



Victorian Aboriginal Heritage Council

**Progress Report
against Council's
statutory role:** 2006 to 2010

Abbreviations

AAV	Aboriginal Affairs Victoria
The Act	<i>The Aboriginal Heritage Act 2006 (Vic)</i>
The Charter	The Victorian <i>Charter of Human Rights and Responsibilities 2006</i>
CHMP	Cultural Heritage Management Plan
Council	Victorian Aboriginal Heritage Council
The Minister	The Minister for Aboriginal Affairs
RAP	Registered Aboriginal Party
The Register	The Victorian Aboriginal Heritage Register
RPfC	Project Right People for Country Project
The Secretary	The Secretary of the Department of Planning and Community Development

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Progress against Council's statutory role – 2006 to 2010



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Victorian Aboriginal Heritage Council



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

The Act passed through Parliament in May 2006. Council first met in late 2006, before the legislation commenced on 28 May 2007. Council's key priority between 2006 and 2010 was determining Registered Aboriginal Party (RAP) applications. RAPs manage, protect and are the decision makers for their cultural heritage over their appointed area of land.

This report brings together some of the activities and projects completed by Council between 2006 and 2010 that deserve particular mention.

One of the critical achievements of this period was defining the principles that would be used in RAP decision making. These principles have consistently guided the Council in the past and will continue to do so in the years ahead.

The Council looks back at this time as its establishment phase when a new approach was put in place that gave priority to Traditional Owners to manage their cultural heritage and RAPs were recognised for more than half of Victoria.

Council is proud of its achievements and the strong foundations it laid down in this period, which will support Council in its future achievements and challenges.



Members of the Council with Gavin Jennings, former Minister for Aboriginal Affairs. Parliament of Victoria, 2006.

Decision-making roles of the Council under the Act

Receive and determine RAP applications

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

2006

Council received no RAP applications this year as the Act did not come into effect until May 2007.

2007

These provisions of the Act came into effect in May this year.

In the calendar year ending 31 December 2007, Council:

- Received 22 new applications;
- Appointed 4 new RAPs;
- Made 2 decisions to extend the area of a RAP;
- Declined 12 applications, 1 in part.

Two applications were withdrawn.

Council provided four RAP applicants with mediation to assist in resolving two disputes over Country.

Council began to develop general principles for RAP decision making.

2008

Council published its 'General Principles for RAP Decision-Making'.

In the calendar year ending 31 December 2008, Council:

- Received 8 new applications (total to date: 30)
- Appointed 3 new RAPs (total to date: 7)
- Made 3 decisions to extend the area of a RAP (total registration decisions to date: 5)
- Declined 7 applications, 3 in part (total to date: 19).

One application was withdrawn (total to date: 3)

Council held meetings in Ringwood, Ballarat, Echuca and Orbost to explain the RAP application process and Council's decision-making processes to applicants and interested parties.

2009

In the calendar year ending 31 December 2009, Council:

- Received 6 new applications (total to date: 36)
- Appointed 2 new RAPs (total to date: 9)
- Made 1 decision to extend the area of a RAP (total registration decisions to date: 6)
- Declined 6 applications (total to date: 25)

Council held a regional meeting in Swan Hill to explain the RAP application process and Council's decision-making processes to applicants and interested parties.

In July 2009, the Council Chair chaired the Project Committee for developing the RPfC project. The Project Committee consisted of representatives from the Council, the Victorian

2010

In the calendar year ending 31 December 2010, Council:

- Received 4 new applications (total to date: 40)
- Made no decisions to appoint new RAPs (total to date: 9)
- Made 1 decision to extend the area of a RAP (total registration decisions to date: 7)
- Declined 4 applications (total to date: 29)

Council held a regional meeting in Sale to explain the RAP application process and Council's decision-making processes to applicants and interested parties.

In June 2010, the RPfC Project Committee produced a draft report after meeting seven times over the previous 12 months.

