



Environmental
Justice Australia

Yarra River protection and management

Options for a legislative scheme

On 20 February 2016, Environmental Justice Australia (EJA) and the Yarra Riverkeeper Association (YRKA) convened a workshop for community groups and environmental organisations as part of a joint project on community participation in design of a Yarra River Protection Act. This initial workshop was aimed at considering the range and nature of issues relevant to a community vision for the Act and its institutional arrangements. A range of interesting ideas and proposals emerged from that workshop. This paper seeks to build on that exercise and progress toward more detailed proposals and options for legislation.

Our project is not intended to prepare detailed legislation but rather a broad model and framework for an Act, based on a consensus of those groups and individuals participating in this legislative design process. The options outlined in this paper represent broad models, including key legislative provisions, tools, institutions, duties, functions and powers, and where and how these should apply.

Key framing questions proposed on the 20 February workshop included:

What issues and questions need to be dealt with?

What is possible? What can a Yarra Act do? What are the limits of this legislation?

What is desirable? What do we want a Yarra Act to do? What opportunities does it present?

Some common themes and ideas from Workshop 1

Certain common goals or objectives were expressed across the first workshop that community participants wished to see embedded in a Yarra River Protection Act. These include:

- that the geographic extent of application of the Act be from 'source to sea', albeit perhaps with the limitation of extending to the Upper Yarra Reservoir as distinct from the actual, natural source of the Yarra River ('the River'). It is also noted that the Government has indicated the section of the River governed by the Port of Melbourne is carved out of the legislative framework.



- that land use planning issues represent primary, although not exclusive, considerations in the development of legislative models. Matters such as water management, public land management, biodiversity, and heritage are important matters to be integrated into the preferred model, but there is a need to establish planning as a cornerstone of the legislative framework.
- that the Act needs to be designed in a manner that reflects the importance of both the social and public dimensions of best practice management of the River and environmental dimensions of best practice.
- that the Yarra River Trust (or whatever institutional arrangement is established) should be a statutory authority.

‘Public values and natural values’

A strong and repeated theme represented in narratives regarding protection of the Yarra River is the intention to do so in order to safeguard and affirm both social benefits associated with the River and environmental or natural values. While recognising these values can and do overlap, they can also be distinguished to the extent, for instance, that social values might be connected to recreation, aesthetics and amenity, open space and public access to the River or contiguous spaces, and environmental values are identified with the intrinsic values of biodiversity, water quality and flows, land management, and aquatic ecology. It is self-evident that there are diverse and important natural values and ecological processes provided by the River system (including the River channel, floodplain and catchment), although in some sections – notably in urban Melbourne – this is an urban landscape that might be more accurately described as ‘naturalistic’.¹ The complex of social values associated with amenity, open space, public access, tourism and recreation collectively might be said to represent the benefits or values the public generally derive from the River system and ecology. To this end, the term *public values* is used to represent the range of benefits exhibiting a social character.

The new Victorian Planning Provisions adopted for the River reflect this blend of natural and public values:

[The objectives of the Yarra River Protection clause are to] Maintain and enhance the natural landscape character of the Yarra River corridor in which the topography, waterway, banks and tree canopy are dominant features providing a highly valued, secluded, natural environment for the enjoyment of the public.²

Possibilities for a legislative framework

Having regard to these common themes, the framing questions above and ideas from the day, we think it is now timely to ask:

What are the options for a legislative scheme?

What are the possibilities?

A range of model options for the Act is proposed below. These include:

- a Yarra River Advisory model
- a Yarra River planning model
- a new Yarra River catchment management (NRM) model
- a Yarra River integrated waterway model.

More detailed features of each model are laid out in the Appendix to the paper.

¹ See e.g. *Watkins v Booroondara City Council* (Red Dot) [2013] VCAT 824 (10 May 2013), [40]: ‘The character of this reach of the river from publicly accessible areas is overwhelmingly one of a naturalistic and vegetated landscape setting... The landscape character comprises a mosaic of native and exotic vegetation including weed species but both contribute to the area’s naturalistic setting.’

