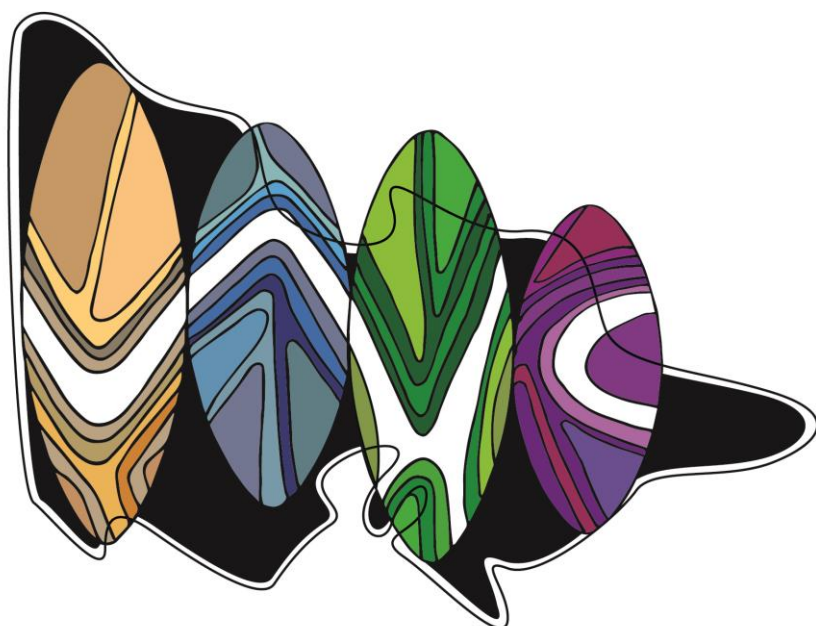


Registered Aboriginal Parties

Code of Conduct Guidelines

February 2021

These Code of Conduct Guidelines are published by the Victorian Aboriginal Heritage Council pursuant to sections 132(2)(ck) of the Aboriginal Heritage Act 2006



**VICTORIAN ABORIGINAL
HERITAGE COUNCIL**

1 Introduction

We have come some way from not just the wholesale taking of our Country and Culture, but how it is preserved, managed and, in some cases, celebrated. It wasn't that long ago that we were in the 'relics' era. Talked about in the past tense. Disempowered and disenfranchised from any meaningful role in managing or interpreting that which is sacred or important to us.

We now have the *Aboriginal Heritage Act 2006 (Vic)* (**Act**). It isn't perfect. We know it has limitations. We are currently engaged in a process of considering improvements and reforms to the Act. Started earlier in 2020 with the Discussion Paper 'Taking Control of Our Heritage' (www.aboriginalheritagecouncil.vic.gov.au/taking-control-our-heritage), Council is reviewing submissions and will make recommendations for legislative reform in 2021.

Registered Aboriginal Parties (**RAP/s**) are a critical part of the Cultural Heritage protection regime in Victoria. Recognised as Traditional Owner organisations, currently there are 11 RAPs that cover approximately 74% of Victoria. It is our hope that, in time, that coverage approaches 100%.

- Barengi Gadjin Land Council Aboriginal Corporation
- Bunurong Land Council Aboriginal Corporation
- Dja Dja Wurrung Clans Aboriginal Corporation
- Eastern Maar Aboriginal Corporation
- First People of the Millewa Mallee Aboriginal Corporation
- Gunaikurnai Land and Waters Aboriginal Corporation
- Gunditj Mirring Traditional Owners Aboriginal Corporation
- Taungurung Land and Waters Council Aboriginal Corporation
- Wadawurrung Traditional Owners Aboriginal Corporation
- Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation
- Yorta Yorta Nation Aboriginal Corporation

RAPs perform a wide range of functions that are set out in the Act. However, just as for Heritage Advisors, legislation can often leave gaps or unanswered questions particularly as they relate to conduct, expectations, and values. What we have seen over time is that RAPs as recognised traditional owner groups have taken on more and responsibilities that go beyond the technical aspects of managing and protecting cultural heritage.

These guidelines, which are made pursuant to our powers under 132(2)(ck) of the Act, aim to both clarify and codify the role of RAPs and the standards of work and conduct we should aspire to. The guidelines focus less on the technical aspects of archaeological practice which are in the Act but seek to illuminate the types of behaviours and best practice procedures for RAPs.

In setting out these guidelines, we recognise that not all RAPs are the same. The RAPs in metropolitan areas have particular types of work and pressures that are not felt in the more regional parts of Victoria. And on the flip side of this, the regional RAPs have their own priorities and challenges specific to their traditional Country.



These guidelines are as much for sponsors, Heritage Advisors, government agencies, and other stakeholders, as they are for the RAPs themselves. We hope that they will enable an understanding of what to reasonably expect when working with RAPs, just as the guidelines for Heritage Advisors do for their work with our priceless heritage.

Our aim is that RAPs operate to high standards of conduct and operate in good faith - with these values and expectations reciprocated by project sponsors and Heritage Advisors.



Rodney Carter
Chairperson



Sissy Pettit
Deputy Chairperson

Victorian Aboriginal Heritage Council
February 2021



2 RAP Fundamental Duties

The primary and fundamental duties and functions of RAPs are to:

- a) fulfil the statutory obligations required under the Act in a timely manner;
- b) be prompt, clear and consistent when involved in any Cultural Heritage Management assessments requiring either minor or major revisions or decisions;
- c) be clear about their expectations for involvement in any Cultural Heritage Management assessments at the beginning of the process; and
- d) provide advice, opinions or any other input into a project in a timely manner.

