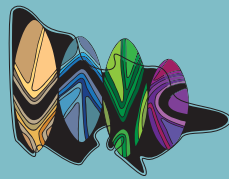


VICTORIAN
ABORIGINAL
HERITAGE
COUNCIL



ANNUAL REPORT

on Registered Aboriginal Parties

1 July 2019 – 30 June 2020

Warning: Aboriginal and Torres Strait Islander readers should be aware that this document may contain images or names of People who have since passed away.

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We acknowledge the Traditional Aboriginal Owners of Country throughout Victoria and pay our respect to them, their Culture and their Elders past, present and future.



Council's logo of four shields, protecting the state of Victoria, is our commitment to supporting, respecting and celebrating our Country, Culture and Life.

The colours of the shields represent the four environments that make up our Country:

- gold and ochre represent desert sands and dry country
- green for the forests and grasslands
- blue for the waters, rivers and lakes
- purple represents our Countries in the metropolitan regions as well as in the basaltic and volcanic plains.

Outside Cover: Nicholas Cole, Freediving and snorkel at Cape Schanck, 2018, Bunurong Country

Inside Cover: Russell Charters, Paradise Apollo Bay, 2015, Eastern Maar Country

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CHAIRPERSON'S INTRODUCTION

The Victorian Aboriginal Heritage Council (**Council**) is committed to continuing its important work despite the current, extraordinary environment in which it is undertaken. Walking side by side with Traditional Owners, across the vast grasslands, mountains, coast and deserts of this place now known as Victoria, allows us to support each other during this time of uncertainty.

During the reporting period, Victorians have experienced disasters from bushfire and pandemic. As a Council of Traditional Owners, the damage to Country and Community has been profoundly difficult to bear. We have tried, as individuals and Council members, to be leaders and provide a voice of strength and unity for our People. Council's work has continued and, indeed, increased in amplifying the voices of our People.

Working with Registered Aboriginal Parties (**RAPs**), Council's new initiatives aim to have the voices of Traditional Owners heard across the community and to strengthen their statutory ownership of Culture and Country. Two new programs have broadened Council's engagement reach and community understanding of the responsibilities of Traditional Owners.

The Taking Control of Our Heritage initiatives include Council's Indigenous Cultural Heritage Conference (**Conference**), in March 2021 and Discussion Paper on legislative reform of the Aboriginal Heritage Act 2006 (**Act**). Together, these projects explore the way state and national legislations can provide better protections for our Heritage and greater support for our People to care for it.

The Discussion Paper considers key sections of the Act that need strengthening to enshrine both self-determination and the United Nations Declaration on the Rights of Indigenous Peoples (**Declaration**), in Victorian Aboriginal Cultural Heritage legislation. The Act and Declaration, together, provide some of the greatest protections for Traditional Owners in the country. However, there is still much to be done in realising a fundamentally self-determined and tangible ownership of our Culture, Heritage, History and Country.

Later in this Report, Council details 35 concerns and recommendations that are impacting most on Traditional Owners' capacity to care for Country. Alarming, 57% of concerns are of significant concern and need to be addressed within the next two years whilst 37% of concerns are now a critical stage and must be resolved as soon as possible to prevent further loss of irreplaceable Cultural Heritage.

We all have a part to play in ensuring our Peoples' rights to self-determination, our Culture and Country. We seek the support and contribution of everyone to work with us on ensuring that the statutory protections our Peoples have for their Culture is commensurate to over 40,000 years of connection to Country.

The way we care for this Country, inherent in our Spiritual and Cultural wellbeing, is explored in Council's Caring for Country initiatives. These projects provide a platform for Traditional Owners to discuss their Cultural Heritage and broader

community responsibilities. They inform both community and stakeholder understandings and support the Taking Control of Our Heritage projects.

Central to these have been the partnership with Melbourne's only Indigenous Radio Station, 3KND Kool N Deadly. On the last Wednesday of each month at 8.30am, Council hosts a segment on Caring for Country on the Big Big Brekky program. Each segment is an interview with a Traditional Owner on how they protect their Country and Cultural Heritage. Our People yarning about our Country is integral to the way we manage Country and Culture.

Supporting all these new initiatives was the Caring for Country live digital event for legislative reform at the Deakin Edge, Fed Square on 24 June 2020. This digital forum was hosted by Racquel Kerr with a panel of esteemed Traditional Owners including Hans Bokelund, Rodney Carter, Jamie Lowe and Rachel Perkins. As First Peoples, we must navigate the imposed legislations that govern our Cultural Heritage, we must contribute, and we must be part of the process to ensure we are accorded respect as the custodians of the oldest living Culture on earth. Talking publicly and asking questions is fundamental to this. The panel discussed caring for Country through a consideration of the current legislations protecting Aboriginal Cultural Heritage. During the event, Council launched the Taking Control of Our Heritage Discussion Paper on legislative reform of the Aboriginal Heritage Act 2006. With 750 people watching the event live and

1,400 views of the event online, we have shown the huge interest in and support for Traditional Owners in managing Culture.

On Saturday 6 July 2019, a significant milestone in realising Traditional Owner led management, protection, education and enjoyment of Aboriginal Cultural Heritage was made by the Gunditjmara Peoples. Their relationship to Country, their innovation and their custodianship was recognised at a global level with the inclusion of the Budj Bim Cultural Landscape on UNESCO's World Heritage List. As Aboriginal People, we live in a modern context and we apply our understandings of cultural identity to a modern world. With this inclusion on the List, the modern world has acknowledged our ancient lineal connection to Culture and Country, forged over tens of thousands of years.

As a Council of Traditional Owners, we understand the work and commitment made by the Gunditjmara Peoples to have their ancient lineal connection to Country recognised. We applaud their strength and resilience in succeeding and encourage all Traditional Owners to follow in their footsteps and let the world look with awe on our Culture

Let us never forget that we stand together as a Community, side by side as Traditional Owners and in the footprints of our Ancestors.



RODNEY CARTER
CHAIRPERSON



THE VICTORIAN ABORIGINAL HERITAGE COUNCIL



GERALDINE ATKINSON

Current term:
6 November 2019 –
6 November 2022



JENNIFER BEER

Current term:
14 August 2017 –
13 August 2020



**RODNEY CARTER
(Chairperson)**

Current term:
1 September 2018 –
31 August 2021



BONNIE CHEW

Current term:
1 September 2018 –
31 August 2021



RACQUEL KERR

Current term:
1 September 2018 –
31 August 2021



**SISSY PETTIT
(Deputy Chairperson)**

Current term:
6 November 2019 –
6 November 2022



KENNY STEWART

Current term:
1 September 2018 –
31 August 2021

Council was created under the Act to ensure the preservation and protection of Victoria's rich Aboriginal Cultural Heritage. With important decision-making responsibilities and as an independent expert body of Traditional Owners, the Council is the only statutory body of its kind in Australia.

As Traditional Owners themselves, Council brings to its decision making a profound understanding of the responsibilities and breadth of Traditional Ownership. It is the application of this unique knowledge of Council, with membership eligibility and Apical Ancestry, that enables robust decision-making processes.

Council's vision is of a community that understands and respects Aboriginal Cultural Heritage and the cultural responsibilities of Traditional Owners. Council recognises Traditional Owners as the primary guardians, keepers and knowledge holders of their heritage.

Comprised of up to 11 Traditional Owners, Council is appointed by the Minister for Aboriginal Affairs (**the Minister**). Members of Council must reside in Victoria and have demonstrated traditional or familial links to an area in Victoria. They are also required to have relevant knowledge or experience in the management of Aboriginal Cultural Heritage in Victoria.

Since the end of the reporting period, Council has welcomed new members Liz Allen, Dr Doris Paton, Dan Turnbull and welcomed back Mick Harding. Council would like to acknowledge the enormous contribution made by Aunty Geraldine Atkinson, who has made the difficult decision to resign from Council, to better allow her the time and space for her important work as Co-Chair of the First Peoples' Assembly of Victoria.

As a Council, we speak with one voice, strengthened by the Elders and leaders that inform it.

STATUTORY FUNCTIONS

Council plays an important role in the implementation of the Act; its principal functions are:

Making decisions on RAP applications

Since its establishment in 2006, Council has appointed 12 RAPs. Currently, there are 11 RAPs which collectively cover 74% of Victoria. RAPs are organisations that hold decision-making responsibilities for protecting Aboriginal Cultural Heritage in a specified geographical area.

Monitoring RAPs

The Council is responsible for overseeing and supervising the operations of RAPs. With RAPs themselves, Council undertakes a collaborative approach to this function. It has established a Legislative Review and Regulatory Functions Committee (LRRFC) with RAP members and a suite of processes and policies to support this work.

Protecting Ancestors' resting places and returning Ancestors to Country

Council is the central coordinating body responsible for Ancestral Remains in Victoria. With the implementation of a new Ancestral Remains Policy and Repatriation Support Committee with RAPs, this fundamental work will strengthen the protection of Aboriginal burial places and deliver better support to Traditional Owners returning Ancestors to Country.

Secret (or Sacred) Objects in Victoria

Council is responsible for the care of Secret (or Sacred) Objects whilst they are returned to their Traditional Owners. Council's custody of Objects is a profound responsibility to support Traditional Owners manage and retain their Cultural Heritage.

Managing the Victorian Aboriginal Cultural Heritage Fund (the Fund)

The Council is responsible for managing the Fund for initiatives to protect Aboriginal Cultural Heritage and to promote understanding and awareness of this unique heritage managed by Traditional Owners for all Victorians.

Measures to promote understanding and awareness

Council's work includes promoting understanding and awareness of Aboriginal Cultural Heritage in Victoria. The Council achieves this through establishing partnerships and consulting with key rightsholders and stakeholders, making submissions to reviews of legislation, investigations and inquiries that impact on Aboriginal Cultural Heritage and participating in external committees and reference groups.

Image: Bookbook48, Kooyoora Rock Pools, Kooyoora State Park, 2013, Dja Dja Wurrung Country



Image: Ben Mclver, Great Otway National Park, 2019,
Eastern Maar Country

WORKING WITH REGISTERED ABORIGINAL PARTIES

CARING FOR COUNTRY PROJECTS

These projects support Traditional Owners in undertaking their responsibilities for Country. They provide a space for Traditional Owners to talk about why it is important to protect Cultural Heritage and discuss how it is managed on Country.

Caring for Country on 3KND Big Brekky

The Council has partnered with 3KND radio to talk about Caring for Country. The new and deadly segment is a yarn with a different Traditional Owner each month about protecting Aboriginal Cultural Heritage. The program started on Wednesday 29 April 2020, will continue until the end of 2020 and you can catch it live on the last Wednesday of each month at 8:30am.

Caring for Country at Fed Square

On 24 June 2020, Council presented a live digital event from the Deakin Edge at Fed Square. Racquel Kerr hosted a panel of esteemed Traditional Owners including Hans Bokelund, Rodney Carter, Jamie Lowe and Rachel Perkins. The panel discussed caring for Country through a consideration of the current legislations protecting Aboriginal Cultural Heritage.

During the event, Rodney Carter launched the Taking Control of Our Heritage Discussion Paper on legislative reform of the Aboriginal Heritage Act 2006.

OUR PLACES OUR NAMES PROJECTS

These projects support Traditional Owners to reinstate their traditional names for places on Country into the current, formal frameworks of placemaking.

Our Languages Matter

The Our Languages Matter program of workshops have created a shared purpose, developed understanding and designed a shared approach that enables all interested people to create change together.

Since 2018, these workshops have provided opportunities for Traditional Owners to promote the importance of local Aboriginal languages in the naming of roads, geographic features and localities. Importantly, participants from Local and State Government have been supported to explore ways for establishing strong professional relationships with RAPs to enable future collaborative naming activities.

Council's Our Languages Matter program of workshops were awarded a prestigious Good Design Award 'Tick' in July 2019. Australia's annual Good Design Awards program is one of the oldest and most prestigious international design awards in the world, promoting excellence in design and innovation since 1958. It is recognised by the World Design Organization as Australia's peak international design endorsement program.

Council strives for Aboriginal People to speak for, and with, their Cultural Heritage. Using language in place naming is an important contribution to reclamation and use of Aboriginal languages by Aboriginal Victorians. Traditional Owner managed Language and Country is fundamental to Council's purpose and to these workshops.

