

# BIRRARUNG Council

The voice of the Yarra

2020

SECOND YEAR REPORT



**Birrarung**  
Council

The voice of the Yarra



*The Yarra River is known as Birrarung, or River of Mists, to the Wurundjeri Woi-wurrung. In this report we refer to the Birrarung, the Yarra or simply the River.*

## Acknowledgement of Country

We acknowledge and respect the Traditional Owners as the original custodians of Victoria's land and waters, their unique ability to care for Country and deep spiritual connection to it. We honour Elders past and present whose knowledge and wisdom has ensured the continuation of culture and traditional practices.

## Chair's message

In writing this message, I am keenly aware of the steep learning curve that we have been on over the past 12 months. The Birrarung Council was established as a bi-cultural committee under the *Yarra River Protection (Wilip-gin Birrarung murron) Act 2017*, recognising the intrinsic connection of the Traditional Owners to the Yarra River and their role as custodians of the Birrarung land and water.



In working with the Wurundjeri Elders on Council, non-Indigenous members have learnt much and deepened their understanding of the issues affecting the Yarra River. I believe that the perspective of all members has changed; we see issues in new ways, and hear each other's voices with greater clarity.

In our *First Year Report* for 2019, the Council reflected on the work it had done to establish itself: it had begun its program of advice and advocacy, and initiated important stakeholder relationships across government and the community.

In 2020 we, like everyone else, faced unanticipated challenges from the COVID pandemic.

Within this challenging context, the Council has continued to operate, providing constructive advice to Ministers. The slowing of progress in finalising the Yarra Strategic Plan allowed us to put our energies into a range of advocacy projects.

In 2020 the Council:

- Commissioned important work on the concept of net gain, a key concept in the Yarra River Protection (Wilip-gin Birrarung murron) Act.
- Spent considerable time and effort developing the concept of 'the Great Birrarung Parkland'. We will continue to champion the extension and greater recognition of this unique asset, which was formally established under the river protection legislation.
- Initiated an exciting project as part of Design Week 2021, to re-imagine the north bank of the river in Burnley drawing on the voices of Traditional Owners.

Our role, as embodied in the Yarra River Protection (Wilip-gin Birrarung murron) Act, has one clear strategic goal: ensuring that our Birrarung is here for future generations as 'one living and integrated natural entity'.

Although public health and the related economic and social concerns have dominated thinking this year, it is critical that our living environment remains at the forefront of community consciousness and policy development. Just as our future relies on our physical and social health and a robust economy, so too is our wellbeing dependent on a healthy and sustainable environment. COVID has made many people value their green spaces more. This presents a great opportunity to advance the goals of the Yarra River Protection Act and strengthen community understanding and connection with the Birrarung.

In conclusion, I would like to recognise the contribution of Wurundjeri Elder, Uncle Allan Wandin, who has been a member of the Birrarung Council from its inception until the end of August this year. The Council has benefited greatly from Uncle Allan's insights and wisdom, and he has played a key role in ensuring the Council, as the 'voice of the River,' incorporates the perspective of Traditional Owners.

A handwritten signature in black ink, appearing to read "Chris Chesterfield".

**Chris Chesterfield**

Chair

# Our mission

The Birrarung Council serves as the ‘voice of the River’. It champions the interests of the Yarra as ‘one living and integrated natural entity’, as reflected in the Yarra River 50-year Community Vision and *Nhanbu narrun ba ngargunin twarn Birrarung – Ancient Spirit and Lore of the Yarra* (the Traditional Owners’ response to the Yarra River Protection Act).



The Birrarung Council is pleased to use its 2020 report to launch its new logo, which features an illustration of the Sacred Kingfisher.

We have chosen the Sacred Kingfisher as our emblem because it symbolises our role in relation to the Birrarung. Just as the Kingfisher looks out across the River, patiently observing everything that is happening on the ground and in the water from its vantage point, so the Council seeks to use its role in the new Yarra protection arrangements to provide strategic advice and advocacy in the interests of the River.



Photo: Alexandra Lee



Photo: Alexandra Lee

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# The role of the Birrarung Council

The Council has been established under the *Yarra River Protection (Wilip-gin Birrarung murron) Act 2017* to be ‘the voice of the River’.