² *Victorian Planning Provisions*, cl 12.05-2 (Yarra River Protection). See also *Watkins v Booroondara City Council* (Red Dot) [2013] VCAT 824 (10 May 2013), [46]: ‘Statewide policy identifies the Yarra River corridor as one which is of significance to Metropolitan Melbourne. It is valued for its environmental, conservation, cultural, aesthetic, open space, recreation and tourism assets.’

In summary, each of the models expresses a set of possibilities for a Yarra River legislative framework. Ranging from Options 1 to 4, the general approach here is proceed from more limited, 'lighter touch' approaches to stronger, more expansive and regulatory approaches.

These models are not intended to exclude other proposals, modification or 'cherry-picking' of elements that may be useful. They are framed, broadly, to take account of key questions, such as how wide-ranging should be the scope and purpose of a Yarra River Protection law, what underpinning powers and functions should be established under such an Act, and in what sort of body should they be invested.

Summaries of each proposed model

Option 1 – A Yarra River advisory model

This model would establish advisory arrangements for management of the River. The broad objects of the Act, such as protection and enhancement of natural and public values, would be similar to other models, but the focus of functions and powers is for guidance and policy-making rather than direct regulation. A key function under the Act might also be coordinative – bringing together agencies, Councils, community and other actors in order to achieve the ambitions of the Act (protection and restoration of River values). These functions and powers could be directed to catchment areas, such as tributaries and adjacent land management, as well as the River corridor directly. So, for example, the Trust might be a relatively specialised body advising Council, Melbourne Water, EPA, Parks Vic on protection of the River, subject to an appropriate plan or set of guiding policies. It may have the status as a referral authority for land-use planning purposes.

Option 2 – A Yarra River planning model

This model proposes that the Yarra River Protection Act establish a framework for land-use planning along the River corridor, primarily using the existing planning system to do this.

The object of the Act would be to protect and enhance the public and natural values of the River, using the tools of the planning system to do so, in particular planning schemes and the vesting of appropriate planning powers and functions in the Trust (the Trust as a planning authority, referral authority and/or responsible authority as appropriate).

Option 3 – A Yarra River integrated waterway management model

This model proposes a framework in which land-use planning functions for the River are strengthened with special arrangements, as are water resources (flows and extractions) regulation, biodiversity and public land management, and catchment management. The proposal is to establish a system of integrated management of these different activities, although with targeted management of areas and activities beyond the River corridor. This model seeks to recognise a need for direct planning and regulation in the River corridor, but also the need for forms of regulation and management extended to strategic areas of the catchment, such as tributaries and adjacent lands beyond floodplains and the river channel. To achieve this, the model proposes core and non-core (buffer) management areas, with the intention for planning and regulatory powers to apply to core areas (River corridor) and both coordinative and, if necessary, directive power applying to non-core areas (especially tributaries and lands on which activities are likely to have a significant impact on the values of the River).

Option 4 – A Yarra River catchment management (NRM) model

This model proposes integrated natural resource management (NRM) across the River catchment. It would establish a comprehensive catchment-wide and cross-functional regime, with the Trust at its heart with regulatory, policy-setting and engagement functions. Integrated NRM (catchment management) includes land-use planning in the River corridor, as well as in tributaries and surrounding areas likely to impact on the River. It also includes water management functions, responsibility for public lands, biodiversity and other land protection functions (for example, invasive species management). This model would establish and implement a catchment management framework within the existing catchment management arrangements (Port Phillip and Westernport CMA region), albeit one dedicated to the Yarra River catchment and with statutory plan-making powers.

Policy and management tools

Planning

Planning will be a pillar of any legislative arrangement for the management of the River. There has been a proliferation of plans and strategies for the River as part of the policy development process. Alongside this process, there are a range of statutory planning arrangements in place, such as land-use and development planning under the *Planning and Environment Act*, planning related to water management,³ and catchment plans and strategies.⁴

What form should Yarra River planning take?