Image: Yidian Cheow, Rollasons Falls, Mount Buffalo National Park, 2015, Taungurung Country

"This is a project that applies co-design approaches to a sensitive and complex topic, and the adoption of visual techniques to work around language challenges. The Jury appreciated the connection between participation and positive impact for the communities involved - creating value through both process and outcome. It's heartening to see both social impact and the potential for economic advancement. Well done."

Good Design Award Judges

WORKING WITH REGISTERED ABORIGINAL PARTIES

Our Places Our Names Waterways Naming Project

Naming unnamed waterways and renaming of named waterways, with Traditional names, is an important step in realising self-determination for Victorian Traditional Owners. Council has released a guide for RAPs to navigate the naming process to ensure that the original names of Country be retained and used across Country. Additional protections are being considered for un-named waterways in Council's *Taking Control of our Heritage* Discussion Paper.

TAKING CONTROL OF OUR HERITAGE PROJECTS

These projects explore the legislations that govern Aboriginal Cultural Heritage and advocate for the best international standards for protection and management.

Taking Control of Our Heritage Discussion Paper on legislative reform of the Aboriginal Heritage Act 2006

The objective of the Paper is to help everyone, Aboriginal and non-Aboriginal, Victorian and non-Victorian, have their say on the operation of the Act. The Paper organises proposals for legislative change into themes corresponding to mechanisms and parts of the Act. Each has its own section which explains the key purpose of the proposed change and invites submissions and questions.

The primary focus of the review is the Act, however, if issues raised relate to the Aboriginal Heritage Regulations 2018 these will also be considered.

Taking Control of our Heritage Indigenous Cultural Heritage Conference 2021

Recently postponed until 24-26 March 2021, Council is hosting the Conference to provide the first opportunity for Traditional Owners and their allies to meet, discuss, and

develop programs, strategies and ideas to take control of their Cultural Heritage in Australia.

The Conference is for all Traditional Owners, their organisations and those that work with them in the promotion, management and protection of Indigenous Cultural Heritage. The Conference program will encompass several relevant themes, prominent international and national speakers as well as a comprehensive social program.

MAKING CHANGE PROJECTS

These projects provide environments for Council and RAPs to genuinely engage and discuss their work.

RAP Connect

In March 2020, Council had to drastically alter the Special RAP / Council Forum they were to hold in Bendigo. The Forum was to provide Council and RAPs and opportunity to sit together and discuss the ways the current legislations practically enable the management and protection of Aboriginal Cultural Heritage in Victoria. Due to the Stay at Home Directions, the Forum was changed to a teleconference. The direct engagement, RAP Connect, offered by this changed format enabled genuine discussion amongst the RAPs and Council. As needs changed, the new forum continued every two or four weeks and will remain active as a digital based yarn until at least the end of 2020.

The Chair's Dinner

The inaugural Chair's Dinner was held in the Federation Room of the Parliament of Victoria on Thursday 13 February. The formal banquet, hosted by Rodney Carter, achieved its objective of providing a social environment for senior Traditional Owners to sit together and discuss how best the primacy of their responsibilities for Aboriginal Cultural Heritage can be enacted by government.

Council Committees

The integral relationship between Council and RAPs has been further strengthened during the reporting period through the invitation of RAP representatives onto Council committees.

Working together to ensure the best practice models are implemented at both a statutory and practical level, RAP representatives are included in Council's LRRFC. This committee reviews the Act and returns to Council proposals for legislative amendment in the short and medium term. It is also responsible for reporting to Council on the further development of regulatory systems, processes and policies as well as the process of consultation to achieve their development.

Council has a statutory, cultural and spiritual responsibility to return Ancestors and Secret (or Sacred) Objects to their Traditional Owners. This fundamental work is now reviewed by the Ancestral Remains Policy and Repatriations Support Committee, significantly informed by both Council members and RAP representatives.

The Committee provides advice to Council on:

- research dealing with the repatriation of Ancestral Remains and Secret (or Sacred) Objects
- the development of relationships with interstate organisations to expedite the repatriation of non-Victorian Ancestral Remains and Secret (or Sacred) Objects
- the development of a program of consultation with Victorian Traditional Owners regarding the long-term management of Ancestral Remains that may not be able to be provenanced.

Facing page image: Greenfleet's growing forest in the Mitchell River National Park, 2014, Gunditj Mirring Country



**SUPPORTING
REGISTERED
ABORIGINAL PARTIES**

SUPPORTING REGISTERED ABORIGINAL PARTIES

The 35 concerns and recommendations identified here pose a comprehensive description of areas of risk to the destruction of Aboriginal Cultural Heritage; and limitations imposed on Traditional Owners for self-determined ownership and management of that Cultural Heritage in Victoria. The stark image is of a state whose statutory responsibility to support Traditional Owners is failing to protect Cultural Heritage and significantly impacting the wellbeing of communities.

Council has made recommendations for the resolution of these concerns, often reinforcing the recommendations made in the 2012 Inquiry into the Establishment and Effectiveness of Registered Aboriginal Parties (**Inquiry**). The longstanding repetition of concerns and solutions demonstrates that the voices of Traditional Owners are still not being heard. After such long periods of time, 57% of concerns are of significant concern and need to be addressed within the next two years whilst 37% of concerns are now at a critical stage and must be resolved as soon as possible to prevent further loss of irreplaceable Cultural Heritage.

Many of these concerns are addressed through Council's Taking Control of our Heritage, a Discussion Paper on legislative reform of the Aboriginal Heritage Act 2006. The Discussion Paper was developed with RAPs, based on concerns raised by RAPs and Council about impediments to the efficacy of their collective protection of Aboriginal Cultural Heritage under the Act.

The impetus for the review was the perceived inadequacies of protection of Aboriginal Cultural Heritage in Victoria, identified through four years of working with the Amended Aboriginal Heritage Act. Council has consulted extensively with RAPs about their concerns raised directly with Council, to Aboriginal Victoria (**AV**) through their bi-annual reporting and in group engagement such as Council's RAP Connect, the annual RAP Forum and the RAP Working Group.

On consideration, concerns raised have fallen naturally into four broad themes:

1. Furthering self-determination for Registered Aboriginal Parties
2. Increasing the autonomy of the Victorian Aboriginal Heritage Council
3. Recognising, protecting and conserving Aboriginal Cultural Heritage
4. Implementing the recommendations from the 2012 Inquiry.

Some concerns have been raised in previous reporting periods, so a 'traffic light' matrix has been developed to better identify the imperative of each concern. The issue is labelled in relation to the length of time over which the concern has been raised and its impact on the preservation/ destruction of Aboriginal Cultural Heritage.

	2017-2018	2018-2019	2019-2020
Must be resolved			
Significant concern			
Some concern			

- must be resolved as soon as possible
- of significant concern
- of some concern

THEME ONE

Furthering Self-Determination for Registered Aboriginal Parties

ISSUE 1

The Ministerial appointment of Council members does not actively support the principles of self-determination.

Background

Council is composed of eleven Traditional Owners. Each Council member must be an Aboriginal Person who is a Traditional Owner, is resident in Victoria, and has relevant experience or knowledge of Aboriginal Cultural Heritage in Victoria. Council members are appointed by the Minister for Aboriginal Affairs.

Consideration

If some Council members were appointed by the RAPs themselves, the process would be in keeping with principles of self-determination and would enable Council to be representative of the RAP sector.

The nomination process would be in accordance with a procedure contained in a statutory instrument approved by the Minister. Election would occur via a College of RAPs, and the number of RAP-appointed nominees would be determined by a proportion which accords with RAP coverage of the State. The College would put forward their nominees to the Minister, with the Minister still having the ultimate power to decline an appointment at their discretion. However, the Minister would be unable to appoint a non-RAP elected member in their stead.

This proposal would increase RAP ownership of Cultural Heritage and strengthen the relationship between RAPs and Council. It would allow Council to become an advocate for the sector, beyond a body that just oversees the interests of RAPs. It is emphasised that this proposal is not about representation of specific RAPs, but representation of the RAP sector.

Ministerial appointment of Council members has been an ongoing concern raised by Council, RAPs and the community since implementation of the Act.

UNDRIP

This issue should be considered in relation to Article 33:

“Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.”

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

Council should have at least five of its eleven members appointed by the RAPs, rather than having the entire Council appointed by the Minister.

THEME ONE: FURTHERING SELF-DETERMINATION FOR REGISTERED ABORIGINAL PARTIES

ISSUE 2

People who are not representative of inclusive and representative Traditional Owner Aboriginal Corporations are speaking for Aboriginal Cultural Heritage.

Background

The legislative functions of a RAP mainly relate to the technical aspects of managing Cultural Heritage, such as Cultural Heritage Management Plans (**CHMPs**), Cultural Heritage Permits (**CHP**) and Cultural Heritage Agreements. The only provisions which refer to a RAP's more general responsibilities are "to act as the primary source of advice and knowledge for the Minister, Secretary [of the Department of Premier and Cabinet (**Secretary**)] and Council on matters regarding Aboriginal places and objects relating to their registration area; and to provide general advice regarding Aboriginal Cultural Heritage relating to the area for which the party is registered."

Consideration

The relationship between RAPs and local governments would benefit from the prescription of the specific obligations that local governments have to their relevant RAP(s) on Cultural Heritage matters relating to both tangible and intangible heritage.

Further, since the establishment of the first RAPs in 2007, their responsibilities and expertise have grown to a point where they are able to act as representatives of the nations in their registered area in regard to a range of matters beyond the technicalities of Cultural Heritage. The Act should be amended to reflect this, and to increase RAPs' voices as the primary authority to government on other Aboriginal affairs in their registration area.

This consideration seeks to reclaim the rights and responsibilities of governance of Aboriginal People and would frame RAPs as the peak advisors on Aboriginal Cultural Heritage and other issues regarding Aboriginal affairs in their registration area.

Additionally, the Minister's 2018-2020 Statement of Expectations (**SoE**) asked Aboriginal Victoria to reduce queries to the Victorian Government Contact Centre by 10% regarding Welcomes to Country and Acknowledgement of Traditional Owners. A direct authority for RAPs to speak for other Aboriginal affairs within their registration area would significantly reduce this need for engagement with state government.

UNDRIP

This issue should be considered in relation to Article 11:

"Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

The current legislative framework needs to be expanded to facilitate increased government engagement and consultation with RAPs on Cultural Heritage matters relating to both tangible and intangible heritage.

ISSUE 3

The legislated and operational responsibilities of a RAP start at the date of registration, not allowing for sufficient development or capacity building within the organisation.

Background

Council has the power to impose conditions on the registration of any RAP. However, this provision is only in regard to existing RAPs. The current legislative framework does not allow newly appointed RAPs to have conditions set on their registration immediately upon appointment. This issue was raised by Council in their 2018-2019 reporting, by RAPs at their Forum in 2017 and through their 2018 reporting.

Consideration

Groups that are potentially unable to carry out all their functions as a RAP at the time of application, could still have their registration approved if Council were able to approve subject to conditions. Additionally, it would stagger the commencement dates of the new RAPs' obligations so that they would not immediately be flooded with all RAP responsibilities upon registration.

Such an amendment to the Act would provide great assistance to new RAPs in their early stages of development. It would also make it more efficient for Traditional Owner groups to apply for and obtain RAP status. In turn, this would encourage inclusivity of more groups and would increase the rate at which Victoria achieves full RAP coverage.

UNDRIP

This issue should be considered in relation to Article 34:

"Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The Act should be amended to enable Council to approve RAP applications subject to conditions.

THEME ONE: FURTHERING SELF-DETERMINATION FOR REGISTERED ABORIGINAL PARTIES

ISSUE 4

Aboriginal Cultural Heritage is insufficiently protected by CHMPs due to the absence of Traditional Owner involvement during the development stage of the Plan.

Background

Currently, the responsibility of preparing a CHMP lies solely with Heritage Advisors. Meanwhile, the role of RAPs in the CHMP process is to consult with the Heritage Advisor and the Sponsor of the CHMP (**Sponsor**) throughout the preparation of the plan. Then, RAPs have the authority to approve or refuse the CHMP.

This issue was raised by RAPs through their 2018 reporting.

Consideration

Sponsors should be allowed to engage RAPs to assist in the preparation of CHMPs that are in relation to activities within their registration areas, as an alternative to Heritage Advisors. This would allow RAPs to act as the primary consultant of the Sponsor throughout the CHMP process and would empower Traditional Owners with the protection and management of their own Cultural Heritage. It would also strengthen the relationship between Traditional Owners and Sponsors by encouraging them to have more direct interaction during the preparation of a CHMP.

