

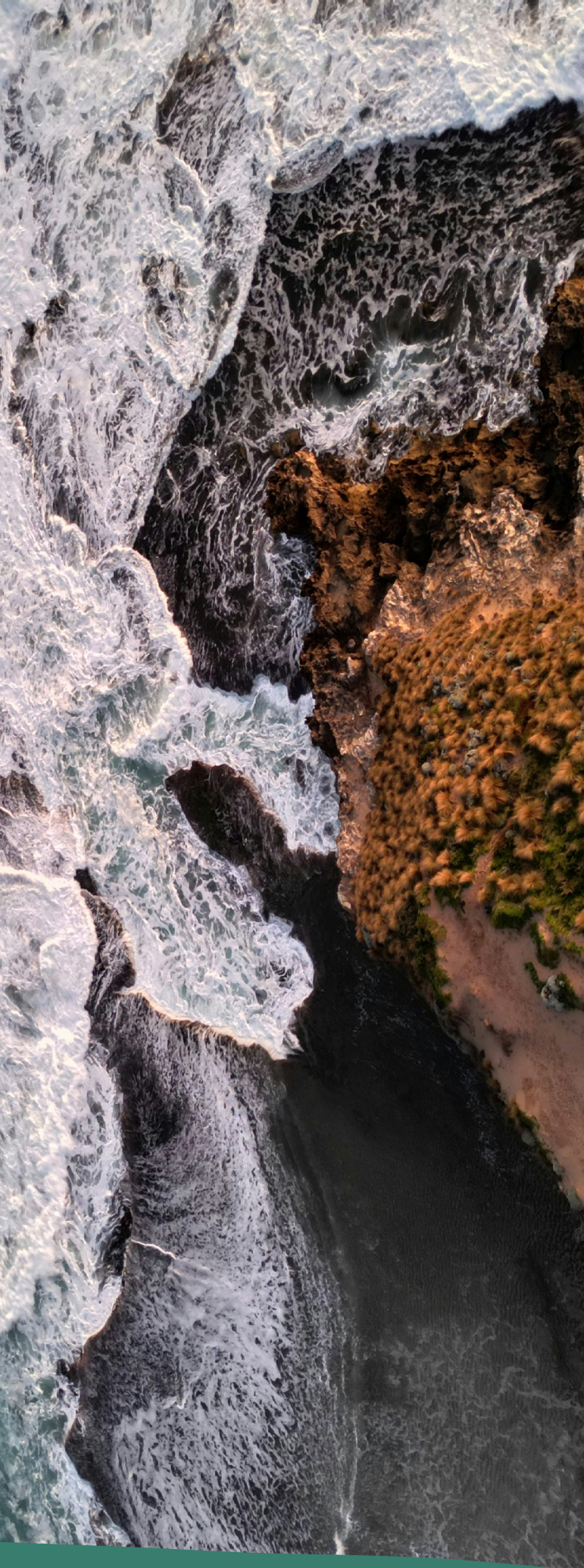


FNLRS

FIRST NATIONS
LEGAL & RESEARCH
SERVICES

FORMAL RECOGNITION
AS TRADITIONAL
OWNERS OF COUNTRY
IN VICTORIA

**What is a Registered
Aboriginal Party?**



WHAT IS A REGISTERED ABORIGINAL PARTY?

Registered Aboriginal Parties (RAPs) are Traditional Owner corporations that are appointed under the *Aboriginal Heritage Act 2006 (Vic)* (the **Aboriginal Heritage Act**) to manage and protect Aboriginal cultural heritage over their Country including coastal and onshore waters.

The Aboriginal Heritage Act recognises RAPs as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage and the primary source of advice and knowledge on matters relating to Aboriginal places or objects in their appointed RAP region. It does not recognise Traditional Owner rights and interests in land and waters in the way native title and Traditional Owner settlements do.

RAPs have cultural heritage responsibilities under the Aboriginal Heritage Act, including:

- evaluating Cultural Heritage Management Plans (**CHMPs**);
- making decisions about cultural heritage permit applications;
- providing advice to government and to the Victorian Aboriginal Heritage Council (the Council) about Aboriginal places and objects;
- custodianship of Aboriginal Ancestral Remains and Secret and/or Sacred Objects;
- participating in cultural heritage agreements, protection declarations and intangible heritage processes;
- consulting with sponsors and heritage advisors; and
- undertaking cultural heritage assessments, including engaging in compliance and enforcement activities.