Depending on the nature and scope of the Yarra River Protection Act, it is reasonable to assume that there will be a form of planning for management of the River (a 'Yarra River Plan') and the particular character of a River planning process will depend on what powers, functions, geographic reach, resources and purposes are included in the Act. It will depend on the role of a Yarra River Trust, as well as how that body will be expected to collaborate and work with public agencies, local communities and nongovernmental organisations.

The various ideal models for legislation identified above presuppose different forms and approaches to planning as well. For instance, if the Act establishes a more unified approach to land-use planning along the River corridor, it may be appropriate to prepare a general management plan for the entire corridor with the intention and expectation that this would guide the use of planning tools available under the *Planning and Environment Act*. Alternatively, it may guide preparation of a single Planning Scheme for the Yarra River corridor, or a series of inter-related Planning Schemes applicable to discrete reaches of the River.⁵

Under the catchment management model or the integrated waterway model, the approach may be to prepare and enact plans that are legally binding instruments, distinct from although directing the land-use planning system. These would be plans with legal effect under a Yarra River Protection Act. They might direct or influence the direction of other planning processes, such as what should be in a Planning Scheme or the Regional Catchment Strategy. But the primary planning instrument would be a tool for managing the River system more broadly (that is, through land-use planning and other means, such as management of water, public lands, environment, heritage and/or events) and be directly enforceable.

Different models for a Yarra River Plan

	Plan as policy or guidance	Plan as statutory instrument
Description	A 'Yarra River Plan' would be a management tool outlining key issues, opportunities, threats, actions, programmes and timeframes.	A 'Yarra River Plan' would be a regulatory tool or a legislative instrument with measures and provisions governing key issues, opportunities, threats, actions, programmes and timeframes.
Legal effect	Not legally binding (as in determining rights or dictating outcomes) but intended to guide decisions and judgements made by decision-makers, ⁶ such as planners or waterway managers. The force with which a plan-as-guidance controls decisions or outcomes can vary though. It may establish matters and actions to be adopted or pursued generally, or alternatively it may establish limits and controls on discretion or actions.	A legally binding instrument intended to direct and bind decision-makers and/or other actors. Likely to include controls and obligations.
Examples	Regional Catchment Strategies are examples of guiding NRM documents. Actions under them can be recommended for adoption through the planning system or environmental protection tools. Recovery Plans made under the Environment Protection and Biodiversity Conservation Act are a tool which control or limit actions: for example, environmental approvals must not be inconsistent with a recovery plan.	Municipal planning schemes and water planning instruments (such as bulk entitlements made under the Victorian Water Act or water resource plans to be made under the Basin Plan).

³ For example, bulk entitlements and environmental entitlements made under the Water Act 1989 (Vic) function as regulatory water planning instruments and are supported by policy instruments such as Melbourne Water's Healthy Waterways and Stormwater Strategy and the VEW's Seasonal Watering Plans.

⁴ Such as the Port Phillip and Westernport CMA's Regional Catchment Strategy.

⁵ A variation on this approach may be the capacity of the Trust to prepare a plan and recommend its adoption (or parts of it) through the planning system. This is a mechanism currently available to Catchment Management Authorities for Regional Catchment Strategies and Special Area Plans.

⁶ See *Moran Logging Company Pty Ltd v Yarra Ranges Shire Council (Directions Re Question of Law)* [2006] VCAT 1758.

What should be some of the key content to Yarra River planning?

Where legislation spells out the need for a plan or strategy to be prepared it is not unusual for key elements or content to be included in that instrument also to be spelt out in the law. For example, there are a range of issues and matters that must be included in Regional Catchment Strategies, such as assessment of natural resources and programs to manage them.⁷ There are a range of issues and matters that must or can be included in planning schemes.⁸ These provisions about content of plans typically include elements that *must* be included (mandatory provisions) and elements that *may* be included (discretionary provisions).