Furthermore, it would mitigate the increasing pressure on the Heritage Advisor industry by directly transferring workloads from Heritage Advisors to RAPs. In turn, this would enable Heritage Advisors to produce higher quality CHMPs with higher rates of immediate approval from RAPs. This proposal comes with the inherent issue that there is a potential conflict that arises when RAPs have the dual role of preparing a CHMP and acting as the approval body for that same CHMP. However, provided that a RAP is not both the proponent of a CHMP and the approver of the CHMP, this conflict is potentially illusory.

UNDRIP

This issue should be considered in relation to Article 32:

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

RAPS should be given the opportunity to prepare CHMPs relating to activities within their registration area.

ISSUE 5

Traditional Owners have no capacity to stop harm to Aboriginal Cultural Heritage.

Background

A RAP may only refuse to approve a CHMP on substantive terms if it is not satisfied that the plan adequately addresses the matters set out in s 61 of the Act, including “whether the activity will be conducted in a way that avoids harm to Aboriginal Cultural Heritage; and if it does not appear to be possible to conduct the activity in a way that avoids harm to Aboriginal Cultural Heritage, whether the activity will be conducted in a way that minimises harm to Aboriginal Cultural Heritage.”

This means that Sponsors have the power to argue that an activity must still go ahead despite the threat of harm to Aboriginal Cultural Heritage. This is because the activity is still arguably being conducted in a way that minimises that harm. Thus, the RAP’s position in the approval process is less about protecting Aboriginal Cultural Heritage and becomes something in the way of managing damage to Cultural Heritage. RAPs are often placed in a difficult negotiating position, having to approve CHMPs that still cause harm to Cultural Heritage.

Consideration

If RAPs were able to stop harm to Aboriginal Cultural Heritage, this would be in accordance with s 1(b) of the Act, which states that a purpose of the legislation is to empower Traditional Owners as protectors of their Cultural Heritage and giving them more control over the management of their Cultural Heritage.

UNDRIP

This issue should be considered in relation to Article 31:

“Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage”

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

RAPs should hold a veto power over CHMPs that threaten harm to Aboriginal Cultural Heritage.

THEME TWO

Increasing the Autonomy of the Victorian Aboriginal Heritage Council

ISSUE 6

Significant registration delays have created obstacles for Traditional Owners trying to protect their Cultural Heritage.

Background

One of the functions of the Secretary is to establish and maintain the Victorian Aboriginal Heritage Register (**Register**). This means that powers over the Registration of Aboriginal Heritage lie with public servants within AV, and not with Traditional Owners. Registry staff's views on what is appropriate for Registration can often conflict with those of both Traditional Owners and Heritage Advisors, meaning that what appears on the Register is not always representative of the views of Traditional Owners.

This issue was raised by Council in their 2018-2019 reporting and has been raised repeatedly with AV by RAPs through their annual reporting, at RAP Connect and RAP Forums.

Consideration

One of the Act's purposes is to empower Traditional Owners as protectors of their Cultural Heritage on behalf of Aboriginal People. Transferring the responsibility of maintaining the Register to Council would allow Traditional Owners to oversee the registration of Aboriginal Cultural Heritage, empowering them with the management of their heritage and therefore aligning with the purposes of the Act.

As the main purpose of the Register is for Victorian Traditional Owners to store information about their Cultural Heritage, it follows that Victorian Traditional Owners should be the group that stores the information on the Register. As Council is composed solely of Traditional Owners, it is the most suitable authority to oversee the storing of this information.

Additionally, the SoE seeks a 20% reduction in place registration times and a 10% reduction in resubmissions. Traditional Owner management of the Register would significantly improve the clarity of requirements for registration and management of the process, thereby removing waiting times, confusion and related resubmissions. Also in the SoE, the Minister requires an improvement in land users and developer's understanding of prescribed areas of Cultural Heritage sensitivity. This would be met through the above revision of requirements and processes.

UNDRIP

This issue should be considered in relation to Article 11:

"Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The responsibility for the Register (including Registration of both tangible and Intangible Heritage) should be transferred to Council.

RAPs are unable to meet the significant costs of going to court when their considerations on Cultural Heritage are disputed.

Background

The Act outlines the procedures to be followed when disputes arise regarding Aboriginal Cultural Heritage. These procedures mainly involve applying to the Victorian Civil and Administrative Tribunal (**VCAT**) for review of a decision made by a RAP, the Secretary, the Minister or another approval body. Of three divisions under the procedures, only one provides procedures for alternative dispute resolution (**ADR**). This outlines exactly which disputes can be subject to ADR under this division –

- a dispute between 2 or more RAPs, or
- between the sponsor of a CHMP and a RAP, arising in relation to the evaluation of a party for which approval is sought under section 62, but does not include a dispute arising in relation to the evaluation of a plan for which approval is sought under section 65 or 66.

The disputes described are therefore the only type of disputes that are eligible for ADR. The specific process for ADR is through “mediation by a mediator; or another appropriate form of alternative dispute resolution by a suitably qualified person.”

The issue of support for RAPs to uphold their statutory decisions at VCAT was raised by Council in their 2018-2019 reporting and has been raised repeatedly with AV by RAPs through the RAP Working Group, at RAP Connect and RAP Forums.

Consideration

If ADR was the primary mechanism for the resolution of any dispute arising under the Act, it would mean that parties have more options for dispute resolution before applying to VCAT or going to court, both of which can be costly, time-consuming and inefficient. It would also be in line with Council’s newly introduced “Complaints Against RAPs” and “Imposition of Conditions” Policies.

Such an amendment to the Act would ensure that there are more formal options and processes that are available to more parties regarding disputes that arise under the Act. It would also give Council more authority in the dispute resolution process, therefore increasing their autonomy and status as the peak body representing Traditional Owners in Victoria.

UNDRIP

This issue should be considered in relation to 18:

“Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.”

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

ADR should be the primary mechanism for the resolution of any dispute arising under the Act.

THEME TWO: INCREASING THE AUTONOMY OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL

ISSUE 8

There is no prosecution and so no disincentive for destruction of Aboriginal Cultural Heritage.

Background

The Act states that “proceedings for an offence against this Act may only be taken by the Secretary or a police officer” and that “the Secretary may, in writing, delegate any of his or her powers, functions, or duties under this Act, other than this power of delegation, to a person employed in the Department [of Premier and Cabinet (**DPC**)].”

Read together, these provisions mean that the power to prosecute a person for an offence against the Act may only be taken by an employee of DPC, as delegated to by the Secretary. As it stands, these rights and responsibilities of prosecution lie with AV. Furthermore, the Director of Public Prosecutions (**DPP**) has the ultimate power to decide whether an offence warrants a court hearing. One of DPP’s assessments in making this decision is whether prosecution is ‘in the public interest.’ Cases are often not progressed because DPP deems them to not be ‘in the public interest.’

This issue has been raised by RAPs at RAP Connect and RAP Forums

Consideration

Offences against the Act result in harm to Aboriginal Cultural Heritage, which is harm against the interests of RAPs and Traditional Owners. To award increased powers to Traditional Owners in the oversight and management of prosecuting and actioning regulatory responses to offences would be in keeping with principles of self-determination, and specifically with the Act’s purpose of empowering Traditional Owners as protectors of their Cultural Heritage.

To this end, it is further proposed that Aboriginal Heritage Officers (**AHOs**) and Authorised Officers (**AOs**) should be empowered to issue infringement notices in relation to minor offences. Provision of powers to AHOs and AOs to issue such notices would relieve some of the workload from the State and transferring the powers to Council could also ensure that there is increased action taken against offences. If the powers were moved to Council and increased powers were provided to AOs and AHOs, breaches of the act could be acted upon more often and more thoroughly. In turn, this would have a denouncing and deterrent effect to encourage increased compliance with the Act.

Empowering the Council to prosecute offences could also build stronger relationships between RAPs and Council. The prospect of Council’s full engagement with RAPs throughout the investigation and prosecution procedures would provide for both increased transparency in the process and stronger links between the parties.

UNDRIP

This issue should be considered in relation to Article 32:

“Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The rights and responsibilities of prosecution should be moved to the Council; and AHOs and AOs should be empowered to issue infringement notices in relation to minor offences.

There are concerns about management of stakeholder relationships and the stability of Council due to the one-year terms of the Council Chairperson and Deputy Chairperson.

Background

Under the Act, the Council Chairperson and Deputy Chairperson, “hold office for one year; and are each eligible for re-election for two further terms of one year.”

Consideration

The current system of one-year leadership terms is unworkable. A two-year term will allow the Chairperson and Deputy Chairperson to provide stability of leadership, properly develop relationships, and effectively represent the Traditional Owner sector.

Flowing from the above proposal, the Chairperson and Deputy Chairperson should only be eligible for one further term of re-election. This will mean that the total amount of time that a Council member could hold either of these offices is four years.

UNDRIP

This issue should be considered in relation to Article 23

“Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.”

Concern Level

OF SOME CONCERN

Recommendation

The positions of Council Chairperson and Deputy Chairperson should be two-year terms.

THEME TWO: INCREASING THE AUTONOMY OF THE VICTORIAN ABORIGINAL HERITAGE COUNCIL

ISSUE 10

The self-determination and autonomy of Council is significantly compromised whilst it is unable to control its own staff and their work.

Background

Currently, the Office of the Council is a branch of AV. Therefore, all its staff members are employed through DPC.

Council has raised this issue with AV and the Minister since at least 2017 and have received Ministerial support for autonomy.

Consideration

Council would be provided greater autonomy as an independent statutory authority, in keeping with the principles of self-determination, if it were able to employ its own staff

UNDRIP

This issue should be considered in relation to Article 32:

“Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.”

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The Act should be amended to allow Council to employ its own staff.

Important Aboriginal Cultural Heritage statutory functions are not being undertaken by Traditional Owners.

Background

Significant functions relating to the self-determination of protection and management of Aboriginal Cultural Heritage are undertaken by the Secretary of the Department of Premier and Cabinet. These include functions pertaining to:

- measures practicable for the protection of Aboriginal Cultural Heritage,
- the Victorian Aboriginal Heritage Register,
- CHPs,
- CHMPs,
- material relating to the protection of Aboriginal Cultural Heritage and the administration of the Act,
- standards and guidelines for the payment of fees to RAPS and for the investigation and documentation of Aboriginal Cultural Heritage in Victoria,
- research into Aboriginal Cultural Heritage,
- public awareness and understanding of Aboriginal Cultural, and
- the registration of Aboriginal Intangible Heritage.

These functions are all carried out by AV in the name of the Secretary.

Consideration

The transfer of some of these functions to Council has already been considered in discussing other issues (such as Issues Six and Eight).

For example, one of Council's statutory functions is "to manage, oversee and supervise the operations of registered Aboriginal Parties" set out in s 132(2) (ch) of the Act. However, most RAP support functions currently sit with AV, rather than Council. If the Act was amended to encourage more RAP support functions to sit with Council, then the relationship between RAPs and Council would be strengthened. Furthermore, it would allow RAPs more direct support from Traditional Owners.

UNDRIP

This issue should be considered in relation to Article 19:

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

Some of the Secretary's responsibilities should be transferred to the Council.

THEME THREE

Recognising, Protecting and Conserving Aboriginal Cultural Heritage

ISSUE 12

Heritage Advisors are actively participating in the destruction of Aboriginal Cultural Heritage through inadequate or inappropriate CHMPs.

Background

S 58 of the Act gives specific responsibility over the preparation of a CHMP to Heritage Advisors. During the preparation of a CHMP, they are expected to fulfil a range of obligations, including consulting with Traditional Owner Groups and RAPs, conducting Cultural Heritage assessment of an activity area in compliance with the Act, and preparing the final CHMP in accordance with the prescribed conditions. Heritage Advisors therefore have a key role in the protection and management of Aboriginal Cultural Heritage in Victoria.

Sponsors of development activities engage and pay Heritage Advisors to prepare CHMPs. Whilst Sponsors can be held liable for causing unauthorised harm to Aboriginal Cultural Heritage under the Act, there are no consequences for misconduct on the part of the Heritage Advisor. This makes them unaccountable for failure to engage in proper consultation with Traditional Owners, or for drafting poor or incomplete CHMPs. Furthermore, their economic relationship with the Sponsor gives them more incentive to act in the Sponsor's interests, rather than the interests of Traditional Owners.