Under this legislation, the Council is required to:

**(a) provide advice to the Minister:**

- on the protection and improvement of Yarra River land
- on the development, implementation, operation and effectiveness of a Yarra Strategic Plan, including its contribution to the protection and improvement of Yarra River land, and environmental, cultural and heritage values

**(b) advocate for protection and preservation of the Yarra River.**

The legislation is ground-breaking for four important reasons:

- it recognises (in the preamble) the intrinsic connection of the Traditional Owners to the Yarra River and their role as custodians of the Birrarung land and water, and gives them a permanent voice in the planning for and management of the Yarra River

- it recognises in law, for the first time in Australia, the River and its surrounding public land as one living and integrated entity for protection and improvement
- it provides for coordinated long-term planning to guarantee the health of the River, in the frame of the Yarra Strategic Plan
- it provides for the development of a 50-Year Community Vision to guide policy, with the Yarra Strategic Plan required to give effect to this vision.

The legislation, through the Yarra Strategic Plan, is the basis for a new, collaborative governance structure for the River, with state and local government stakeholders working with Traditional Owners to respect and protect the Birrarung and ensure its long-term health and wellbeing.

## Advice

Our advice is directed to government through Ministers, primarily the Minister for Water. We work with state government (including public entities and statutory authorities such as Melbourne Water), local governments and a range of non-government organisations.

## Advocacy

We have a broad role to advocate on behalf of the River, including to those conducting planning processes affecting the Birrarung; to state government on matters such as planning issues; to government authorities, including those responsible for major projects such as the North East Link; and to local government authorities on an ‘as needs’ or project-by-project basis. We also advocate to community groups and academic stakeholders, to raise awareness about issues affecting the River and about the role and work of the Council.

## Yarra River Governance Framework

***Yarra River Protection (Wilip-gin Birrarung murron) Act 2017***



**Yarra River 50-year Community Vision  
*Nhanbu narrun ba ngargunin twarn Birrarung* (Wurundjeri water policy)**

**Public entities**



- Lead agency
- Yarra Collaboration Committee (Local government and public entities plus the Wurundjeri)



- Develop Yarra Strategic Plan
- Apply decision making framework
- Apply land use framework

- Office of Commissioner for Environmental Sustainability



- Undertake State of the Yarra and its Lands assessment (every five years)



**Birrarung Council**

Advocate for the protection and preservation of the River

Review implementation of Yarra Act and Yarra Strategic Plan

Report to the Minister and Parliament on implementation by entities

# Council members

There are currently 10 members on Council, including two Elders of the Wurundjeri Woi-wurrung.



**Chris Chesterfield** (Chair) has been involved in river and catchment management in Victoria for more than 30 years. He has contributed to advancing the protection of rivers through recent roles as chair of several Ministerial advisory committees that have led to significant planning and legislative reforms including the *Willip-gin Birrarung murron* (*Yarra River Protection*) Act.

In addition to being Chairperson of the Birrarung Council, Chris is Commissioner and Chairperson of the Victorian Environmental Water Holder.



**Aunty Margaret Gardiner** is a Wurundjeri Woi-wurrung Elder, a board member of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, a member of the Dandenong and District Aborigines Co-operative Limited, and a member of the Secretariat for the Victorian Land Justice Group.



**Ron Jones** is an Elder of the Wurundjeri Woi-wurrung, Traditional Owners of the Birrarung and its lands. He is also a Board member of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.



**Allan Wandin** is an Elder of the Wurundjeri Woi-wurrung, Traditional Owners of the Birrarung and its lands.

He is also a Board member of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

**Kirsten Bauer** is a Director of ASPECT Studios – a global, urban design and landscape architectural practice.

Kirsten is a longstanding design reviewer and advisor to the Office of the Victorian Government Architect, RMIT University (where she is Adjunct Professor) and Melbourne University.



**Prue Digby** has had over 35 years experience in providing community and publicly related services to Victoria in the State, Local Government and not for profit sectors and is currently a Board member of Chisholm Institute and a Trustee of the Ross Trust. Her previous roles include Deputy Secretary Planning and Local Government; CEO, Victorian Building Authority; and CEO, City of Yarra.

