

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

DATE OF DECISION: 10 JUNE 2010

**Decision**

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

**Reasons for Decision**

***RAP application area***

A map was provided to the Council showing the area over which Framlingham Trust sought to be a RAP ([Attachment 1](#)). The Application area runs along the Victorian coastline from Tyrendarra East until Lorne, and then north from these two towns as far as Stawell.

***Traditional links***

The Application area follows the previous boundaries for which Framlingham Trust had responsibilities under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth). There was no indication that the Application area reflected the boundaries of any one or more Traditional Owner group.

Framlingham Trust was created by the *Aboriginal Lands Act 1970*. The membership of Framlingham Trust was based on a register of residents living on Framlingham Reserve. Council did not consider that the membership of Framlingham Trust was inclusive of any of the Traditional Owner groups with links to the Application area.

The Framlingham Trust application relied on the traditional links to the Application area of six families who have representatives who are members of Framlingham Trust. The Council did not dispute that these six families could establish traditional or familial links to parts of the Application area.

However, the Council remained of the view that Framlingham Trust was not established to represent Traditional Owners and was not an inclusive organisation for Traditional Owners (including any Traditional Owner group which might have traditional interests in part of the Application area).

On this basis, the Council decided not to appoint Framlingham Trust as a RAP.

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

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

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

***Native Title Agreements and Land Grants***

The Council took into account the fact that Framlingham Trust had entered into several Indigenous Land use Agreements (ILUAs).

The Council also took into account that Framlingham Trust had been granted title to the Framlingham Reserve under the *Aboriginal Lands Act 1970* (Vic) and still retained title in at least part of the area originally granted under that Act.

***Charter of Human Rights and Responsibilities***

The Council gave careful consideration to the Charter of Human Rights and Responsibilities Act 2006 (the Charter), in particular the relevant distinct cultural rights of Aboriginal persons in s 19(2)(a) and s 19(2)(d) of the Charter. It has formed the view that a decision not to register Framlingham Trust is compatible with the Charter.

***Other Matters***

The Council noted advice from Framlingham Trust that a new RAP application would be made by a new organisation established to represent Traditional Owners from the area, including members of Framlingham Trust. Framlingham Trust also advised that this organisation would include the majority of the South West Native title Group.

***Conclusion***

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



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**Mick Harding**  
**Victorian Aboriginal Heritage Council**