Consideration

Regulation would include a formal registration system, a binding code of conduct, a formal complaints process and the enforcement of sanctions. This would protect Traditional Owners and the public from poor practices. It would also benefit Sponsors and Heritage Advisors as it would provide them with stronger relationships with Traditional Owners and better heritage management outcomes.

Preceding the implementation of the relevant amendments to the Act would be the introduction of non-binding guidelines holding Heritage Advisors to a standard of conduct. These guidelines would be produced by Council under their statutory function to publish policy guidelines consistent with the functions of the Council as per s 132(2) (ck) of the Act. This would assist in establishing a foundation for the introduction of the amendments in 2021.

The onus to produce satisfactory CHMPs that are the result of thorough Cultural Heritage assessments and proper engagement with Traditional Owners needs to be on Heritage Advisors themselves. Implementing a system where Heritage Advisors will be held accountable for their actions will help to create an industry standard that lifts quality of work and builds stronger relationships for all parties involved in the CHMP process.

UNDRIP

This issue should be considered in relation to Article 31:

"Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The Act should be amended to create a regulation system for Heritage Advisors.

ISSUE 13

Sponsors can start preparing a CHMP before a RAP has knowledge of the activity, excluding co-design of the project and putting at risk Aboriginal Cultural Heritage and Values.

Background

S 59 of the Act sets out the obligations between a Sponsor and a RAP during the CHMP process:

1. "This section applies if a registered Aboriginal party gives notice under section 55 of its intention to evaluate a CHMP.
2. The sponsor must make reasonable efforts to consult with the registered Aboriginal party before beginning the assessment and during the preparation of the plan.
3. The registered Aboriginal party must use reasonable efforts to co-operate with the sponsor in the preparation of the plan."

Although Sponsors are obliged to 'make reasonable efforts to consult', there is no binding obligation to consult with a RAP during the process. This is problematic. For example, under the current regime, Sponsors often engage Heritage Advisors and begin preliminary discussions regarding a CHMP before a RAP has even been provided with the Sponsor's Notice of Intention to prepare the plan. This means that preparations of a CHMP begin to occur before a RAP has knowledge of the activity. It encourages the development of a relationship between the Sponsors and Heritage Advisors that omits the interests of Traditional Owners.

Consideration

If Sponsors were required to consult with RAPs from the outset of the CHMP process, it would ensure that RAPs are informed and have a say in activities regarding the assessment of Aboriginal Cultural Heritage values. If it was stated in the Act that prospective Sponsors had to consult with Traditional Owners before engaging a Heritage Advisor, then both parties would be able to create a stronger relationship throughout the consultation process.

Creating a strategy for greater consultation between all parties would ensure enhanced accountability of Sponsors and Heritage Advisors. Additionally, Sponsors who establish a relationship with the RAP of the area in which they wish to undertake an activity will be able to make an informed decision when engaging a HA.

UNDRIP

This issue should be considered in relation to Article 25:

"Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

The Act should be amended to require Sponsors to consult with RAPs from the outset of the CHMP process.

THEME THREE: RECOGNISING, PROTECTING AND CONSERVING ABORIGINAL CULTURAL HERITAGE

ISSUE 14

AOs and AHOs are inhibited from carrying out their functions, to protect Aboriginal Cultural Heritage, as they are unable to enter land or premises without the consent of the occupier.

Background

Under the Act, AOs and AHOs are appointed by the Minister to carry out the Act's enforcement functions. Those functions include monitoring compliance with the Act, investigating suspected offences against the Act, and issuing and delivering stop orders under Part 6 of the Act. Under s 166 of the Act, both AOs and AHOs have a general power to enter land or premises to carry out these functions.

S 166(2) specifically stipulates that "an authorised officer or Aboriginal heritage officer must not enter any land or premises under this section without the consent of the occupier of the land or premises; and unless the occupier is present; or has consented in writing to the authorised officer or Aboriginal heritage officer entering the land or premises without the occupier being present."

Consideration

The current legislation restricts AOs' and AHOs' powers to the point where they are inhibited from carrying out their functions. In the likely event that an individual who is suspected of an offence against the Act does not give an Officer consent to enter their premises, the Officer is stopped from carrying out their duty to protect Aboriginal Cultural Heritage.

Although this amendment may seem like a curtailment of the occupier's rights, it is necessary for striking the balance between those rights and the rights of Traditional Owners under the Act. Namely, the rights to the protection and management of their own Cultural Heritage.

UNDRIP

This issue should be considered in relation to Article 8:

"Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

The Act should be amended to allow AOs and AHOs to enter land or premises without the consent of the occupier.

ISSUE 15

Council is required to make decisions about the Secret (or Sacred) status of an Aboriginal Object but is unable to certify Objects as such.

Background

S 187 of the Act sets out evidentiary rules which apply for proceedings for offences under the Act. Specifically, that certificates signed by certain parties can act as evidence for the facts stated in that certificate. For example, "a certificate signed by the Chief Executive Officer of the Museums Board to the effect that an object referred to in the certificate is an Aboriginal object is evidence of that fact."

It is also noted that there is currently no mechanism under the Act to determine whether an Aboriginal Object is Secret (or Sacred).

Consideration

Council should be able to issue certificates to the effect that an object referred to in the certificate is an Aboriginal Object or Secret (or Sacred) Object to be evidence of that fact.

This would mean that when Secret (or Sacred) Objects, or Aboriginal Objects in general, are necessary as evidence in proceedings for offences against the Act, Council would have the authority to deem the Objects as such.

UNDRIP

This issue should be considered in relation to Article 12:

"States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned."

Concern Level

OF SOME CONCERN

Recommendation

S 187(2) should be amended to include an additional provision that enables certificates signed by the Victorian Aboriginal Heritage Council to the effect that an object referred to in the certificate is an Aboriginal Object or Secret (or Sacred) Object to be evidence of that fact.

THEME THREE: RECOGNISING, PROTECTING AND CONSERVING ABORIGINAL CULTURAL HERITAGE

ISSUE 16

The destruction of Aboriginal Cultural Heritage is considered an acceptable risk as there are very few prosecutions.

Background

Currently, all offences capable of being committed under the Act are criminal offences.

Consideration

If every offence was ascribed liability for civil damages, there would be greater rates of compliance with the Act for the following key reasons:

1. Introducing civil damages will urge high rates of compliance with the Act amongst Corporations. Most Corporations are often driven by the main intent of maximising profits. Therefore, the possibility of criminal prosecution is less of a threat than that of civil liability and the ensuing damages.
2. The DPP has the ultimate discretion to prosecute criminal offences under the Act. That means that many suspected offences are not prosecuted. For civil offences, this discretion would be diverted away from the DPP. This would potentially result in more offenders being held liable.
3. For civil offences, the relevant threshold for establishing liability is if a party is found to have committed an offence on the 'balance of probabilities.' This is lower than the threshold for criminal offences, which dictates that it must be 'beyond reasonable doubt' that a party offended. Introducing civil damages provisions would therefore result in a lower standard of proof for parties being held liable for offences against the Act.

UNDRIP

This issue should be considered in relation to Article 11:

"States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

The Act should be amended to introduce liability for civil damages for every offence.

Aboriginal Cultural Heritage is being damaged and destroyed if it lies on the course of an inactive or unnamed waterway.

Background

A waterway or land within 200 metres of a named waterway is an area of Cultural Heritage sensitivity, unless it has been subject to significant ground disturbance. The definition of waterway means that many waterways in Victoria that remain 'unnamed' are not defined as areas of Cultural Heritage sensitivity and are therefore not protected under the Act. This has resulted in substantial harm to Aboriginal Cultural Heritage due to activities being permitted in and around unnamed waterways.

This issue was raised by RAPs at their Forum in 2017 and RAP Connect.

Consideration

If the definition of waterway included all courses of water in Victoria, regardless of whether they are:

- named or unnamed,
- current or prior,
- diverted or original,
- permanent or seasonal,

it would provide proper protection to all areas of Cultural Heritage sensitivity that exist in and around waterways in the State.

There are also many recorded sites that sit outside of areas of Cultural Heritage sensitivity but are near unnamed waterways. Although it cannot be definitively said these sites are where they are because of their proximity to unnamed waterways, it does demonstrate the likelihood for areas Cultural Heritage sensitivity to be beyond 200m of named waterways.

The most practicable avenue for this objective is to extend the sensitivity mapping in ACHRIS to include all waterways that are viewable on the system.

Alternatively, RAPs should be afforded the power of becoming Victorian naming authorities over waterways in their registration area. This would allow RAPs to have control over which waterways fit within the scope of the Act and can be defined as areas of Cultural Heritage sensitivity. This would also combat an issue that comes with affording all currently unnamed waterways protection under the Act could be problematic, as they cannot always be specifically and consistently identified.

UNDRIP

This issue should be considered in relation to Article 13:

“Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.”

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The definition of waterway should include all courses of water in Victoria.

THEME THREE: RECOGNISING, PROTECTING AND CONSERVING ABORIGINAL CULTURAL HERITAGE

ISSUE 18

Aboriginal Cultural Heritage is being damaged or destroyed through inappropriate classification of places as having no Cultural Heritage sensitivity.

Background

CHMPs are required for an activity if all/part of the activity area is an area of Cultural Heritage sensitivity and if it is a high impact activity. Places are considered to not be areas of Cultural Heritage sensitivity if they have been subject to significant ground disturbance (**SGD**).

SGD is defined in the Act as “disturbance of the topsoil or surface rock layer of the ground” and yet soil bearing artefacts can be at depths far greater than what is recorded as topsoil. That means that those parts of the stratigraphy are not protected by a CHMP.

Another significant issue is that places and objects with Cultural Heritage sensitivity do not lose their significance just because they have been disturbed. This is at odds with SGD impacting the application of a CHMP and means that CHMPs are not mandatory for activities that are often harming Cultural Heritage.

Consideration

To ensure that places are only classified as not being areas of Cultural Heritage sensitivity when it is appropriate, the use and definition of SGD needs to be reviewed. This will ensure protection of Aboriginal Cultural Heritage and align with the fact that objects and places do not necessarily lose Cultural Heritage significance once they have been disturbed.

UNDRIP

This issue should be considered in relation to Article 8:

“Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.”

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

The use and definition of SGD in the Act needs to be reviewed.

RAPs have reported harm to Aboriginal Cultural Heritage caused by activities resulting from a due diligence assessment.

Background

Due Diligence Assessments are advisory assessments taken by Heritage Advisors that quantify the risk about a defined situation or recognisable hazard in relation to Cultural Heritage. They are not regulated under the Act. Due Diligences are intended to establish a Sponsor’s legislative requirements for a proposed activity, such as whether a CHMP is required for that activity. However, they are usually made without consultation of the relevant RAP. This means that RAPs can often be completely unaware that a Due Diligence has been undertaken for a proposed activity.

Additionally, Heritage Advisors are not required to consult with RAPs in the preparation of a Preliminary Aboriginal Heritage Test (**PAHT**), which is a formalised mechanism for determining whether a proposed activity requires the preparation of a CHMP.

Consideration

Currently, if a planning application does not trigger a CHMP, a Local Government Authority may request the Sponsor engage a Heritage Advisor to undertake a Due Diligence assessment or a PAHT, before a planning application is approved. These processes do not require the Heritage Advisor consult with relevant Traditional Owner groups or RAPs.

If a planning application does not trigger a CHMP, then a PAHT must be undertaken. Heritage Advisors should also be required to seek participation and input from RAPs in the preparation of the PAHT. This would not only offer RAPs an opportunity to provide input and guidance as to the whether an activity requires a CHMP but would also offer an opportunity for RAPs to draft conditions for inclusion within the PAHT. These conditions could include provisions for RAPs to undertake compliance inspections they may deem necessary during the proposed activity.

UNDRIP

This issue should be considered in relation to Article 32:

“States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.”

Concern Level
OF SIGNIFICANT CONCERN

Recommendation

All building and construction related planning applications should include Traditional Owner consultation.