**The River Protection legislation calls for the Birrarung Council to act independently of responsible public entities.**

**All Council members are committed to being:**

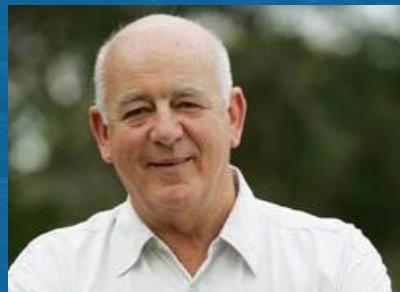
- **independent**
- **transparent**
- **accountable**
- **consultative**
- **expert**
- **considered.**



**Andrew Kelly** is the Yarra Riverkeeper, the spokesperson of the Yarra Riverkeeper Association. The association was instrumental in the advocacy for a Yarra protection legislation and a Yarra Trust. Andrew was active in contributing to the formulation of the Yarra River Protection (Willip-gin Birrarung murron) Act.



**Alexandra Lee** is a Landscape Architect with over 20 years experience in the private and public sectors, with a career focusing on urban water management. She is currently a member of City of Melbourne Parks and Gardens Committee and the Australian Institute of Landscape Architects Victoria's Reconciliation Committee.



**Warwick Leeson OAM** is the Chair of the Yarra Riverkeeper Association. He is a former mayor and councillor of the Shire of Nillumbik and has been a powerful advocate for Victorian waterways and open spaces in the riverine corridor. His 2013 Order of Australia Medal citation recognised his work in community rebuilding and recovery and in encouraging fire awareness planning in the aftermath of the 2009 bushfires.



**Dr Erin O'Donnell** has worked in water resource management since 2002, in both the private and public sectors. She is recognised internationally for her research into the ground-breaking new field of legal rights for rivers, and the challenges and opportunities these new rights create for protecting the multiple social, cultural and natural values of rivers.



**Bronwyn South** is Finance Manager at her family's apple and pear orchard / Angus cattle grazing enterprise on the Arthurs Creek. She is an active participant in Melbourne Water's Stream Frontage Management Program and is a Life Member of the Strathewen Landcare Group.

# Working as a bi-cultural council

Legislation requires at least two Traditional Owner representatives on the Council, as part of provisions to give Traditional Owners a permanent voice in the planning for and management of the Yarra River.

Given the frame of its enabling legislation, the Birrarung Council functions as a bi-cultural body. In order to do this, non-Indigenous members work with the Traditional Owner members to learn how to look at issues in a different way, to understand the Custodian's perspective on care for and connection to Country. We aim to build a collective Council understanding of Wurundjeri Woi-wurrung appreciation of the River and its corridor. This is an ongoing learning process.

This learning cannot occur just by sitting at the conference table but requires the Council to physically engage with the River. Our ability to go on Country as a group with Elders, to learn more about traditional culture and heritage, has been curtailed this year. We look forward to resuming these learning opportunities in 2021.

In shaping how we operate as a bi-cultural body, the Council is seeking to work as a true partnership between Traditional Owners and non-Indigenous members. All members have heard the concerns raised by the Wurundjeri at the Yarra Strategic Plan Panel hearings held in 2020. We heard about the need to guarantee cultural safety, to ensure respect for all parties and to engage meaningfully. In practice, what this means is recognising the unique perspective Elders can provide on the matters considered by the Council, ensuring Elders are guaranteed the opportunity to provide this perspective and a commitment that other members truly hear and understand these views. The Council understands that the way it works is as important as what it achieves.

The Council is committed to sharing its learnings as an emerging bi-cultural body with other entities who may also be operating in a bi-cultural context.



The historic moment in June 2017, prior to the introduction of the Yarra River Protection (Wilip-gin Birrarung murron) Bill when Wurundjeri Woi-wurrung Elders addressed the Victorian Parliament in English and Woi-wurrung language.

Photo: Jim McFarlane

# 2020 in review

## ADVISORY FUNCTION

### Advice to the Minister

The Council's advisory function requires it be both responsive and proactive in providing advice to government. Although our primary Minister is the Minister for Water, we raise issues with the Ministers for Planning and for Energy, Environment and Climate Change where this is in the interests of protecting the health and wellbeing of the River.