Several matters seem appropriate to be considered as mandatory elements of a planning framework for the River. These include:

- *applying a zonal structure to River management.* Various proposals about management zones along the course of the River have been proposed over time. The common delineation presently includes the CBD to river mouth reach (Punt Rd to the Bay), the suburban reach (Punt Rd to Warrandyte), the rural reach (Warrandyte to Upper Yarra Dam), and the upper reach (Upper Yarra Dam to source). There are other possible variations to this demarcation also, such as taking the entire estuarine section of the River as one zone (Dights Falls to the River mouth).
- *managing public values and natural values.* Plans should identify the public and natural values, their importance and priority, the tools for their management and how those tools are to be applied in practice. This could occur for each section (zone) of the River or, as relevant, the catchment, which the plan and Act seek to protect and/or enhance. Relevant values may be, for example, in rural areas, riparian management, water quality and run off issues, peri-urban development, the management of extractions and flows, or River access. In suburban areas, relevant values may be landscape amenity, public land and open space management, River corridor development, and stormwater/water-sensitive urban design arrangements.
- *developing a vision.* The obligation to prepare a vision for the River would assist in guiding management actions and programs both for the River overall and probably for particular zones or reaches of the River.
- *preparing an investment framework.* Whether as an advisory function or in the course of direct River management or regulation (for example as a planning authority or resource manager), an important task to be developed under the Act would be a plan/strategy for investment in the natural and public resources of the River. As distinct from revenue-raising (which might be in the Act itself), an investment framework would deal with important issues, such as where should restoration programmes be targeted and what should they look like? What works or other measures are needed to achieve the ambitions of the Act? What priorities should be set for management of the River as a whole and for particular reaches? What community campaigns should be run?
- *preparing a strategy for implementation, monitoring and review.* A great deal of NRM and planning policy and law falls at the hurdle of implementation. The primary planning instrument needs to include clear and effective measures for implementation of programs, rules and measures to achieve protection and (as appropriate) restoration of the River.

Discretionary elements that might be included in the management planning framework for the River could include:

- preparing subordinate plans or strategies for particular aspects of River management, such as biodiversity, public lands, water, heritage, open space and access;
- public participation or community engagement, including tools and techniques for deliberative consultation or collaboration;
- the role and nature of community education.

⁷ *Catchment and Land Protection Act 1989* (Vic), s 24.

⁸ *Planning and Environment Act 1987* (Vic), s 6.

Financing and funding

Funding to achieve objectives laid out in the Act and values represented by it will be essential to success. Questions of funding will be proportionate to the direction taken in river management and what approaches are taken to the legislative regime. For example, if the Act establishes an advisory arrangement are revenues might best be sourced from government funding? If it is a planning model or catchment management model should a governing body have rating or levy-raising powers, similar to a Council or water authority? If a Trust's duties and powers under the Act are substantial, including activities such as undertaking restoration, public land management and/or works, then it is foreseeable that a substantial pool of revenues will be needed to meet those obligations. One principle, linked to ecologically sustainable development, which may inform funding arrangements (especially where a levy or charge underpins them) is that beneficiaries of the ecosystem and related 'services' should pay for them, in which case it may be appropriate that downstream beneficiaries (for example in urban Melbourne, living in or near the River corridor) pay for the protection and restoration of River values upstream.

Indigenous values and uses

Wurundjeri have an ancient place and connection to the River. This needs to be recognised and incorporated into legislative arrangements for river management. The Yarra is Country. It has had an overlapping Aboriginal and European history for nearly 200 years. Recognition of the Yarra and its surrounding areas as part of Wurundjeri Country is expressed in existing initiatives⁹ and to a limited degree in law, such as through registration of cultural heritage artefacts or places.¹⁰ The Yarra River Protection Act provides an opportunity for more far-reaching expression of Aboriginal values, uses and identity in the River system.

In addition to existing approaches, such as Aboriginal heritage legislation, other options and possibilities for action include:

- requirements that identified Aboriginal cultural values and uses associated with lands and waters of the River are given expression in the Act;¹¹
- preparation of a Country Plan that might give effect to cultural values and uses;
- obligations that planning instruments operating under the Act as far as practicable are not to be inconsistent with Aboriginal uses and values and/or a Country Plan;
- obligations for deliberation with Wurundjeri over River management and planning;
- negotiation and adoption of a Recognition and Settlement Agreement under the Traditional Owner Settlement Act,¹² or other relevant agreement under that Act,¹³ which is then required to be incorporated into the planning and management arrangements for the River;
- re-naming of places along or associated with the River to original Aboriginal names;
- requirements for interpretation of sites, features and processes along or associated with the River to have Aboriginal (Wurundjeri) character or content.