THEME FOUR

Implementing the recommendations from the 2012 Inquiry into the Establishment and Effectiveness of Registered Aboriginal Parties

RECOMMENDATION 6.1

Aboriginal Victoria resource Registered Aboriginal Parties, on a project basis, to undertake works to preserve heritage sites that are identified as priority sites by the Registered Aboriginal Parties. Consultation for all works should take place with the respective landholder/land manager.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that there were still several issues relating to the delivery of this recommendation. Namely, that:

- RAPs report that the existing operation support funding is inadequate to effectively undertake their basic statutory functions.
- The existing model of funding means that RAPs are effectively penalised for generating other income. Resources that any RAP receives, should not negatively affect the resourcing they receive to undertake statutory functions.
- To a large extent the RAP operational funding is drawn from the Fund. The Fund was intended to provide financial resources to undertake a range of activities under the Act and the diversion of most Fund funds to RAP operational support undermines this legislative intent.
- The Fund funds are in large part generated by the fees charged by AV for the assessment of CHMPs on lands not within a RAP area. The allocation of funds to RAPS, that are generated from the lands of Traditional Owners not enjoying RAP status, is unjust, disrespectful and fosters disharmony within the Traditional Owner community.
- The AV Progress Report response to this recommendation obfuscates the fact that the specific activity funding recommended by the Inquiry has not occurred. Providing some level of funding for RAP general operations is not undertaking works to preserve heritage sites that are identified as priority sites by the RAP.

Consideration

Since this advice on meeting the recommendation was made to the Minister, these issues remain of concern.

UNDRIP

This issue should be considered in relation to Article 32:

"States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That the ongoing base funding model for RAPs be reviewed and an alternative source of funding be identified.

RECOMMENDATION 6.2

The Victorian Government resource Aboriginal Victoria to develop a statewide program of country mapping to improve the available knowledge about areas of Cultural Heritage sensitivity. Country mapping should be undertaken in conjunction with local government, Registered Aboriginal Parties and land owners/managers.

Background

In Council's report from the previous reporting cycle (2018-2019), it noted AV's minor progress in conducting a pilot country mapping project and advised the Minister that Country Mapping should be a resource and opportunity devolved directly to RAPs.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has supported RAPs to participate in an Indigenous Mapping Workshop, part of a global program for First Peoples.

UNDRIP

This issue should be considered in relation to Article 31:

"Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage"

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That RAPs be resourced to undertake their own Country Mapping.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.3

Aboriginal Victoria, in conjunction with the Victorian Aboriginal Heritage Council, develop policy guidelines to monitor the adherence of sponsors to approved Cultural Heritage Management Plans, with the involvement of Registered Aboriginal Parties.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that RAPs had identified that there was still a need for "policy guidelines to monitor the adherence of sponsors to approved Cultural Heritage Management Plans".

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has commenced preparation of such guidelines (pursuant to s 132((2) (ck)) in consultation with RAPs.

UNDRIP

This issue should be considered in relation to 18:

"Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That upon completion, AV support guidelines developed by Council and RAPs.

RECOMMENDATION 6.4

Aboriginal Affairs Victoria, in consultation with the Victorian Aboriginal Heritage Council, review the fee guidelines for the participation of Registered Aboriginal Parties in the development of Cultural Heritage Management Plans, and establish a fee structure that balances the needs of both sponsors and Registered Aboriginal Parties.

Following this review the hourly rates charged by Registered Aboriginal Parties to participate in the development of a Cultural Heritage Management Plan will be capped according to the new fee structure published on the Department of Planning and Community Development's website.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that it had resolved to establish a Legislative Review Advisory Committee that would review the Registered Aboriginal Party Fees and Conduct Guidelines once received from AV.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has formed a Legislative Review and Regulatory Functions Committee who are working on many projects around Traditional Owner voices in statutory decisions and responsibilities. In the absence of the Committee being provided with AVs Guidelines for consideration, with RAPs they have developed a Registered Aboriginal Party Code of Conduct.

UNDRIP

This issue should be considered in relation to 18:

"Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

That AV provide Council with the Guidelines for review and support the Registered Aboriginal Party Code of Conduct.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.5

The Victorian Aboriginal Heritage Council monitors the consultation fees charged by Registered Aboriginal Parties, as part of an expanded role for the Council in relation to overseeing the activities of appointed Registered Aboriginal Parties.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that it had developed draft policies in relation to "Complaints Against RAPs" and the "Imposition of Conditions, Suspension and Revocation of Registration of RAPS" and was consulting with RAPs in respect of these draft policies.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has formalised and implemented these policies, significantly expanding its capacity to work with RAPs on governance and variation issues. Additionally, the Committee has developed a Registered Aboriginal Party Code of Conduct.

UNDRIP

This issue should be considered in relation to 18:

"Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That Council be supported to expand its capacity for undertaking this statutory function given the significant impact of the First Peoples' Assembly of Victoria and Treaties.

RECOMMENDATION 6.6

The Victorian Government and Aboriginal Affairs Victoria review the level of assistance provided to Registered Aboriginal Parties, to reflect the principle that Registered Aboriginal Parties undertake the management and protection of Aboriginal heritage on behalf of all Victorians.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that it is inappropriate to disperse to RAPs money earned from Traditional Owner's Country that does not have a recognised entity or RAP present.

Consideration

Since this advice on meeting the recommendation was made to the Minister, these issues remain of concern. Current review of the inappropriate management of the Fund by government should also consider the use of the Fund for RAP base level funding.

UNDRIP

This issue should be considered in relation to Article 32:

"Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That the Fund continues to gather all statutory fees and charges paid to Government for redistribution by Council for projects that protect and celebrate Aboriginal Cultural Heritage in Victoria, whilst RAP base funding be provided by government through alternative means.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.7

Aboriginal Affairs Victoria identifies a structure that provides ongoing support to Registered Aboriginal Parties to ensure that every Registered Aboriginal Party is able to sustain a minimal level of staffing and infrastructure to support their operations.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that this recommendation primarily should be addressed through the provision of enough operational funding to RAPs. However, Council also believes additional measures are necessary to support newly appointed RAPs through the early years of their RAP operations.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has consulted with existing RAPs and Traditional Owners in areas where there is not yet a RAP and these issues remain of concern.

UNDRIP

This issue should be considered in relation to Article 32:

"Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That Council be supported in consideration of legislative change to enable Council to approve RAP applications subject to conditions. This would allow groups that are potentially unable to carry out all their functions as a RAP at the time of application to still have their registration as RAP approved. Additionally, it would stagger the commencement dates of the new RAPs' obligations so that they would not immediately be flooded with all RAP responsibilities upon registration.

RECOMMENDATION 6.8

Aboriginal Affairs Victoria reviews the resources currently available to its heritage branch, with a view to identifying those resources that may be redirected to support the operations of Registered Aboriginal Parties.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that support for Board and Governance Training (for example through the Certificate IV in Governance) is no longer provided by AV. This represents a significant gap in the necessary support required by RAPs. However, the thrust of this recommendation goes to the "redirection of resources" from Heritage Services to RAPs. While Heritage Services has expanded significantly in recent years Council is not aware of any of Heritage Services resources being redirected to RAPs.

Consideration

Since this advice on meeting the recommendation was made to the Minister, these issues remain of concern.

UNDRIP

This issue should be considered in relation to 18:

"Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

That the significant project support for Traditional Owner programs within Heritage Services be devolved to Traditional Owners themselves, either through Councils or RAPs.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.9

Aboriginal Affairs Victoria continues to make business planning advice available to Registered Aboriginal Parties, with a view to supporting all Registered Aboriginal Parties to maximise income generation opportunities outside the process of assessing Cultural Heritage Management Plans.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that, further to the comment in relation to Governance Training above, Council is keen to develop its activities to provide information and support to facilitate the broader economic development activities of RAPs. Council did not then have the resources to undertake this function to any significant degree. It would be desirable if Council was resourced in the future to do so.

Consideration

Since this advice on meeting the recommendation was made to the Minister, these issues remain of concern.

UNDRIP

This issue should be considered in relation to Article 23:

"Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That Council be resourced to develop its activities to provide information and support to facilitate the broader economic development activities of RAPs.

RECOMMENDATION 6.10

Aboriginal Affairs Victoria develops a licensing and accreditation system for Cultural Heritage advisors, including the development of policy guidelines for the conduct of Cultural Heritage advisors. This licensing system, to be established by Aboriginal Affairs Victoria, should include an annual registration fee that is to be used by Registered Aboriginal Parties in the resourcing of Aboriginal Cultural Heritage activities, such as country mapping.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that, although AV was in the process of developing additional guidelines in respect of the experience requirement for Heritage Advisors pursuant to s189(1)(a), RAPs had long noted concerns regarding the absence of any mechanisms to regulate Heritage Advisors.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has worked with RAPs to develop Heritage Advisor Guidelines and a Registered Aboriginal Party Code of Conduct.

UNDRIP

This issue should be considered in relation to 18:

"Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions."

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

That Council's Heritage Advisor Guidelines and Registered Aboriginal Party Code of Conduct be made enforceable and that Country Mapping projects be developed by RAPs and supported by AV independent of this initiative.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.11

Aboriginal Affairs Victoria develops an Aboriginal heritage protection levy to be paid by all Cultural Heritage Management Plan sponsors, to be used to fund heritage protection activities and Registered Aboriginal Parties, particularly those located in areas of low development. The levy would operate on a sliding scale based on the total cost of producing a Cultural Heritage Management Plan.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that there was still a significant funding shortfall in relation to the management, protection and promotion of Aboriginal Cultural Heritage in this State.

Consideration

Since this advice on meeting the recommendation was made to the Minister, this issue remains of concern. Council's Living Heritage Grants Program has opened and provides an avenue for RAPs and the broader community to be supported to undertake heritage protection and celebration activities.

UNDRIP

This issue should be considered in relation to Article 31:

"Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage"

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That the Fund be controlled by Council and RAPs be supported to operate effectively and sustainably.

RECOMMENDATION 6.12

The Minister review the current guidelines for Cultural Heritage advisors to address section 189(b) of the Aboriginal Heritage Act 2006, which provides for the recognition of ‘extensive experience or knowledge in relation to the management of Aboriginal Cultural Heritage’.

Background

In Council’s report from the previous reporting cycle (2018-2019), it advised the Minister that, In the absence of any action in this area by AV, Council has determined to itself proceed with draft guidelines in relation to Heritage Advisors under s 189(1)(b).

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has developed these Guidelines with RAPs and will publish them after the reporting period. It is noted that AV has still not consulted on a review of the Minister’s Guidelines for Heritage Advisors. Council’s consideration of the risk to Cultural Heritage posed by a relative lack of regulation of Heritage Advisors is considered in its review of the Aboriginal Heritage Act.

UNDRIP

This issue should be considered in relation to Article 32:

“Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

That Council’s Guidelines for Heritage Advisors be adopted by the Minister and legislative review of Heritage Advisors be considered.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.13

Aboriginal Affairs Victoria and the Victorian Aboriginal Heritage Council work with Registered Aboriginal Parties to identify further opportunities for participation in the Cultural Heritage advisor industry.

This should include the development of a policy framework to support Registered Aboriginal Parties to produce Cultural Heritage Management Plans in-house.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that despite the absence of activity in this area on the part of AV, several RAPs have independently commenced operations in this regard. Council, to the extent its limited resources allow, seeks to publicise this work and encourage other RAPs to pursue a similar course. It would be desirable if resources were made available to Council to pursue this matter in combination with the activity suggested in response to recommendations 6.8 and 6.9 above.

Consideration

Since this advice on meeting the recommendation was made to the Minister, there has been little progress by AV in this area however some RAPs have strongly engaged in developing their capacity for this work. Council have considered legislative change that could significantly assist RAPs in this work.

UNDRIP

This issue should be considered in relation to Article 23:

"Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. Indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That Council be resourced to work with RAPs on developing this capacity and that recommendations for legislative review of the Aboriginal Heritage Act regarding Heritage Advisors be considered.

RECOMMENDATION 6.14

The Aboriginal Heritage Act 2006 be amended to empower the Victorian Aboriginal Heritage Council to have oversight of Registered Aboriginal Parties in relation to the performance of their statutory duties on an annual basis. In addition, the Act will also be amended to provide for the Victorian Aboriginal Heritage Council to attach conditions to both the initial appointment and ongoing registration of Registered Aboriginal Parties.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that it was actively discharging the functions bestowed through the 2016 amendments to the Act with the development of the policies referred to in recommendation 6.5 above.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council is considering a legislative amendment to better manage this recommendation.