Decision-making roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Receive and determine RAP applications Council to decide which Aboriginal groups will exercise cultural heritage responsibility.</p>			<p>Council provided three RAP applicants with mediation to assist in resolving a dispute over Country.</p> <p>Council was involved in a working group established by the Steering Committee for the Development of a Native Title Settlement Framework. The working group identified limited support and incentives for resolving intra- and inter-Indigenous disputes over group composition and boundaries. The working group recommended that a 'Right People for Country' project be developed to support Traditional Owner-led agreement making and this proposal was adopted by the Steering Committee in December 2008.</p>	<p>Traditional Owner Land Justice Group, Native Title Services Victoria, the Native Title Unit of the Department of Justice and Aboriginal Affairs Victoria. The full Council also met with the RPfC Project Manager to discuss Traditional Owner-led agreement making regarding group composition and boundary disputes.</p> <p>Council met with the Victorian Government Solicitor's Office to further consider its engagement with the Charter.</p>	

Decision-making roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Suspend or revoke RAP registration Council may view this as a general oversight role over RAPs – both to support RAPs to be successful as well as taking action where a RAP is not properly performing its responsibilities.</p>	<p>These provisions of the Act did not come into effect until May 2007.</p>	<p>No work was undertaken in this regard. Council focused on appointing RAPs after the Act came into effect in May of this year.</p>	<p>Council proposed holding annual RAP Forums to bring RAPs together to discuss issues and developments in the Aboriginal cultural heritage industry. Council arranged and took part in the first RAP Forum, which was held in Melbourne in December 2008.</p>	<p>Council took part in one RAP Forum this year, held in Melbourne in April, to meet with RAPs and to discuss RAP issues and developments in the Aboriginal cultural heritage industry.</p>	<p>Council took part in one RAP Forum this year held in Geelong in August to meet with RAPs and to discuss RAP issues and developments in the Aboriginal cultural heritage industry.</p>
<p>Consider CHMPs for approval where the Secretary is the sponsor and there are no RAPs in place or RAPs choose not to evaluate a plan</p>	<p>No CHMPs were received.</p>	<p>No CHMPs were received.</p>	<p>No CHMPs were received.</p>	<p>No CHMPs were received.</p>	<p>No CHMPs were received.</p>
<p>Consider applications for access to the Register Council receives requests from the Secretary to approve requests to access the Register that relate to areas where no RAP has been appointed.</p>	<p>Two applications were considered and both were approved.</p>	<p>Two applications were considered, one was approved and one was declined.</p>	<p>Three applications were considered, two were approved and one was declined. Council adopted and published policies to guide its consideration of requests from students and researchers.</p>	<p>Four applications were considered, three were approved and one was declined. Council adopted and published policies to guide its consideration of requests from individuals or groups identifying as Traditional Owners.</p>	<p>No applications were received.</p>
<p>Facilitate mediation between RAPs The legislative power specifically relates to mediation between RAPs.</p>	<p>These provisions of the Act did not come into effect until May 2007.</p>	<p>No requests were received.</p>	<p>No requests were received.</p>	<p>No requests were received.</p>	<p>No requests were received.</p>

Advisory roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Advise on the training and appointment of inspectors</p> <ul style="list-style-type: none"> ■ Council can advise the Minister on the training and appointment of inspectors ■ The Minister can specify training required by inspectors ■ The Minister must consult with the Council prior to appointing inspectors. 	<p>Council gave advice regarding the standard of training of inspectors and the processes involved in their appointment.</p>	<p>Council offered to develop and provide Aboriginal cultural heritage training for inspectors.</p> <p>Council also requested a progress report regarding the training program and that more Aboriginal people be appointed as Inspectors.</p>	<p>Advice was sought by the Minister in relation to the appointment of eight inspectors, and Council approved the appointment of the inspectors. Council members also attended inspector training run by AAV.</p>	<p>Council began developing training for inspectors to be jointly delivered by AAV and the Council.</p>	<p>Council was involved in providing training for inspectors this year. This was the first time this training was conducted and the training covered:</p> <ul style="list-style-type: none"> ■ Cultural awareness training; ■ Building relationships across different sectors of stakeholders to encourage voluntary compliance; and ■ RAP perspectives.
<p>Advise on fees for the payment of RAPs</p> <ul style="list-style-type: none"> ■ The Secretary may develop guidelines for the payment of fees to RAPs who participate in cultural heritage assessments ■ The Secretary must seek advice from the Council before making these guidelines. 	<p>Council gave advice to AAV about RAP fees and funding requirements.</p>	<p>Advice was sought from Council regarding the development of Guidelines for RAP fees for participation in cultural heritage assessments.</p>	<p>Council gave advice regarding RAP fees, contributing to AAV's development of the 'Fees and Conduct Guidelines for RAPs', published in 2008.</p>	<p>No advice was sought.</p>	<p>No advice was sought.</p>