These ideas are not intended to be definitive of approaches to Aboriginal recognition. The approach taken by the Act in this respect will clearly depend on the preferences and directions set by Wurundjeri. They may also be influenced by other policy processes, such as the Victorian Government's announcement of prospective Treaty negotiations with Victorian Traditional Owners.

⁹ See e.g. educational initiatives such as City of Yarra's 'The Aboriginal History of Melbourne', <http://aboriginalhistoryofyarra.com.au/>

¹⁰ *Aboriginal Heritage Act 2006* (Vic).

¹¹ Compare *Basin Plan 2012* (Cth), Ch 10, Part 14.

¹² *Traditional Owner Settlement Act 2010*, s 4.

¹³ Such as a natural resources agreement under Part 6.

Public acquisition and easements

Management of the River will invariably impact on private land, in which case it may be useful to provide for tools under the Act that allow an authority such as the Trust to acquire land, even compulsorily, if it is in the overall public interest to do so, or to create an easement or similar rights over land (for example to facilitate public access or passage over land). Putting these provisions directly in the Act may facilitate any dealings relating to land management. Where the Act establishes only an advisory or planning approach, they may not be so relevant or important.

Public participation in governance and administration

In many instances, statutory bodies are composed of governmental appointees. The main departure from this is local government, which are elected bodies. In some cases, such as Catchment Management Authorities (where a majority of members must be primary producers), governing bodies have requirements for classes of members. Other requirements, such as for particular types of expertise, are also common.

At this level of governing body membership there are various options that could be considered and which might depend in part on which legislative model is preferred. For example:

- Government-appointed body;
- partly appointed and partly elected, with election from ratepayers within a designated district or from local government rolls for those municipalities connected with the River;
- majority or entirely elected.

Further, it may be appropriate to have representation on the governing body that reflects the communities distributed along the River corridor – classes of membership for lower, middle and upper Yarra communities for example. Should there also be categories of membership for classes of ‘users’ of the River, such as recreational bodies, business, local community, environmental and indigenous interests?

Finally, public participation in statutory bodies frequently is limited to forms of ‘consultation’, including obligations to consult. These can be entirely appropriate and adequate in many circumstances. However, there are other participatory tools that could be considered to assist with administration and planning under the Act, especially where these tasks are complex, conflicted or difficult. These include:

- public hearing procedures, as for example are used by planning panels or in environmental assessments;
- meetings of interested or affected parties;
- other deliberative tools, such as citizen juries or local polls.

The value of these types of administrative mechanisms is that, while relatively resource-intensive, they can be avenues of genuine participation and even of extended community engagement and campaigning around particular issues or needs in River management.

For more information

Visit Act for the Yarra at actfortheyarra.org.au to find out more about the campaign for better laws for the Yarra.

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Environmental Justice Australia is the environment's legal team. We use the law to protect our environment, and we work to change our laws to make sure they protect the right of all Australians to clean air, clean water and healthy ecosystems.

The Yarra Riverkeeper Association is the voice of the River. Over the past ten years we have established ourselves as the credible community advocate for the Yarra. We tell the river's 'story', highlighting its wonders and its challenges. We monitor its health and activities affecting it. We run educational events and river tours, and give informative presentations to schools, community groups, the authorities and businesses. We work closely with numerous government bodies and NGOs and advocate directly and through the news media for river care.