UNDRIP

This issue should be considered in relation to Article 35:

"Indigenous peoples have the right to determine the responsibilities of individuals to their communities."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That Council's consideration of legislative review regarding RAP appointment with conditions be supported and Council receive the resources necessary to implement policies developed regarding the discharge of its functions to RAPs.

THEME FOUR: IMPLEMENTING THE RECOMMENDATIONS FROM THE 2012 INQUIRY INTO THE ESTABLISHMENT AND EFFECTIVENESS OF REGISTERED ABORIGINAL PARTIES

RECOMMENDATION 6.15

Aboriginal Affairs Victoria and the Victorian Aboriginal Heritage Council develop policy guidelines to support the Council to monitor the performance and activities of Registered Aboriginal Parties.

The guidelines should provide direction on how to assess:

- **whether a Registered Aboriginal Party has adequately fulfilled its legislative responsibilities;**
- **the conduct of a Registered Aboriginal Party in relation to the preparation and assessment of Cultural Heritage Management Plans, including the appropriateness of any fees charged;**
- **the inclusiveness of the membership rules and governance structure of a Registered Aboriginal Party; and whether any conditions imposed by the Victorian Aboriginal Heritage Council are being met.**

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that it had developed draft policies in relation to "Complaints Against RAPs" and the "Imposition of Conditions, Suspension and Revocation of Registration of RAPS" and had commenced framework planning for the State of Victoria's Aboriginal Cultural Heritage Report 2017-2021 to the Minister.

Consideration

Since this advice on meeting the recommendation was made to the Minister, Council has continued to work on this recommendation.

UNDRIP

This issue should be considered in relation to Article 34:

"Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards."

Concern Level

OF SIGNIFICANT CONCERN

Recommendation

That both Council and RAPs be better resourced to undertake their work in a supported, best practice manner. Fundamental to this is that recommended legislative reforms recommended in 2021 by Council and RAPs be supported.

RECOMMENDATION 6.16

The Victorian Government and Aboriginal Affairs Victoria review the resources provided to the Victorian Aboriginal Heritage Council, with a view to ensuring that the Council can undertake all additional responsibilities.

Background

In Council's report from the previous reporting cycle (2018-2019), it advised the Minister that Council's lack of financial autonomy continues to obscure the level of funding provided to it. For this, and other reasons, Council has determined to pursue a strategic objective of achieving greater financial and operational autonomy. In part, this underscores the requirement for a reconsideration of the uses to which the Fund is put as discussed in response to recommendation 6.1.

Consideration

Since this advice on meeting the recommendation was made to the Minister, this remains of concern. Some progress has been made however in discussions with the Department of Treasury of Finance in stabilising their current, inappropriate management of the Fund.

UNDRIP

This issue should be considered in relation to Article 8:

"States shall provide effective mechanisms for prevention of, and redress for any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities".

Concern Level

MUST BE RESOLVED AS SOON AS POSSIBLE

Recommendation

That Council's appropriate statutory management of the Fund be ensured.



REGISTERED ABORIGINAL PARTY REPORTING

Image: Cazz, Murray Sunset National Park, 2018,
First People of the Millewa-Mallee Country

REGISTERED ABORIGINAL PARTY REPORTING

Council is committed to ensuring that the reporting required of RAPs to Council is neither onerous nor duplicates other reporting. To this end, RAPs authorise the distribution of their Aboriginal Victoria Registered Aboriginal Party Operations Performance Reports to Council. Council is not responsible for the AV administered base funding attached to this reporting process. It should be noted however that data received through this reporting does not undergo a process of cross-referencing through the Natural Resource Management System from which AV draws much of its own reporting data. Although it is considered appropriate in terms of self-determination that RAPs are trusted by government to report accurately, it should be noted that it provides an opportunity for reporting discrepancies.

The information that is provided to Council through these reports is extensive and can provide a strong comparative base from which Council can identify areas of concern, growth and achievement across the state and provide targeted advocacy and recommendations.

ACHIEVEMENTS AND CHALLENGES

Through a range of communication channels, RAPs engage with Council and advise of both their achievements and challenges. Council's capacity to adopt a state-wide analysis of these challenges and the broader impacts of large projects and relationships, has enabled it to incorporate many recommended challenges into their legislative review discussion paper. Additionally, much work

has been undertaken throughout the year to address concerns as they arise. One example of this is the communication Council made both public and in letters to individual Local Government Authorities (LGAs) about the inappropriate use of Due Diligence reporting in the preparation of CHMPs.

Use of a Due Diligence Approach

Concerned at reported problems arising from LGAs' use of the 'Due Diligence' approach, to assess the requirement for a CHMP for specific activities, the reported harm to Aboriginal Cultural Heritage caused by the resulting activity is an issue that RAPs are facing regularly and is something Council feels strongly about addressing.

The regulations to the Aboriginal Heritage Act 2006, the Aboriginal Heritage Regulations 2018, clearly set out the type of activities and the circumstances in which a CHMP is required. It is only through the preparation, approval and implementation of a CHMP that a defence can be raised to the offence of harming Aboriginal Cultural Heritage. Completion of a 'Due Diligence' approach will not create such a defence.

The Council contacted LGAs and posted on its website that Victoria's RAPs and Traditional Owners are the primary knowledge keepers of all matters relating to Victorian Aboriginal Cultural Heritage. This is not only true for physical, tangible Aboriginal Cultural Heritage, but also for Intangible Heritage. Council encouraged all LGAs to ensure all planning applications are subject to the legislated processes

necessary to ensure the protection of Aboriginal Cultural Heritage. One method of achieving this is to ensure that any development proposal that has relied on a 'Due Diligence' approach to an assessment of risks to Aboriginal Cultural Heritage has at the very least involved consultation with the relevant RAP.

Challenges and Concerns

Across the reporting period, RAPs have identified in their reporting the following challenges. The table on the following page notes these identified challenges and the percentage of concerns raised in the overall reporting issues reported. As the reporting format changed between the 2018-19 and 2019-20 reporting periods, a targeted question relating to RAP challenges was not included prior to the current cycle and so previous figures are unable to be included.

From the reported figures on the following page, it is clear that a lack of suitable resourcing impacts the day to day management of RAPs' responsibilities for Cultural Heritage. This issue has been raised by RAPs on many occasions at public forums, to Council, AV and directly with the Minister. Whilst the Act provides for some income streams through the consideration of functions, and some ongoing base funding is provided by the Secretary through the Fund, this is not appropriate for some RAPs. A broader consideration of requirements and funding models needs to be undertaken, as Council discusses in the above recommendations.

REGISTERED ABORIGINAL PARTY REPORTING

Challenges Reported	2019-20
Access to VAHR in non-RAP areas	7%
Lack of Heritage Advisor accountability	7%
Boundary negotiations	14%
Capacity to monitor broader compliance issues	14%
Communication/engagement with LGAs	14%
Developing strategies and processes	14%
Insurance for VCAT cases	14%
Lack of licensed drivers and cars and distance for TOs	14%
Receiving recognition in Cultural Heritage management during fire emergencies	14%
Respect as Cultural authorities from government departments	14%
Building skills and capabilities	21%
Use of Due Diligence	21%
COVID-19	36%
Need more resources (fire recovery, staff, recording/registration of Cultural Heritage, general, community engagement)	57%

SUPPORTERS AND STAKEHOLDERS

Across the reporting period, RAPs have identified in their reporting the following stakeholder engagement. The below table notes stakeholders and the engagement as a percentage of the overall reporting and details both the current and previous reporting periods to enable direct comparison. Due to the reporting format change between the 2018-19 and 2019-20 reporting periods, the differences in fields are noted as not applicable (N/A) when the field was not previously included in the reporting framework.

From examination of the 2018-19 and 2019-20 reporting figures below, we can note a significant increase of 211% with 'other government', relating largely to the Department of the Environment, Land, Waters and Planning (**DELWP**), Parks Victoria and infrastructure projects. The increase can be attributed to a significant shift in the range and scale of projects being undertaken by government and the increasing willingness to include RAPs in projects that may not necessarily have requirements under the Act.

A notable decrease in consultation can be noted with industry (15%) and local government (30%). Whilst the increase above relates to government bodies that have been largely unaffected by COVID-19 restrictions, such restrictions have significantly impacted industry and local government. It can be seen as a direct consequence then that consultation and engagement with these stakeholders has decreased during this period. It would be expected that, with an easing of restrictions and significant work Council and RAPs are currently undertaken in relation to engagement with LGAs, these figures will present a drastic upswing in the next reporting period.

Stakeholder	2019-20	2018-19
Secretary	0%	0%
Minister	1%	0%
Industry	3%	19%
Aboriginal Victoria	5%	4%
Other	11%	N/A
Community	13%	N/A
Local Government	14%	45%
Landowners	15%	15%
Other Government	38%	18%

MANAGING SENSITIVE CULTURAL HERITAGE

Of note in the reporting is the significant decline in nominations of Intangible Heritage to the register. Since the capacity of the Register was enabled to include Intangible Heritage under the Amendments of 2017, only one registration has been made. Council has been informed that the reticence of Traditional Owners to nominate Intangible Heritage for inclusion on the Register is largely due to the process of registration and in some part to management of the Register by non-Traditional Owners. In addressing this concern, Council has recommended that the Register be managed by Traditional Owners through the Council.

The decline in applications to access sensitive information on the Aboriginal Heritage Register can be attributed to the restrictions imposed by COVID-19 and the decrease in academic and non-development based access requests.

Managing Sensitive Cultural Heritage	2019-20	2018-19
Receipt of Secret (or Sacred) Objects	0	0
Intangible Heritage Management Agreements	0	2
Applications for access to the Register considered and supported or declined	1	11
Repatriation of Cultural Heritage	2	0
Receipt of Ancestral Remains	3	0
Intangible Heritage nominated for registration on the VAHR	7	1

GOVERNANCE AND COMPLIANCE

During the current reporting period, all RAPs have identified appropriate decision-making delegations and an absence of operating conditions imposed on them by Council. Although some organisational skills development has been undertaken, RAPs have identified through other channels that the absence of previously provided AV governance training is still sought.

ENFORCEMENT AND COMPLIANCE WITH THE ACT

RAPs are critically involved with the enforcement and compliance aspects of the Act through their own AHOs and working with Aboriginal Victoria's AOs. The significant increase in actions across all reporting fields can be seen to reflect the increase in development across the state.

Enforcement and Compliance with the Act	2019-20	2018-19
Compliance Actions	12	N/A
Reports of non-compliance (breaches of the Act)	16	5
Compliance and Enforcement Training	20	N/A
Reports of other enforcement matters	20	15
Provision of expert advice and assistance with compliance and enforcement matters	80	1
Compliance inspections undertaken as required by the Act	200	41

REGISTERED ABORIGINAL PARTY REPORTING

STATUTORY SERVICES

The impact of COVID-19 restrictions on the day to day work of RAPs can be seen through the decrease across all statutory service reporting fields, bar one. The 129% increase in heritage assessment activities, including archaeological surveys, can be seen to better identify the broader range of fieldwork undertaken by RAPs not necessarily previously reported on.

The significant work being undertaken by RAPs to monitor CHMPs should be noted and that works are being undertaken per these plans. However, for those CHMPs approved in non-RAP areas, there are significant concerns for the ongoing monitoring of management conditions for archaeological salvage and non-compliance with the CHMPS. RAPs have raised concerns with Council about the potential for outright destruction of Cultural Heritage under approved CHMPs through non-compliance, in instances where ongoing monitoring and review is not undertaken in non-RAP areas. Identified as a concern by the Minister through the SoE, Council concurs with this being set as an identified expectation and would seek to have a more significant target attached to this regulatory performance.

Statutory Service	2019-20	2018-19
Cultural Heritage Agreements developed with private landowners	0	0
Preliminary Aboriginal Heritage Test surveys participated in	0	3
Aboriginal Cultural Heritage Land Management Agreements (ACHLMAs) developed with public land managers	9	4
CHP applications approved/declined	66	129
CHMPs evaluated	352	421
Notices of Intent responded to	424	487
Heritage assessment activities undertaken	708	546



VICTORIA'S REGISTERED ABORIGINAL PARTIES

Image: Ed Dunens, Mitre Rock, Mount Arapiles, 2014, Barengi Gadjin Country



BARENGI GADJIN LAND COUNCIL ABORIGINAL CORPORATION

38 Plumpton Road, Horsham Vic 3400
PO BOX 1255, Horsham VIC 3402
(03) 5381 0977
admin@bglc.com.au
www.bglc.com.au



The Barengi Gadjin Land Council Aboriginal Corporation (BGLCAC) represents Traditional Owners from the Wotjobaluk, Jaadwa, Jadawadjali, Wergaia and Jupagulk peoples, who were recognised in a 2005 Native Title Consent Determination, the first in south-eastern Australia. Recognised as the RAP for an area of 37,126km² in the north west of the state, the Corporation covers 15.64% of Victoria.