Over the course of the year, the Council has provided advice to relevant Ministers on the Yarra Strategic Plan and has also raised issues in relation to planning amendments and Indigenous water rights.

### Advice to support the development of the Yarra Strategic Plan

The Yarra Protection legislation requires the Council to advise on the development of the Yarra Strategic Plan. The Yarra Collaboration Committee (YCC), a forum of 15 agencies and the Wurundjeri Woi-wurrung, has responsibility for developing the Plan, and Melbourne Water is the lead agency for this work.

During 2020 we have worked closely with Melbourne Water as the Yarra Strategic Plan continued to develop, providing comments on drafts and changes to the Plan for consideration by the YCC.

Providing constructive advice on the Plan has been one of our most important tasks of the year. In providing our feedback we have been mindful of the need to be both positive and practical. We were pleased to see the changes, in later drafts of the Plan, which resulted from our comments on the need to emphasise the importance of the Great Yarra Urban Parklands as a major initiative.

Under the Yarra Protection legislation, Birrarung Council will provide advice to the Minister on the implementation, operation and effectiveness of a Yarra Strategic Plan, including its contribution to the protection and improvement of Yarra River land, and the environmental, cultural and heritage values. The COVID public health situation has impacted on the progress of the Yarra Strategic Plan which was due for finalisation and approval in 2020. It is now anticipated that a final approved plan will be available in calendar year 2021.

## ADVOCACY FUNCTION

### Formal submissions

The Council has lodged submissions in response to two public processes affecting the River:

- **the draft Yarra River - Bulleen Precinct Land Use Framework Plan.** The Council took the opportunity to lodge an updated submission in September 2020, further to its original submission lodged in June 2019. The submission is publicly available and can be accessed on the Council's website.

- **the Parliamentary Inquiry into Environmental Infrastructure.** This Inquiry is considering the current and future arrangements to secure environmental infrastructure, particularly parks and open space, for a growing population in Melbourne and across regional centres. The Inquiry is being conducted by the Environment and Planning Committee of the Victorian Parliament. This submission can also be accessed on the Council's website.

# 2020 projects

## NET GAIN PROJECT

The Council commissioned a project to reframe the concept of net gain. This work is being undertaken by a consortium of consultants, including an Indigenous team member, and managed by the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation.

The term 'net gain' is contained in the Yarra River Protection legislation which states that:

*There should be a net gain for the environment in the area of Yarra River land arising out of any individual action or policy that has an environmental impact on Yarra River land. (S 9 (4))*

The underlying premise for this project is that the stakeholders making decisions that will affect the Birrarung may need support in applying the principles of net gain to the River as one natural living entity. Although the concept of net gain has been around for some time, there has been a lack of clarity in how the term has been understood and applied.

It has, for example, been used interchangeably with concepts of neutralising harm and of equivalence in environmental impacts. There is now a clear need to develop policies and practices which go beyond a 'no net loss' or an offsets approach.

The project aim is to reframe the concept of net gain so it:

- is informed by contemporary bi-cultural thinking
- can be used by the Birrarung Council to support it in its role as advisor, advocate and 'voice of the River'.

An important strand in the new framing of net gain is the inclusion of a cultural dimension. Such a framing can include focus on the health of Country plus the health of connection to Country, in addition to more traditional environment only approaches.

A report will be available in 2021.



Photo: Alexandra Lee



## THE GREAT BIRRARUNG PARKLAND

The Yarra Protection legislation allowed for the gazetting of the Greater Yarra Urban Parklands (GYUP), for Yarra River Land as defined under the Act.

The Council believes that the concept of the Parkland is an opportunity to challenge conventional thinking about the nature of a ‘park’ as a parcel of land which exists for a public purpose.

The Great Birrarung Parkland (our alternative name for the Greater Yarra Urban Parklands) could encompass the entire landscape corridor of the River, including private land, and recognise its

environmental, historical and contemporary Traditional Owner cultural dimensions. In this way, the component areas that make up the Parkland may be diverse in character and ownership, but are still part of one living entity.