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Appendix: Yarra River Protection Act – Potential models for a legislative framework

Legislative framework	Yarra River Advisory Model	Yarra River planning model	Yarra River integrated waterway management model	Yarra River catchment management model
Objects and purposes	Object of the Act is to establish a framework to guide decision-making and advise on management of the Yarra River corridor (and elsewhere as appropriate) for protection and enhancement of natural and public values. An additional object could be coordination of various actors involved in River management. The primary focus of the legislative framework is to achieve integrated management but without conferring direct statutory or decision-making powers on any body established under or instrument to that outcome. In particular, the Act and mechanisms established under it would guide decision-making under the planning system.	Object of the Act is to establish arrangements for integrated land-use planning along the Yarra corridor, for protection and enhancement of natural and public values. This would primarily be achieved through the existing planning system, ¹ with additional special arrangements made under this Act as necessary.	Object of the Act is to establish a broad-based and integrated river management system, similar to the 'catchment model', but with more nuanced focus and approach. For example, wider catchment management functions, such as management of tributaries or adjacent urban areas, would not necessarily be directly regulated or involve any ownerships or vesting of public lands in the Trust. <i>Coordinate and/or direct NRM management, including regulatory action as necessary, across identified core and non-core (e.g. buffer) areas. Achieve the protection and enhancement of public and natural values.</i>	Object of the Act is to establish a <i>broad-based</i> integrated catchment management system for the Yarra River, incorporating land-use planning, water management, public land management, biodiversity and environmental management obligations, and catchment management functions under the framework of a single Act, with the Trust established as a substantial overarching statutory authority.
Management principles		Discrete principles of management may not be needed, as implementation of the main features of the Act (objects, plan/strategy, exercise of functions and powers, etc) would primarily be delivered through the planning system. The underpinning principles of the planning system would suffice.	For the more elaborate catchment or river management models, establish a set of guiding principle may be appropriate and useful. For example, it may be appropriate to state that guiding principles include managing the River in an ecologically sustainable way, applying principles of adaptive management and resilience, public participation in decision-making, transparency and evidence-based decision-making, assuming a landscape-based and scaled approach to management.	
Geographic zonation (corridor)	The primary focus of the legislative scheme is the River corridor but it may be feasible under this model to include the tributaries, floodplains and areas indirectly impacting on the River. The advisory focus in this respect parallels advisory or referral functions beyond the 'core' areas of the Yarra under other models (e.g. planning model or integrated waterway model).	From CBD to Upper Yarra Dam, other than Port of Melbourne area. Relatively few land-use planning issues above Upper Yarra Dam, so extension of role upstream unnecessary. Primary area of responsibility is main stem of the Yarra, not tributaries (other than as referral authority, noted below).	Whole River corridor (other than Port of Melbourne), as well as key tributaries.	

¹ As establishment and functioning under the *Planning and Environment Act 1987*

Legislative framework	Yarra River Advisory Model	Yarra River planning model	Yarra River integrated waterway management model	Yarra River catchment management model
Geographic zonation (plan)	See above.	Bed, banks and floodplains (river corridor).	River corridor, plus tributaries and adjacent land likely to affect the River, but zonation of the River into core areas (river corridor) and non-core, buffer or transitional areas (including tributaries and land adjacent to River corridor but with likely impacts on the River system).	River corridor, plus tributaries and adjacent land likely to affect the River.
Functions and powers	<p>The focus of functions and powers conferred under the Act are advisory and guide decision-making about protection and enhancement of the values of the River. The Trust under this model might be a referral authority under various planning schemes for matters impacting on the River. In addition, it might advise other agencies or Government on matters concerning water management, biodiversity/ environmental management, public lands management, or recreation and open space issues. This model might flow from the evolution of the existing Ministerial Advisory Committee into a standing body.</p> <p>An alternative approach to this model would be to establish the Trust as an advocate for the River or a role analogous to the Sustainability Commissioner or a commissioner for the Yarra River. It would be an independent body designed to achieve the outcomes of the Act (public and natural values) through advocacy, reporting, campaigning, or organising.</p>	<p>Primary function is land-use planning in line with the existing planning system. The Trust functions as a planning authority and responsible authority for purposes of carrying out land-use planning functions over the River corridor. In this regard, the foci of the Act and the Trust would be strategic planning (e.g. preparing and implementing the planning scheme) and decision-making on individual developments (e.g. decision-making on permit applications). The Trust may also be a referral authority (that is, have advisory functions) for planning decisions on key tributaries and decisions likely to impact directly on the natural and public values of the River. Where planning functions extend to water-sensitive urban design in planning decisions (as planning authority or referral authority) then water management functions in scope.</p> <p>Effectively, the Act would transfer planning functions for designated areas from local councils to the Trust and from Melbourne Water (with respect to floodplain management) to the Trust.</p>	<p>Functions and powers operating under the Act would be distinguished into those applying to the River corridor (core zone) and those applying to adjacent catchment areas (buffer). In the River corridor the focus of powers would be regulatory and apply to land-use planning, water management, biodiversity and NRM. The focus of powers in buffer or transitional areas would be twofold:</p> <ul style="list-style-type: none"> to advise and coordinate as far as practicable with other agencies, actors or decision-makers in achieving River health and standards applying to public and natural values; where coordination and advice will not or is unlikely to lead to the protection and enhancement of public and/or natural values within a reasonable time, to direct agencies or decision-makers to take actions that will lead to this protection and enhancement. <p>In the context of planning and plan-making under the Act standards would be established for key public and natural values applying to the River.</p>	<p>Multiple functions and powers are conferred under the Act. In general, land-use planning functions remain a cornerstone of the framework of the Act. The integrated NRM model of the Act however also brings with the scope of the Act:</p> <ul style="list-style-type: none"> water management functions, such as water licensing under s 51 of the Water Act; public land management, with public lands vested in the Trust; biodiversity management obligations relating to in-stream, riparian and other biodiversity with an impact on the health of the River; water quality management. <p>In the context of planning and plan-making under the Act standards are established for key public and natural values applying to the River.</p>