We are committed to engaging with Community, creating strategies to better manage our land and water, looking after historical cultural sites, such as Ebenezer, The Ranch, and maintaining our cultural lore & practices.

BGLCAC and the Wimmera Catchment Management Authority (WCMA) continues to manage projects as part of the Victorian Government's Aboriginal Water Program. This year, one of these was the Lower Wimmera River Aboriginal Water Project – this included another two days of targeted archaeological survey, as well as Cultural Heritage Management and place recording training for Wotjobaluk Traditional Owners along the Wimmera River at Ross Lake and Jeparit, 8th and 9th July. Another of these is the Returning Water to the Billabong/Ranch Project.

Together with WCMA, BGLCAC presented a paper on Intangible Heritage at the inaugural Department of the Environment, Land, Waters and Planning (DELWP) Heritage Forum, Melbourne, 31 July. And together with WCMA, BGLCAC presented a paper on the effect of climate change on Culturally Modified Country Trees along Barringgi Gadyin at the 22nd Annual Wimmera Biodiversity Seminar 2019, Rupanyup, 5th September.

BGLCAC is continuing to manage the building conservation works at Ebenezer Mission with funding from Heritage Victoria's Living Heritage Grant Program. Coronavirus (COVID-19) Stage 3 Stay at Home restrictions have halted any on ground works from commencing; all permit requirements are being finalised in the meantime.

In addition to cultural heritage awareness training undertaken as part of standard CHMP planning Conditions, BGLCAC conducted a number of these training sessions for other interested groups during this period, including as part of the General Fire Fighters training for DELWP employees, Horsham, 25 October.

On 19 June, BGLCAC became the first RAP to use provisions of the AHA 2006 allowing an Interim Protection Declaration to be placed over the Aboriginal Place Dyurrite 1, Mount Arapiles-Tooran State Park, in close collaboration with the park's co-manager Parks Victoria, and AV.



BUNURONG LAND COUNCIL ABORIGINAL CORPORATION



336-340 Nepean Hwy, Frankston VIC 3199
PO BOX 11219, Frankston VIC 3199
(03) 9770 1273
admin@bunuronglc.org.au
www.bunuronglc.org

The Bunurong Land Council Aboriginal Corporation (BLCAC) represents Bunurong people's rights and interests and manages the statutory responsibilities of the Corporation. The BLCAC are recognised as the RAP for an area of 5,439km², or 2.29% of Victoria, including the Mornington Peninsula, Weterport and part of South-West Gippsland.

Bunurong people were amongst the first Indigenous people in Victoria that were involved in cross-cultural entanglements with Europeans, and though reduced to just a handful of individuals by the mid-1800s, we are still here and we continue to maintain our cultural obligations to care for the people, the flora and fauna, the lands and the waters within the Bunurong cultural landscape, which is alive with our stories.

As a relatively young RAP, some of the highlights of the last few years include discussions with Parks Victoria regarding a Bunurong Cultural Centre at Point Nepean. This would provide a strong Bunurong presence and voice onsite, cultural displays, walk and talk opportunities and a place for Bunurong people to be able to use as a base for cultural gatherings and practices, near to the site our Ancestors were not only born at for thousands of years, but also taken from by sealers in the 1830s. The outward facing vision is that schools and the public can call in for a few hours to learn about the history of Bunurong people and their Country, see the artefacts, hear the stories before they enter the National Park or Quarantine Station.

We have also been developing a Caring for Country (NRM) team with respected partners and major land managers so that Bunurong people have a vehicle to continue to exercise their rights and obligations to positively contribute to the custodianship and restoration of Bunurong Country. This work will offset in some way the heritage management component of what we do as a RAP, which often sees significant impact to our sites and Country. The team will provide a range of NRM services but will also handle Sea Ranger and Cultural Fire components. The BLCAC worked closely with Trust for Nature to secure funding that saw around 20 Aboriginal people from several mobs complete a free TAFE run customised course in land management.

Our Board has been doing some great work developing policies and budgets for a range of services to provide benefits to members including support for sorry business, emergency situations and travel assistance for full group meetings. The Board also initiated our Country Planning process which saw a large gathering of Bunurong people spend a week together traveling around our Country, stopping at many culturally significant locations, telling yarns and recording oral history as well as capturing the future aspirations of the group. This will all go toward populating our Country Plan, which will become a useful go to document for any department or agency wanting to understand our groups views, concerns and aspirations for our lands, waters and future.

Lastly, in 2020 the Yallock-Bulluk Marine and Coastal Park legislation was passed by State Parliament, which was named by BLCAC, who worked closely with DELWP and the State throughout the process. The name honours the Bunurong Clan of that area and the legislation provides multiple layers of protection to this dynamic and distinctive cultural landscape.

"It's an ongoing but very rewarding challenge to meet the demands of all the requests we get and balance it against the protection of our heritage."

Robert Ogden, Heritage Manager



DJA DJA WURRUNG CLANS ABORIGINAL CORPORATION



13-15 Forest Street, Bendigo VIC 3550
PO BOX 1026, Bendigo VIC 3552
(03) 5444 2888
info@djadjawurrung.com.au
www.djadjawurrung.com.au

The Dja Dja Wurrung Clans Aboriginal Corporation proudly strives to represent Dja Dja Wurrung People in their continued rights of recognition as Traditional Owners. We persist in building the aspirations of our Djaara Elders; that every Dja Dja Wurrung person is happy, healthy, and secure in their identity, livelihood, and lifestyle. We are the recognised RAP for an area of 17,369km² in the north and centre of the state, the Corporation covers 7.32% of Victoria.

In the current times of coronavirus (COVID-19), our connection to community and djandak (country) is an integral part of our operations. These uncertain times have provided limited fieldwork, working from home but required us to reimagine how we engage with our members. If our members can't get to djandak, we must bring djandak to them. Our Wellbeing Packages were designed and produced for this purpose. Each box contained ochre, weaving

materials, indigenous seeds, and healing balms, all from indigenous businesses, for each of our members. Through coronavirus (COVID-19) we have had to adjust to the environment around us, but we continue to reinstate Djaara cultural knowledge, language, and presence on djandak through our various projects.

- Loddon Pipeline - South West Loddon Pipeline Project (SWLPP)
- VicTrack
- Balak Kalik Manya (Walking Together) Project
- Wanyarrum Dhelk (Good Waterhole) Project - Stage 2
- Djandak Wi (Healthy Fire)
- Victoria's Great Outdoors program - Bendigo campground update

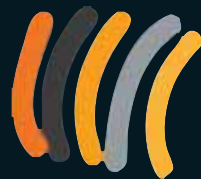
"The pandemic of COVID-19 has provided many challenges in recent times. As a Corporation, we still aspire to provide care for our people and members. Through providing support to our community through engagement, providing works on djandak, and building our economic health and growth. We remain focused on the bigger picture to be a part of our landscape and manage djandak for the future of our people."

Trent Nelson, Chairperson



EASTERN MAAR ABORIGINAL CORPORATION

PO BOX 546
Warrnambool VIC 3280
0429 544 343
admin@easternmaar.com.au
www.easternmaar.com.au



Eastern Maar Aboriginal Corporation (EMAC) is a Registered Native Title Body Corporate (RNTBC) that manages native title rights for the Eastern Maar Native Title rights holders who identify as, Eastern Gunditjmara, Tjap Wurrung, Peek Whurrung, Kirrae Whurrung, Kuurn Kopan Noot, Yarro waetch (Tooram tribe), Gadubanud and/or Gulidjan amongst other names – who today collectively refer to themselves as the Eastern Maar People/Citizens. Recognised as the RAP for an area of 19,177km², the Corporation covers 8.08% of Victoria.

EMAC was formally established as an 'Agent' RNTBC in 2011, as agreed by resolution of the collective Eastern Maar Native Title Holders at the same time positive Native Title consent determination was recognised for an area of land commonly referred to as PART B, consisting of 40 Km² and broadly located between Dunkeld and Yambuk. Part B is a shared area alongside Gunditj

Miring Traditional Owners Aboriginal Corporation and in 2013 both groups were appointed as joint Registered Aboriginal Parties for the area.

In February 2020, EMAC was accorded RAP status for an extended land area comprising of approximately 17,880 km² encompassing Port Fairy to west of Anglesea and extending inland to include the Great Otway National Park and the townships of Warrnambool, Terang, Mortlake, Camperdown, Colac, Apollo Bay, Lorne and Cressy

EMAC is governed by a 12-member Board – each member represents a defined family grouping which is linked to a referenced ancestor who occupied territory at the time of European settlement. Up to 60% of our 12-member board is represented by proud Eastern Maar women, some of whom are senior Elders and applicants of our Native Title claim. We are proud to operate as a society that has a unique decision-making structure – one which is committed to collectivism and inclusion, and which values common goals over individual pursuits.

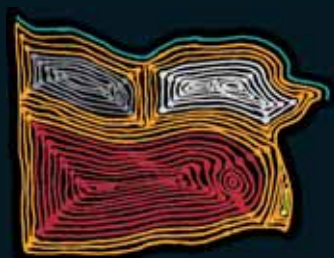
"It has been a very busy and rewarding year for the Eastern Maar Aboriginal Corporation. We have a lot going on, across a number of fields, particularly in working towards achieving Native Title recognition. It was great to be accorded

Recognised Aboriginal Party status for an extended land area across our ancestral estate during the reporting period. This recognition has effectively elevated our voice and rightful standing on the protection and management of cultural heritage places, objects and landscapes on our traditional lands and sea Country. With the dramatic increase in land mass, we are looking at streamlining and future-proofing our expanding RAP operations to service the increased RAP area. It is heartening and affirming to see our expansion and know that the work we are doing directly benefits our People. We are extremely proud of the work we have carried out with respect to cultural and environmental heritage. This work is broad and varied. It involves partnering with various stakeholders to ensure the repatriation of our Ancestors; the preservation of various sites, middens and artefacts and the successful negotiations with governments to ensure major construction projects do not threaten sacred aspects of our history and landscape."

Marcus Clarke, CEO



FIRST PEOPLE OF THE MILLEWA-MALLEE ABORIGINAL CORPORATION



149 Deakin Avenue, Mildura, Victoria 3500
PO BOX 10382, Mildura VIC 3500
Ph: (03) 4014 9780
contactus@fpmmac.com.au
www.fpmmac.com.au

The First People of the Millewa-Mallee Aboriginal Corporation (FPMMAC) represents the Latji Latji and Ngintait Traditional Owners of the Millewa Mallee lands in the far north-west of Victoria. As a Traditional Owner Corporation, we seek to represent the interests and well-being of our members and community. Country, Culture and People are our guiding principles, as we seek to provide Indigenous employment opportunities in caring and healing our traditional lands and waterways. Recognised as the RAP for an area of 7,870km², the Corporation covers 3.31% of Victoria.

Having gained RAP status in December 2018, we have spent the past eighteen months developing our organisational and operational capacity. Throughout the 2019/2020 year we have seen a significant increase in cultural heritage engagement, resulting in stronger relationships with both government and non-government partnerships. We are especially pleased with our Ponnun Pulgi (Resting Places): Healing Country Together program.

This is a cooperative reburial initiative between FPMMAC traditional owners, Parks Victoria and People and Parks Foundation, and is funded by two Victoria based philanthropic groups. Over the past eighteen months this program has achieved unprecedented outcomes and the development of new techniques to protect our ancestral burial sites and cultural heritage. We are now working towards the next stage as a five-year program, in order to greatly expand upon our work to protect our culture and country.

We also continue to provide expert advice on matters relating to the management of Aboriginal cultural heritage and develop closer working partnerships with relevant stakeholders, such as government agencies, local government authorities, business & industry, private landowners, developers and the general community.