Advisory roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Repatriation of Ancestral Remains and return of secret or sacred objects</p> <ul style="list-style-type: none"> Advise the Secretary and Museum Victoria on repatriation of human remains. 	<p>Council informed AAV that the Act provided an opportunity to improve understanding and awareness of processes involved in the repatriation of Ancestral Remains.</p> <p>No advice was sought in relation to the return of secret or sacred objects.</p>	<p>Council met with the Chair of the Commonwealth Repatriation Advisory Committee regarding the international repatriation of Ancestral Remains.</p> <p>Council received reports from AAV regarding Ancestral Remains.</p> <p>No advice was sought in relation to the return of secret or sacred objects.</p>	<p>Council met with Museum Victoria to consider issues regarding the repatriation of Ancestral Remains, including unprovenanced or poorly provenanced remains.</p> <p>Council received reports from AAV regarding Ancestral Remains. Council sought clarification regarding AAV's role in maintaining burial sites after repatriation.</p> <p>No advice was sought in relation to the return of secret or sacred objects.</p>	<p>Council received reports from AAV regarding Ancestral Remains. Council questioned funds available for maintaining burial sites and the roles of responsible agencies. Council sought involvement in the development of a Memorandum of Understanding between the Coroner, Police Commissioner and the Secretary regarding Ancestral Remains.</p> <p>No advice was sought in relation to the return of secret or sacred objects.</p>	<p>Council received reports from AAV regarding Ancestral Remains.</p> <p>No advice was sought in relation to the return of secret or sacred objects.</p>



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1. Council members and Richard Wynne, former Minister for Aboriginal Affairs, at the launch of Council's first strategic plan in 2008.
2. Council visiting sites with community members in Echuca, 2008.
3. From left to right: Justin Madden, former Minister for Planning; Eleanor Bourke, former Chair of the Council; Richard Wynne, former Minister for Aboriginal Affairs; Daryl Jackson, former Chair of the Heritage Council of Victoria, at the launch of A Framework of Historical Themes, 2010.
4. Council and RAP representatives at the RAP forum in April 2009.

Advisory roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Advise on protection orders, audits, requirements for CHMPs, permits, compulsory acquisitions</p> <p>The Minister can seek advice regarding the exercise of his/her powers in relation to:</p> <ul style="list-style-type: none"> ■ Interim or ongoing protection declarations ■ Proposals to require a CHMP ■ Whether a cultural heritage audit is necessary ■ Whether compulsory acquisition of land is appropriate ■ Any other matters requested by the Minister. 	<p>No protection orders were issued.</p> <p>No audits were conducted.</p> <p>No compulsory acquisitions were completed.</p>	<p>No protection orders were issued.</p> <p>No audits were conducted.</p> <p>No compulsory acquisitions were completed.</p>	<p>No protection orders were issued.</p> <p>No audits were conducted.</p> <p>No compulsory acquisitions were completed.</p>	<p>No protection orders were issued.</p> <p>Council provided the Minister with advice regarding a possible audit.</p> <p>No compulsory acquisitions were completed.</p>	<p>No protection orders were issued.</p> <p>No audits were conducted.</p> <p>No compulsory acquisitions were completed.</p>

Advisory roles of the Council under the Act

Advise the Secretary on the exercise of his/her powers under the Act

The Secretary can request advice from Council on exercising his/her powers.

2006

Council was established part way through 2006 and met for the first time on 18 October 2006.

2007

Council gave advice about the following:

- Operation of the Act;
- RAP funding and sustainability;
- Cultural Heritage Advisors; and
- Inspectors.

2008

Council was requested to provide advice in relation to the review of the 'Aboriginal Heritage Regulations 2007'.

Council gave advice about the following:

- the appropriate level of experience to work as a Cultural Heritage Advisor;
- The impact of the Charter on Council's decision making;
- The need for community education regarding CHMP processes;
- Review of the *Planning and Environment Act 1987*;
- Enforcement policy; and
- CHMP issues related to fire plans.

2009

Council gave advice about the following:

- Cultural Heritage Advisor Guidelines and the need to promote Aboriginal people working in the industry;
- Consultation for ongoing Protection Declarations;
- Inspectors;
- RAP funding;
- The Aboriginal Economic Development project;
- CHMP evaluations;
- Enforcement policy and powers;
- Beechworth Museum Project;
- Review of the *Aboriginal & Torres Strait Islander Heritage Protection Act 1984* (Cth);
- Windfarms;
- Government White Paper on Land and Biodiversity; and
- Support for Council decision making.