There are currently 11 RAPs covering approximately 75% of Victoria. A map of Victoria's RAP appointments is available on the Victorian Aboriginal Heritage Council (the Council) www.aboriginalheritagecouncil.vic.gov.au.

WHAT ARE THE OUTCOMES OF APPOINTMENT AS A RAP?

On appointment, RAPs receive an establishment grant and can collect fees for cultural heritage management activities. They also receive annual operational funding for an Executive Officer, Cultural Heritage Officer and Administration Officer and are eligible for funding for an Aboriginal Heritage Officer position to monitor compliance and enforce the Aboriginal Heritage Act.

Each RAP has a reserved seat on the First Peoples' Assembly of Victoria, the current elected voice for Aboriginal people and communities in the Treaty process.

WHAT IS THE PROCESS TO BECOME A RAP?

RAPs are appointed by the Council, an independent statutory body of up to 11 Traditional Owners, established under the Aboriginal Heritage Act.

The Aboriginal Heritage Act says that Traditional Owner Corporations under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) (**CATSI Act**) can apply to become a RAP if they are:

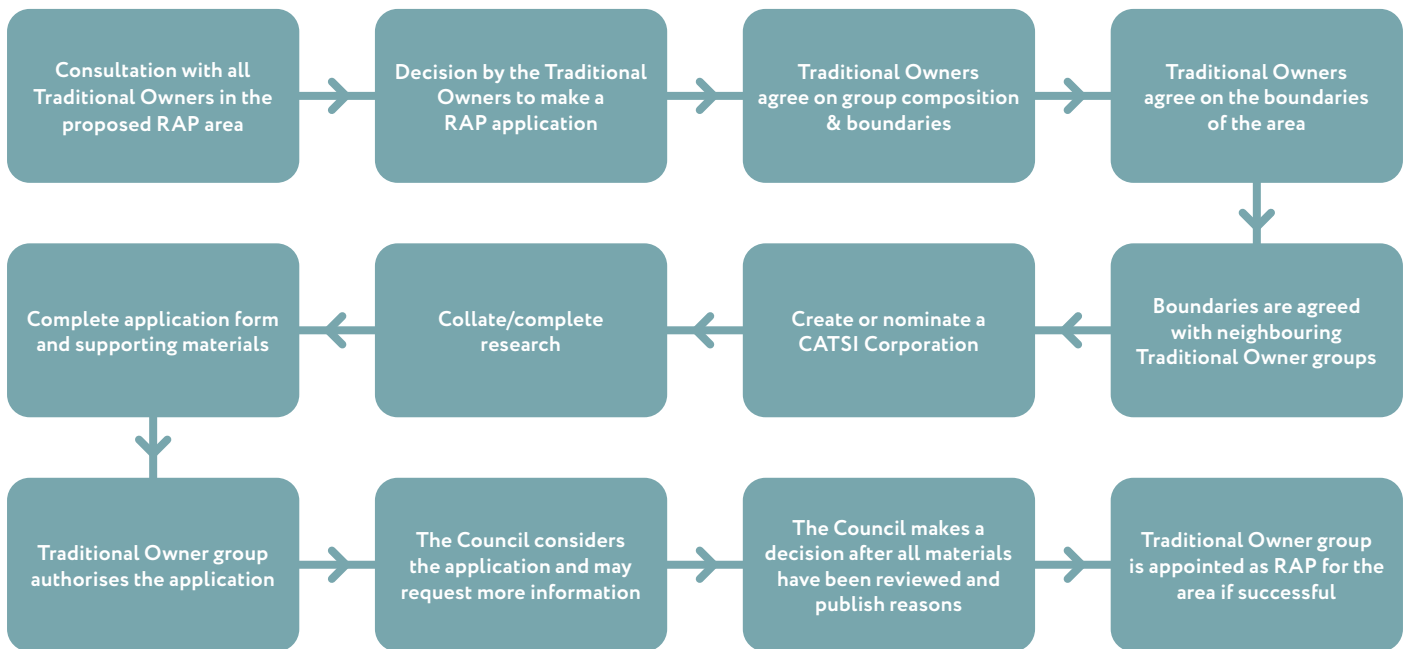
- representative of Traditional Owners in the application area; or
- a Registered Native Title Body Corporate (**PBC**) with a native title determination over the application area; or
- a Traditional Owner Group Entity (**TOGE**) with a settlement agreement over the application area.