The narrative about the Parkland should convey that its significance is about more than just gazetted land, and relates to a combined landscape of all land parcels that form the river corridor landscape. Such an understanding would allow the public to more fully and respectfully experience the River, understand its cultural significance for all Australians and improve connection to the River.

We believe that the Parkland must truly be presented and understood as ‘one living and integrated natural entity’ rather than a series of land

parcels. We seek to bring together the thinking and actions to form a cohesive platform for change.

The Council plans a longer-term dialogue with a broad set of stakeholders, including YCC members as well as others bodies who can play a role in positive change. We will continue to advocate for an appropriate balance between protection and access. We seek better communication with the public about what the River has to offer, through maps showing the different places and ways to experience the Birrarung along its length, and through consistent signage, wayfinding and apps to encourage and assist people in connecting with the River as one integrated, living natural entity.

Under the Act, specified land is land that is adjacent to the Yarra River, or any part of which is within 500 metres of a bank of the Yarra River; and is one of the following types of land—

1. land reserved under the Crown Land (Reserves) Act 1978;
  2. land under the Land Act 1958;
  3. reserved forest within the meaning of the Forests Act 1958;
  4. land under the management and control of the Secretary under the Wildlife Act 1975;
  5. land that is a park within the meaning of the National Parks Act 1975;
  6. freehold land owned by a responsible public entity
- *Yarra River Protection (Wilip-gin Birrarung murron) Act 2017 s14(3)*

## NORTH BANK PROJECT

The Council has recently launched a planning and design project to re-imagine a key reach of the River, between Punt Road and Wallen Road in Burnley. This project is a practical exercise in how the concept of the Great Birrarung Parkland might be applied to the River.

This section of the River, despite being of major importance to its communities and to Melbourne as a whole, typifies some of the very poor decisions made in the past in relation to the Birrarung. It is dominated by the Monash Freeway with little public access on the north side. The Monash Freeway was constructed at a time when it was thought acceptable to sacrifice riverbanks for freeways. The thinking now has changed, so new creative ideas are required for urbanised stretches of the Birrarung such as this.

The Birrarung Council wishes to start new thinking to envisage what this stretch of the River could be. We wish to engage major stakeholders including from local and state government, and to enlist the creative energies of

architecture, building and planning students to generate innovative, bold and creative landscape outcomes that challenge the status quo.

The Council is planning a number of elements in what we have called the North Bank of the Yarra project. We are currently in discussion with three universities about running design studios and other activities for their students to re-imagine the North Bank.

We are also working with the organisers of Melbourne Design Week 2021 to present and explore design ideas through exhibitions and speaking events.

We plan to expand these activities in the future to explore new ideas, the concept of the Great Birrarung Parkland and the reframed definition of net gain.



Photo: Kirsten Bauer

## Council's enquiry process



In 2019 the Council initiated a formal enquiry process for collecting information from key public entities such as local government and relevant public entities about:

- how they are responding to the principles of the Yarra River Protection Act
- how they are working to give effect to the Yarra River 50-year Community Vision and Traditional Owner aspirations.

The Council began its program of meeting with responsible public entities involved in planning for and management of the Yarra, and in March 2020 met with Nillumbik Shire representatives. Our local government enquiry process was suspended from March due to COVID and will resume again in 2021.

We also received a presentation from the North East link Project in October 2020 on impacts of the project on the Yarra and the remediation planned in response.



Photo: Gary Beresford, Snapped Photography

# The year ahead

In 2021 the Council will complete its role in providing strategic advice on the Yarra Strategic Plan, with that document due for finalisation later in the year.

The Council looks forward to commencing its role in advising on the implementation of the Yarra Strategic Plan.

This important statutory function will constitute the core of the Council's mandated tasks for 2021. The Council will be focusing on the sorts of data to draw on in order to

build an accurate and meaningful picture of how effective contributing agencies are in implementing the Plan.

We also look forward to refining the ways we work as a bi-cultural body, working with Traditional Owners, Elders and communities on a range of River protection issues.



Photo: Alexandra Lee

# Priorities for 2021

In the coming year the Council will undertake the following functions and activities:

## Advice

- provide ongoing strategic advice to the Minister on protection of the River
- provide input to assist the final development of the Yarra Strategic Plan
- provide advice on the scope and adequacy of public participation processes for the Plan
- prepare strategic advice on challenges posed by climate and population growth and specifically the impact on waterways.