Legislative framework	Yarra River Advisory Model	Yarra River planning model	Yarra River integrated waterway management model	Yarra River catchment management model
Landscape –scale planning	Planning for management of the River would primarily occur through development of policy or guidance documentation – that is, to guide provision of advice or referral decisions or, in the case of an advocacy role, to guide decisions as to policy action and collaboration with other actors. Analogous to the Sustainability Commissioner this policy development function might also include obligations to prepare an assessment or report on the Yarra (e.g. State of the Yarra report)	Prepare and implement landscape-scale planning via the land-use planning system, such as through a ‘Yarra River Planning Scheme’ incorporating existing relevant planning schemes and planning instruments.	The Act would require the preparation and implementation of a plan or strategy (‘Yarra River Plan’). The Yarra River Plan would be a statutory instrument. Other planning or strategic instruments may also be made, either within this legislative framework or, for example, as instruments under the planning system, although these would be required to be consistent with the overarching Yarra River Plan.	
Governance				
Institutional arrangements²	Yarra Trust could be a statutory authority or it could be established as a corporate entity with statutory backing under the Act.	Yarra Trust established as a statutory body under the Act. It may be a public authority, similar to a municipality, or a body corporate ³ .	Statutory authority	Statutory authority
Enforcement	Enforcement would not be a central matter for the Act as legally binding provisions for the most part would operate through other schemes and legislation, e.g. planning, water, public lands management, landowner duties.	Enforcement would operate primarily through the Planning and Environment Act, including for example open standing provisions in relation to review of permits.	Enforcement arrangements will be an issue under these models to the extent that regulatory measures operate under the Act, such as through forms of planning with a statutory basis or where the Trust or other agency/decision-maker has obligations or discretions under the Act (for example, to act consistently with governing principles or to grant licences or permits or to issue directions).	
Indigenous participation⁴	Wurundjeri have an advisory role or alternatively dedicated membership of the governing body.		Wurundjeri have an advisory role or dedicated membership of the governing body. In addition, Aboriginal values and uses associated with the River integrated into planning processes; if desirable and practicable for Wurundjeri, preparation of Country Plan and/or Traditional Owner Settlement Act agreements integrated into or complementary with River planning processes.	

² See also ‘Public participation in governance and administration’

³ As for instance the Port of Melbourne Authority: see Port Services Act 1995 (Vic), s 10, continuing in force by effect of Transport Integration Act 2010 (Vic), s 141B

⁴ See also ‘Indigenous values and uses’ section above.