“Over the past year we have gone ahead in leaps and bounds. We have expanded our cultural heritage activities, undertaken extensive RAP works, developed close working partnerships with land and water management authorities and employed key staff within our corporation. Looking forward we are working on our bigger picture, as we seek more contracts to employ more of our people within our nursery and land rehabilitation, cultural fire management, our fish environment program and upcoming social justice programs.”

Uncle Norm Tinawin Wilson, Chairperson



GUNAIKURNAI LAND AND WATERS ABORIGINAL CORPORATION



27 Scriveners Road (Forestec)
Kalimna West VIC 3909
(03) 5152 5100
reception@glawac.com.au
www.gunaikurnai.org

The Corporation represents the Traditional Owners of Gippsland, the five clans of Gunaikurnai - Brabalung, Brabraulung, Brayakaulung, Krauatungalung and Tatungalung. We are recognised as the Traditional Owners over approx. 1.33 million hectares including 200m of offshore territory (an area of 25,770km²). Our country spans from Warragul in the west to the Snowy River in the east, and from the Great Divide in the north to the coast in the south, 10.85% of Victoria.

Through Gunaikurnai Land and Waters Aboriginal Corporation's (GLaWAC) MOU with the Monash University Indigenous Studies Centre, several rock shelters in East Gippsland have been comprehensively investigated. These studies have

resulted in a greater understanding of Gunaikurnai use of these areas and have also produced several academic papers. GLaWAC is looking to have greater involvement in all Cultural, archaeological or anthropological research undertaken across the Settlement Area. This includes increasing GLaWAC's capacity to contribute to or indeed lead these research activities and ensuring that important Cultural and historical information is shared with the Gunaikurnai community.

GLAWAC is committed to strengthening its relationships with 13 Gippsland Environmental Agencies (GEA) as part of the GLaWAC-GEA Partnership. The partnership is fostering positive relationships with Traditional Owners and Aboriginal communities across the land and waters of the region and supporting economic development opportunities.

GLaWAC continues to explore the future of fire on Gunaikurnai Country, including the re-introduction of Cultural burning and giving Gunaikurnai people the opportunity to practice culture. Understanding the role of fire in a Cultural landscape through pollen coring and historical vegetation, along with the stories and experience of Gunaikurnai Elders will be used to determine a path for GLaWAC to facilitate this re-introduction into the future.

"Our aim is to map and investigate cultural places using archaeology and palaeoecology to fill in details of our cultural story. Identifying evidence of animal and plant remnants can tell us about who was around over a long period of time; it helps to tell the broader story of the changing environmental landscape over many thousands of years."

Russell Mullett, RAP Manager

"We are committed to walking together to share strengths, build opportunities and develop closer working relationships across agencies and the region"

Daniel Miller, General Manager On-Country



GUNDITJ MIRRORING TRADITIONAL OWNERS ABORIGINAL CORPORATION



4/48 Edgar Street, Heywood VIC 3304
(03) 5527 1427
reception@gunditjmirring.com
www.gunditjmirring.com

The Corporation represents the Gunditjmara people of south western Victoria and holds culturally significant properties across Gunditjmara country on behalf of the Gunditjmara community. It promotes and realises the continuing connection to country by Gunditjmara people through its caring for country programs and projects across its properties and all of Gunditjmara country. Recognised as the RAP for an area of 13,924km², the Corporation covers 5.86% of Victoria.

After many successful achievements in 2019, 2020 started with a fire which revealed additional heritage sites in the Budj Bim Cultural Landscape, previously concealed under vegetation and part of an ancient aquaculture system built by our People to harvest eels.

Earlier this year, we partnered with Field & Game Australia to develop and deploy a hunting educational project for Gunditjmara youth, getting them back into country and providing the skills and knowledge to live and hunt on their land.

The Gunditj Mirring Keeping Place and Business Centre is complete. The new building will be the main office for Gunditj Mirring, and a place for Cultural Heritage objects.

“The fire uncovered a system, including a channel about 25 metres in length, that we hadn’t noticed before.”

Denis Rose, Project Manager

“There is a big emotional feeling attached to the area and the [Keeping Place] building, I know it means so much and it’s a real milestone for the local indigenous community.”

Darryl McBeth, Site Supervisor



TAUNGURUNG LAND AND WATERS COUNCIL ABORIGINAL CORPORATION



37 High Street, Broadford VIC 3658
(03) 5784 1433
enquiries@taungurung.com.au
www.taungurung.com.au

The Corporation represents the interests of the clans of the Taungurung — Benbendore-balluk, Buthera-balluk, Gunung-Yellam, Leuk-willam, Moomoomgoonbeet, Nattarak-balluk, Ngurai-illam-balluk, Nira-balluk, Tenbringnellams, Walledriggers, Waring-illam-balluk, Warrinillum, Yaran-illam, Yirun-ilam-balluk, and Yowung-illam-balluk. Recognised as the RAP for an area of 20,215km², the Corporation covers 8.51% of Victoria.

This year we have been working to increase our local government authorities' knowledge and understanding of responsibilities and processes in the Aboriginal Heritage Act 2006 and corresponding regulations. A large piece of work has been investigating planning permit approvals which have been deemed not to require a CHMP based on alleged significant ground disturbance in areas of cultural heritage sensitivity. This work aims to assist local government authorities in mitigating their risk of causing harm to cultural heritages, provides more accountability for Heritage Advisors, and ensures Traditional Owners are appropriately consulted regarding works on Country.

We have been working in close collaboration with our key stakeholders running a series of forums local government authorities, catchment management authorities and land managers. Ultimately, these quarterly collective forums are educational; but they also allow us to streamline our engagement and create better joint processes.

We've been undertaking capacity and community building work running cultural camps and broadening our community engagement in State government policy through a series of

community consultations. Campaspe Shire Council have also worked closely with us and other Traditional Owners to develop new Council Policy, 'Recognising Traditional Owners'. The Policy will promote community awareness of Traditional Owner responsibilities and broad cultural awareness. We're also broadening our investment horizons with the signing of our first renewable energy partnership with the DELWP Hume Region and Indigo Power. This flagship project saw the installation of 50 solar panels on the DELWP Broadford office. As well as delivering clean renewable energy, it is delivering ongoing financial return.

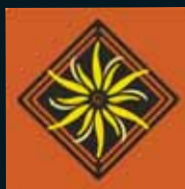
"Maintaining strong relationships with our partners ensures we are able to collaborate with positivity and create meaningful outcomes."

Matthew Burns, CEO





WADAWURRUNG TRADITIONAL OWNERS ABORIGINAL CORPORATION



99 Mair St East, Ballarat VIC 3350 – (03) 4308 0420
86 Mercer St, Geelong VIC 3320 – (03) 5222 5889
reception@wadawurrung.org.au
www.wadawurrung.org.au

The Wadawurrung Traditional Owners Aboriginal Corporation (WTOAC) proudly strives to strongly represent Wadawurrung People in their continued rights, authorities and continuing connections as the recognised Traditional Owners for their vast area of Country.

Some of the key achievements by WTOAC during the 2019/2020 financial year include continued development of the Wadawurrung Healthy Country Plan (due for completion late 2020); successful trial of a Cultural Walk Tour in partnership with the Great Ocean Road Coast Committee, which was a finalist in Reconciliation Victoria's 2020 HART (Helping Achieve Reconciliation Together) Awards; purchase of a 54 hectare property alongside Bostock Reservoir from Barwon Water and being the first RAP to exercise Section 48 of the Aboriginal Heritage Act and also achieve the first registration of Intangible Heritage.

“As a Registered Aboriginal Party, Wadawurrung Traditional Owners Aboriginal Corporation works to support their aspirations and protect Aboriginal Cultural Heritage in accordance with the Victorian Aboriginal Heritage Act 2006. Given the billions of dollars of State-strategic infrastructure and other development underway and on the drawing board across Wadawurrung Country, it is vital that the Corporation is well equipped to diligently and proficiently meet the significant external expectations and demands whilst maintaining cultural obligations and satisfying the needs and wants of Wadawurrung Traditional Owners.”

Paul Davis, CEO



Image: Steve Penton, Yarra Ranges National Park, 2017

WURUNDJERI WOI-WURRUNG CULTURAL HERITAGE ABORIGINAL CORPORATION

1 St Heliers St,
The Abbotsford Convent,
Abbotsford VIC 3067
(03) 9416 2905
reception@wurundjeri.com.au
www.wurundjeri.com.au



The Wurundjeri Woi-wurrung Aboriginal Cultural Heritage Aboriginal Corporation is a Registered Aboriginal Part appointed under the Aboriginal Heritage Act 2006 (the Act) that holds statutory responsibilities for the protection and management of Aboriginal cultural heritage places and objects; other functions of the Corporation include water governance, the provision cross cultural training and events, cultural heritage and land management services. Recognised as the RAP for an area of 6,107km², the Corporation covers 2.57% of Victoria.

Over the period of 2019/2020 the Corporation has seen considerable growth and diversification of activities despite coronavirus (COVID-19) pandemic related challenges. This has included the commencement and continuation of a number of projects across the various units of the business.

Since late 2019, the Corporation has been involved in an agreement-making project with Bunurong Land Council Aboriginal Corporation. The area subject to negotiation consists of the area immediately south of Wurundjeri Corporation's RAP area. A series of joint negotiation meetings have taken place and the findings of a joint research project are in the process of being reviewed.

CHMP and CHP evaluation remain the core focus of The Cultural Heritage Unit. The Division also remains active across a range of other projects including mapping exercises on The Stony Rises Project in the Merri Creek Catchment area and The Sunbury Cultural Landscape Research Project.

Water governance activity and initiatives have continued to take place on Wurundjeri Woi-wurrung homelands. The Bulleen-Banyule Flats Cultural Values Pilot Study set out to document the cultural significance associated with the Bulleen Banyule Flats stretch of the Birrarung. The findings determined that the area is a cultural landscape shaped and constructed through Wurundjeri Woi-wurrung occupation, land management, social structures and belief systems. This study provided the basis for recommendations to DELWP for the protection of Wurundjeri Woi-wurrung cultural values in urban planning processes.

Despite coronavirus (COVID-19) Stage 3 Stay at Home restrictions, community engagement activity continues through the delivery of cultural consultations, events, education and special projects. In line with public health advice and in the interest of community safety these services have shifted to a digital delivery mode.

As operations continue to expand across the various areas of the organisation, it is hoped a successful application to the Aboriginal Community Infrastructure Program will support the development of Cultural Centre at the Wurundjeri Corporation Galena Beek, Healesville. It is anticipated that an outcome of the application will be known in early 2021.

"As a Director, I feel proud of the work Wurundjeri Woi wurrung Corporation is doing. A core purpose of the Corporation is the protection, preservation, and revitalisation of Wurundjeri Woi wurrung culture and cultural practices as well as the opportunity to express culture in new ways. Another purpose of the Corporation is to be active in the governance of Wurundjeri woi wurrung Country, including working with the state and its agents to achieve this goal."

Aunty Alice Kolasa Elder/Director



YORTA YORTA NATION ABORIGINAL CORPORATION



2-8 Schier Street, Barmah VIC 3639
(03) 5869 3336
56B Wyndham Street, Shepparton VIC 3630
(03) 5832 0222
reception@yynac.com.au
www.yynac.com.au

The Yorta Yorta Nation Aboriginal Corporation (YYNAC) represents peoples with undeniable bloodlines to the Original Ancestors of the Land of the Yorta Yorta Nation. These bloodlines link Yorta Yorta peoples' past, present and future to one another, with traditional laws, customs, beliefs and sovereignty intact. Recognised as the RAP for an area of 13,199km², the Corporation covers 5.56% of Victoria.

YYNAC has undertaken a land and conservation plan for Ghow (Kow) Swamp. It is a recorded place in Yorta Yorta country and is of high significance in the landscape from the history of use of our people; the plan will help with future management of the swamp.

We have been working on a joint management plan for Barmah National Park through the Yorta Yorta Traditional Owner Land Management Board which was finalised in June 2020 and will be great outcome as it brings positions to the park and input to the management of Barmah National Park.

There have been numerous projects across country with the major one in being the Echuca Moama bridge which started in 2016. The project is at stage three in the major part of two river crossings, and we're working closely with the main contractor and Major Roads Projects Victoria.

Left image: CSIRO, Barmah Forest wetland, 2018

Right image: Michael Rawle, High Water Mark, Barmah National Park, 2014