2010

Council gave advice about the following:

- Aboriginal Economic Development project *Moonda Wurrin Gree*;
- Review of the *Planning and Environment Act 1987*;
- The Right People for Country Project;
- Cultural Strengthening project work;
- RAP resourcing and capacity;
- Overemphasis on archaeology in CHMPs;
- Cultural Heritage Advisor Guidelines for experience, noting the need to promote Aboriginal people working in the industry;
- Increasing involvement of young Aboriginal people in the cultural heritage management industry; and
- Preliminary work for the review of the *Aboriginal Heritage Act 2006*.

Advisory roles of the Council under the Act	2006	2007	2008	2009	2010
<p>Advise the Minister on the protection of Aboriginal cultural heritage, including:</p> <ul style="list-style-type: none"> ■ Cultural heritage significance of places, objects or human remains ■ Effective management of cultural heritage and culturally sensitive information ■ Measures to promote the role of Aboriginal people in the protection and management of heritage ■ The standards of knowledge, experience, conduct and practice required of persons engaged in research into Aboriginal cultural heritage ■ Other matters referred by the Minister. 	<p>Council was established part way through 2006 and met for the first time on 18 October 2006.</p> <p>Council met with the Minister in October.</p>	<p>Council provided the Minister with advice in relation to:</p> <ul style="list-style-type: none"> ■ Funding for RAP applicants; and ■ A Farm Gate project being piloted in South West Victoria by the Department of Primary Industries. <p>Council met with the Minister in August.</p>	<p>Council provided the Minister with advice in relation to:</p> <ul style="list-style-type: none"> ■ RAP funding and sustainable RAPs; ■ The Victorian Indigenous Affairs Framework; ■ RAPs and the native title framework; ■ Local Government; ■ Inspectors; and ■ The review of the 'Aboriginal Heritage Regulations 2007'. <p>Council met with the Minister in April, May and September.</p>	<p>Council provided the Minister with advice in relation to:</p> <ul style="list-style-type: none"> ■ RAP funding; ■ Support for Council decision making; and ■ The necessary alignment of native title with cultural heritage management processes. <p>Council met with the Minister in May and October.</p>	<p>Council provided the Minister with advice in relation to:</p> <ul style="list-style-type: none"> ■ RAP funding; ■ The appropriate level of "extensive experience and knowledge" for Cultural Heritage Advisors under the legislation; ■ Legislative change needed to address sections of the Act relating to RAP applications; ■ The Planning and Environment Act Amendment Bill, and review of the State planning and policy schemes; and ■ An Ombudsman investigation pertaining to Council; and ■ The necessary alignment of native title with cultural heritage management processes.

Developing measures to promote public awareness and understanding of Aboriginal cultural heritage in Victoria under the Act	2006	2007	2008	2009	2010
<p>Opportunity for the Council to partner with Government to deliver a community education campaign.</p> <p>Opportunity to work with other stakeholders (e.g. Koorie Heritage Trust, Heritage Council of Victoria, Museum Victoria, National Trust of Australia (Victoria), Koorie Youth Council, other Indigenous Heritage Councils around Australia, New Zealand and Canada, etc).</p>	<p>Council was established part way through 2006 and met for the first time on 18 October 2006.</p> <p>A fact sheet about the Council was published and work began on a communications strategy to inform future activities.</p>	<p>Council arranged 11 meetings in regional Victoria. Aboriginal groups were invited to attend to obtain information about the Act, including the role of RAPs and how to make an application.</p> <p>Council met with the following stakeholders:</p> <ul style="list-style-type: none"> ■ National Native Title Tribunal; ■ Native Title Unit, Department of Justice; ■ Native Title Services Victoria; ■ Department of Primary Industries; ■ Repatriation Advisory Committee regarding international repatriation of Ancestral Remains; ■ Heritage Council of Victoria; and 	<p>Council identified stakeholder engagement as a key part of its Strategic Plan 2008-2011.</p> <p>Council wrote to the Federal Department of Environment, Water, Heritage and the Arts regarding UNESCO's Convention on the Protection and Promotion of the Diversity of Cultural Expressions.</p> <p>In addition, Council met with the following stakeholders:</p> <ul style="list-style-type: none"> ■ Department of Justice; ■ Native Title Services Victoria; ■ Municipal Association of Victoria; ■ Victorian Coastal Council; ■ Victorian Equal Opportunity and Human Rights Commission; 	<p>Stakeholder engagement continued as a key focus.</p> <p>Council wrote to the Federal Department of Environment, Water, Heritage and the Arts regarding the review of the <i>Protection of Movable Cultural Heritage Act 1986</i>.</p> <p>In addition, Council met with the following stakeholders:</p> <ul style="list-style-type: none"> ■ Native Title Unit, Department of Justice; ■ Fisheries Victoria; ■ Department of Sustainability and Environment regarding: the establishment of boards of management for the proposed Barmah National Park and Nyah Vinifera Park; 	<p>Stakeholder engagement continued as a key focus.</p> <p>Council met with the following stakeholders:</p> <ul style="list-style-type: none"> ■ Native Title Unit, Department of Justice; ■ Freedom of Information Assist Pty Ltd.; ■ National Native Title Tribunal; ■ Koorie Heritage Trust regarding collections; and ■ Fisheries Victoria. <p>The Council engaged with the Koori Job Fairs, seeking to get younger Aboriginal people involved in the cultural heritage management industry.</p>

