, Yorta Yorta Nation Aboriginal Corporation, as part of developing its advice to the Minister. Work will continue on this advice in 2012.

Council was requested to provide advice in relation to the following matters:

- Recording low density artefact distributions
- Threshold indicators for places of contemporary, social and spiritual forms of cultural heritage significance

**Advise the Minister on the protection of  
Aboriginal cultural heritage, including:**

- Cultural heritage significance of places, objects or human remains
- Effective management of cultural heritage and culturally sensitive information
- Measures to promote the role of Aboriginal people in the protection and management of heritage
- The standards of knowledge, experience, conduct and practice required of persons engaged in research into Aboriginal cultural heritage
- Other matters referred by the Minister.

Council provided the Minister with advice in relation to the following matters:

- The operation of the *Charter of Human Rights and Responsibilities Act 2006* in relation to the Council's work in the form of a submission to the Parliamentary Inquiry conducted in 2011 by the Scrutiny of Acts and Regulations Committee.
- The management of Aboriginal cultural heritage in the context of greenfields mineral exploration, in the form of a submission to the Parliamentary Inquiry conducted into this area in 2011 by the Economic Development and Infrastructure Committee.
- The impact on Aboriginal cultural heritage management of the Draft national Wind Farm Development Guidelines in the form of a submission to the Minister for Planning, who called for comments on the guidelines in 2011.
- The review of the *Aboriginal Heritage Act 2006* in the form of a submission provided to the Executive Director of AAV.
- The Parliamentary Inquiry into the establishment and effectiveness of RAPs commenced by the Environment and Natural Resources Committee in 2011, in the form of a submission to the Committee.

In addition to the above matters, the Minister requested the Council's advice in developing guidelines regarding the experience required by those seeking to work as cultural heritage advisers under the *Aboriginal Heritage Act 2006*. In response, the Council developed a research project in conjunction with AAV to identify current employment opportunities in Aboriginal cultural heritage management and an understanding of the skills, knowledge and experience required to carry out that work. Work on this project will continue in 2012.

A number of stakeholders raised issues with Council regarding the operation of s 65 of the *Aboriginal Heritage Act 2006*. In response, the Council resolved to undertake research to clarify existing practices and identify options for potential improvements. Work on this project will commence in 2012.

**Developing measures to promote public awareness and understanding of Aboriginal cultural heritage in Victoria under the *Aboriginal Heritage Act 2006***

Opportunity for the Council to partner with Government to deliver community education campaign.

Opportunity to work with other stakeholders (eg. Koorie Heritage Trust, Heritage Council of Victoria, Museum of Victoria, other Indigenous Heritage Councils around Australia, New Zealand, Canada, etc).

**Progress Update**

Council resolved to establish a partnership with Reconciliation Victoria to develop measures that will assist Victorians to understand Traditional Ownership and the unique responsibilities of Traditional Owners. Work will begin on this project in 2012.

In conjunction with the Heritage Council of Victoria, lesson starters and activities were developed to assist teachers to use the Framework of Historical Themes in class rooms.

In conjunction with Film Victoria, a Locations Gallery was established to provide filmmakers with information about Traditional Owners when filming on locations in Victoria.

Council publicly launched its second strategic plan in May at an event held at the Koorie Heritage Trust, attended by approximately 50 people from 35 organisations.

Council arranged a consultation meeting for key stakeholders in October which was attended by approximately 14 people from 9 organisations. In light of how successful the event was, Council resolved to arrange meetings with key stakeholders on an annual basis.

Council met with the Department of Sustainability and Environment in relation to the Department's development of an Aboriginal cultural heritage management framework. Council also provided comments about the Department's Draft Dingo Action Statement.

Council reviewed and provided comments on the Draft Aboriginal Fishing Strategy prepared by the Department of Primary Industries.

Council met with Mick Gooda, Social Justice Commissioner, Australian Human Rights and Equal Opportunity Commission to discuss the Council's role in Aboriginal cultural heritage management in Victoria and to develop a working relationship with the Commissioner.

**Governance functions under the *Public Administration Act 2004* and other applicable legislation**

**Progress Update**

**Strategic Planning**

Council prepared and published its second Strategic Plan for the period 2011-2014. The plan was publicly launched by the Minister for Aboriginal Affairs in May 2011.

Council is developing an operational plan to ensure it achieves the aspirations adopted in the Strategic Plan. Work on this will continue in 2012.

**Internal policies and procedures**

Council reviewed and updated its decision making manual and resolved to review the manual each calendar year.

Council developed a Council member manual that will be provided to all new Council members as part of their induction. Council resolved to review the manual each calendar year.

Council began developing a strategic approach to succession planning, including clarifying its role in recruiting new members to the Council. As part of this work, Council resolved to meet with young Traditional Owners to seek better engagement and improved understanding of the Council's role. Work on this project will continue in 2012.

**Freedom of Information 1992**

Council lodged a return for the financial year ended 30 June 2011 as required by the legislation.

In the calendar year ending 31 December 2011, Council received 3 new requests under the legislation, compared with 5 in the previous calendar year.