Aboriginal groups with historical or contemporary links to the application area and demonstrated expertise in managing and protecting Aboriginal cultural heritage can also apply.

A group that has a native title determination under the *Native Title Act 1993* (Cth), or a settlement under the *Traditional Owner Settlement Act 2006* (Vic), must be recognised as a RAP after making an application to Council. Appointment of those groups will result in the deregistration of any existing RAPs appointed on other grounds, including on the basis of historical or contemporary links only.

HOW IS AN APPLICATION TO BECOME A RAP MADE?

Traditional Owner Corporations can apply to become a RAP by submitting an application form. The Council has also published a set of guidelines for applicants. The RAP appointment process is as follows.



Timeframe

The Council has 270 days to determine applications for RAP status. If the Council requests additional information, that timeframe is paused until the information has been received.

Evidence required

The Council assesses the information provided in the application. Generally, lower standards of evidence are required than under native title and settlement processes.

To apply for RAP status you must provide:

- proof of incorporation under the CATSI Act;
- a map and/or written description of the area;
- a copy of certain evidence if the applicant is a native title group or has a settlement with the State Government; and
- statements and supporting documentation demonstrating:
 - ◊ representation and inclusion of Traditional Owners and ongoing relationship to the area claimed; and/or historical or contemporary links to the area claimed;

- ◊ expertise in cultural heritage management and organisational capacity and sustainability;
- ◊ how the applicant will consider the interests of Aboriginal people for whom the application area has cultural heritage significance, but who are not Traditional Owners;
- ◊ consultation or agreement making with other Traditional Owner groups regarding boundaries; and
- ◊ previous RAP applications, if any.

Support available

On request from Traditional Owner groups pursuing formal recognition, First Nations Legal & Research Services may provide legal and research advice and support in relation to RAP applications, provided that the group is inclusive of all those who hold or may hold native title for the area covered by the RAP application. The Council and the Department of Premier and Cabinet (First Peoples – State Relations) can also assist with applications.

HOW IS A GROUP APPOINTED AS A RAP?

The Guidelines for RAP applicants state that the Council prioritises applications that are:

- made by groups that represent Traditional Owners; and are
- uncontested and have the support of the Traditional Owners for the area.

The Council encourages smaller groups to create sustainable RAP structures by working together to create a single entity or to develop co-operative arrangements with other Aboriginal organisations.

The Council can give recognition to applicants over an area of their core, uncontested Country while they are determining boundaries with neighbouring groups over the remainder of the intended application area.

The Aboriginal Heritage Act recognises that more than one Traditional Owner group may have responsibility for particular areas of Country and allows for the appointment of more than one RAP for an area. The Council may appoint a RAP subject to conditions (e.g. when assessing a CHMP, the RAP will consult with the adjacent RAP/ Traditional Owner group).

For more information see the Council's factsheet on Registrations of Multiple RAPs for a Single Area on the Council's website

www.aboriginalheritagecouncil.vic.gov.au/registration-multiple-raps-single-area

MORE INFORMATION

For more information, visit the

Victorian Aboriginal Heritage Council
www.aboriginalheritagecouncil.vic.gov.au

First Nations Legal & Research Services
606/425 Smith Street, Fitzroy VIC 3065
(03) 9321 5300
info@fnlrs.com.au
www.fnlrs.com.au

A **Glossary of Terms** used in this document can be found at www.fnlrs.com.au/formal-recognition-resources

The purpose of this information sheet is to provide an overview of the three types of formal recognition available to Traditional Owners of Country in Victoria. It is intended to provide an overview of what you can expect the process to involve, understanding that the process will be different for each group. This information sheet is not legal advice and should not be relied upon as legal advice.

October 2022