3 Standards For Professionalism, Integrity And Confidentiality

The RAP should:

- a) be considered a partner in the Cultural Heritage assessment process;
- b) be accountable to the requirements of the Act;
- c) endeavour to assess any Cultural Heritage Management assessments in a consistent fashion;
- d) behave in a reasonable manner with all stakeholders; and
- e) treat Heritage Advisors with collegial respect and courtesy.

Additionally, RAPs should not provide confidential business information to any third party.

If a RAP assesses another RAP's CHMP this should be done accordance with the standards of the RAP area in which the investigation is conducted.

It is the right of each person engaged in the heritage process to be respected and be able to work in a safe workplace. RAP employees and representatives will treat each other in a professional manner and with respect. At its most basic level this should include that RAP staff and associated stakeholders, including Heritage Advisors, comply with the *Racial Discrimination Act 1975* and the *Equal Opportunity Act 2010 (Vic)* and any other relevant workplace legislation. Racism or bullying has absolutely no place in this field or any work environment.



4 RAP Engagement

The overall guiding principle is that RAPs should be engaged throughout the entirety of the heritage assessment process. This is consistent with many parts of the Act, but also represent a best practice approach to working with Traditional Owners on their Country and investigating their Heritage.

At a minimum during the Cultural Heritage Management process, RAPs must be consulted during the due-diligence assessment process, including but not limited to:

- (a) inception meetings;
- (b) recording of any relevant oral histories related to the activity area (as per the current desktop guidelines);
- (c) the activity at any stage of the assessment (the RAP should be given the option to incorporate any other information);
- (d) Post-Standard meetings (unless indicated that this is unnecessary by the RAP);
- (e) Post-Complex / Conditions meetings;
- (f) during the fulfillment of the Conditions and Contingencies in the CHMP (if required);
- (g) incorporation of any Indigenous Cultural Values into the significance assessment of Aboriginal Cultural Heritage Places; and
- (h) having the option of how to be engaged for CHMPs and other heritage management mechanisms.

Field and/or Operational Engagement

RAP personnel should be engaged in any fieldwork.

The conduct of RAP personnel should be governed by internal RAP policies, and any relevant and applicable workplace legislation and regulation including *Occupational Health and Safety Act 2004*, any guidelines or directives outlined by Worksafe Victoria and the Environment Protection Agency. This would also include the incorporation of RAP or RAP Applicant Conditions and Cultural Values in the Cultural Heritage Management process.

RAPs' permission must be sought for the use of any Cultural or Intellectual Property (whether it is in the public domain or not).



5 Standards of Work

The standard of work expected from RAPs should be of a professional standard similar to that of a Heritage Advisor. Any guidance from Aboriginal Victoria in this respect should be followed. However, individual RAPs may have their own specific guidance about how work should be approached and designed. Another useful resource for fieldwork technique is contained in:

Smith, C., Burke, H. and Morrison, M., 2020. *The Archaeologist's Field Handbook: The essential guide for beginners and professionals in Australia*. Routledge.

Fieldwork needs to be conducted in a fashion that adheres to the agreed (with the RAP or AV) methodology that where possible can be replicated, recorded and excavated in a professional, scientific and consistent manner.

RAPs undertake assessment of CHMPs and reports or other written work in a fair and reasonable manner, including reference to:

- [Cultural Heritage Management Plan - Evaluation Checklist](#)
- [Format in which a Cultural Heritage Management Plan must be prepared](#)
- [Guide to preparing a Cultural Heritage Management Plan](#)

6 Fees for Services

The Act and the *Aboriginal Heritage Regulations 2018* set out a range of prescribed fees for different aspects of the Cultural Heritage Management Process. These include:

Section/Reg	Description
s 36(2)(b) r 82(1)	An application to an approved body under s 36(1) for a cultural heritage permit must be accompanied by the relevant prescribed fee.
s 54(3)(e) r 84	A written notice given to relevant RAP under s 54(1)(a) of a sponsor's intention to prepare a cultural heritage management plan must be accompanied by the prescribed fee.
s 62(3) rr 85-87	An application to a RAP under s 62(2) for approval of a cultural heritage management plan must be accompanied by the prescribed fee.
s 66A(4) r 89	An application under s 66A(1) to amend a cultural heritage management plan must be accompanied by the prescribed fee.

However, outside what is prescribed in the Act, RAPs are permitted to determine their own fees for the services they provide. These service fees recognise that these organisations are self-determining in how they manage their Cultural Heritage. It is also an express reflection that each RAP will be different, cover different terrain, and have different cultural structures that shape how they want their Heritage respected.



7 Continuing Professional Development

It is important that RAP staff continue to develop their knowledge, skills and professional behaviour throughout their working life. RAPs should facilitate opportunities for their staff:

- (a) participate in activities that maintain and further develop their knowledge, skills and performance. The Australian National Committee for Archaeology Teaching and Learning Skills Passport, produced by the Australian Archaeological Association, is an appropriate way to demonstrate the active and continuing development of these competencies as they relate to Cultural Heritage management (<https://australianarchaeologicalassociation.com.au/skillspassport/>).
- (b) are encouraged to support the intergenerational transmission of cultural knowledge in non-formal settings.





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