Developing measures to promote public awareness and understanding of Aboriginal cultural heritage in Victoria under the Act	2006	2007	2008	2009	2010
		<ul style="list-style-type: none"> ■ Taskforce for Indigenous Cultural Heritage Law Reform, Department of Environment and Water Resources (Cth). 	<ul style="list-style-type: none"> ■ Heritage Council of Victoria; ■ Victorian Aboriginal Corporation for Languages; and ■ Museum Victoria. 	<p>the development of a Firewood Strategy; and Aboriginal peoples' participation in natural resource management;</p> <ul style="list-style-type: none"> ■ Victorian Equal Opportunity and Human Rights Commission regarding a community resource on self-determination; ■ Heritage Council of Victoria; and ■ Parks Victoria. 	<p>Council also gave feedback to AAV regarding a mini posters series to raise awareness and understanding of Aboriginal cultural heritage.</p>

Governance functions under the <i>Public Administration Act 2004</i> and other applicable legislation	2006	2007	2008	2009	2010
Strategic Planning	Council was established part way through 2006 and met for the first time on 18 October 2006. In November, arrangements were made for a strategic planning session to be held at the beginning of 2007.	Council undertook some work on its strategic focus for 2007-2008. The priorities identified were determining RAP applications, developing a policy voice, establishing positive working relationships with key stakeholders and building a positive profile for the Council.	Council developed and published a Strategic Plan for the period 2008-2011. Key priorities included: appointing and supporting RAPs, providing advice to the Minister, promoting community awareness and building a strong Council.	Council continued to implement its Strategic Plan for the period 2008-2011.	Council continued to implement its Strategic Plan for the period 2008-2011.
Internal policies and procedures	Council was established part way through 2006 and met for the first time on 18 October 2006. Policy work began in this area this year but was not endorsed until the following year.	Council adopted governance processes, including practices addressing decision making and managing conflicts of interest. Council also met Justice Tony North, Federal Court Judge, and Louise Anderson, Federal Court Registrar to discuss policy and procedures regarding decision making.	Council continued to develop and refine its governance processes.	Council instituted an annual review of Governance processes to ensure opportunities for improvement are identified and action taken.	Council conducted its annual review of governance processes. Council clarified the application of the <i>Public Administration Act 2004</i> to its procedures and developed a manual to guide Council members and to assist with the induction of new Council members.

Governance functions under the <i>Public Administration Act 2004</i> and other applicable legislation	2006	2007	2008	2009	2010
<i>Freedom of Information 1992</i>	Council received no requests under the legislation.	<p>Council lodged a return for the financial year ending 30 June 2007 as required by the legislation.</p> <p>Council received 2 requests under the legislation, both of which were subsequently withdrawn.</p>	<p>Council lodged a return for the financial year ending 30 June 2008 as required by the legislation.</p> <p>Council received 3 new requests under the legislation (total to date: 5).</p>	<p>Council lodged a return for the financial year ending 30 June 2009 as required by the legislation.</p> <p>Council received 14 new requests under the legislation (total to date: 19).</p>	<p>Council lodged a return for the financial year ending 30 June 2010 as required by the legislation.</p> <p>Council received 5 new requests under the legislation (total to date: 24).</p>