Photo: Alexandra Lee

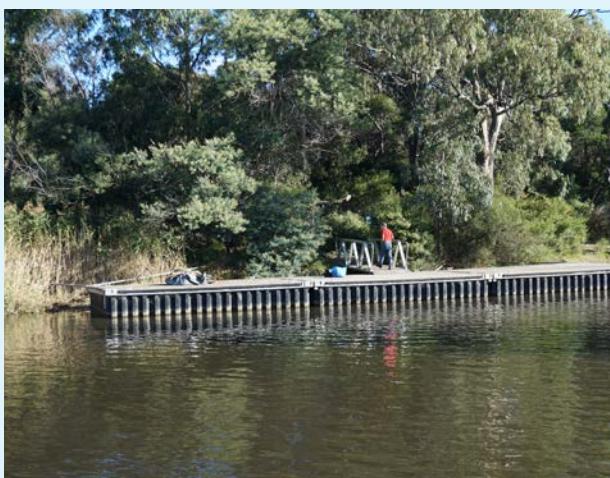


Photo: Alexandra Lee

## Advocacy

- monitor development arising from the Bulleen Precinct Land Use Framework planning processes, following on from our submission lodged in September this year
- plan Design Week activities to re-imagine the North Bank of the River at Burnley, and work with three universities who offer design studios for students
- release and promote the 'Reframing net gain' report
- promote the concept of the Great Birrarung Parkland to encourage greater appreciation of and respect for the River
- advocate for the Yarra River Action Plan and for the effective administration of the Yarra River Protection legislation
- advocate for effective planning controls as a key part of current initiatives for the protection of the River
- continue to work with relevant local government authorities in relation to their role as protectors of the Birrarung, providing support and advice where appropriate
- further develop our advocacy role so that we have maximum impact as 'the voice of the River'
- submit a yearly report on the Council's work.

## Stakeholder engagement

- hold seminars and forums with local government and community groups in relation to the Yarra Strategic Plan and Yarra Protection issues
- continue to build constructive relationships with those local government stakeholders who have the Birrarung running through their municipalities, and with other responsible public authorities.

# Longer-term outlook

Yarra protection requires a focus on the long-term future.

Following the release of the final Yarra Strategic Plan, the Council will undertake its legislated responsibility to advise on the implementation, operation and effectiveness of the Plan.

The commencement of our annual reporting to Parliament on the implementation of the Yarra Strategic Plan is contingent on the finalisation of the document.

The Council sees its role as not just reporting on how well entities are implementing the Plan, but also in working with these stakeholders to improve their approaches to protecting the River. We particularly look forward to working constructively with responsible public entities who have a role in Yarra management. We note that each faces different challenges and all are at different stages of preparedness for their responsibilities under the Act.



## Contact us

The Birrarung Council welcomes feedback. Contact us via our website: [www.water.vic.gov.au/waterways-and-catchments/protecting-the-yarra/birrarung-council-the-voice-of-the-yarra](http://www.water.vic.gov.au/waterways-and-catchments/protecting-the-yarra/birrarung-council-the-voice-of-the-yarra)

# Appendix 1

## Council members' attendance

The Yarra River Protection (*Wilip-gin Birrarung murron*) Act 2017 requires that the Birrarung Council must include at least two members who are nominees of the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation. The Wurundjeri Woi-wurrung Traditional Owners on Council in 2020 were Elders Margaret Gardiner, Ron Jones and Allan Wandin.

Allan Wandin resigned from the Council in August 2020.

There were 11 meetings of the Council in 2020.

Chris Chesterfield	11/11 meetings
Margaret Gardiner	8/11 meetings
Ron Jones	6/11 meetings
Allan Wandin	5/11 meetings
Alexandra Lee	11/11 meetings
Andrew Kelly	11/11 meetings
Bronwyn South	10/11 meetings
Kirsten Bauer	11/11 meetings
Erin O'Donnell	10/11 meetings
Prue Digby	11/11 meetings
Warwick Leeson	11/11 meetings

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