



IMAGINE
THE YARRA

DRAFT YARRA STRATEGIC PLAN PUBLIC CONSULTATION

SUBMISSION COVER SHEET

Submission Number:	214706
Name (Individual/Organisation):	Individual
Attachments:	Attachment 1 – Written submission

YARRA RIVER GOVERNANCE

SUBMISSION TO DRAFT YARRA STRATEGIC PLAN PROCESS

In response to Melbourne Water's request for comments on the Draft Yarra Strategic Plan, this document makes the following submissions:

- In the absence of a single authority responsible for the Lower Yarra, it is critical that principles of collaborative governance are applied to this river corridor.
- The components of a collaborative governance system need to be 'operationalised', with a sense of urgency.
- A piece of consulting work (possibly undertaken by academics) should be considered to assess the state of readiness of the current regulatory agencies for collaboration.
- The forms of collaboration that occur should involve a full range of stakeholders in governance processes, and not purely involve those operating within the Government sector.

1. Introduction

My name is [REDACTED]
[REDACTED]
[REDACTED] Melbourne Maritime Heritage Network (MMHN), a group dedicated to recognition of Melbourne as a great port city and acknowledgement of its maritime trade heritage, with interest in related policy issues. [REDACTED] MMHN's Waterways and Maritime Infrastructure Special Advisory Group. I have academic and research interests in the fields of maritime law, international trade and organisational governance. I am also a person with a passionate interest in the Birrarung, or Yarra River, particularly the Lower Yarra.

This submission is being made in my personal capacity, not in the name of any of the organisations with which I am affiliated, as there has been insufficient time (since I became aware of this submission-taking process led by Melbourne Water) for me to engage in meaningful consultations with the wider membership of these organisations.

I have had the opportunity to review submissions made by a number of my fellow Directors on the Board of MMHN, which have expressed concern about aspects such as the lack of focus in the draft Plan on post-1835 maritime heritage and the lack of genuine engagement

with stakeholders focused on ‘activation’ of the river and its banks. I concur with these concerns.

The current Draft Plan seems to reflect a nostalgic desire to reinstate a pre-1835 vision of the river, to the maximum extent possible. There is a risk that, in the fullness of time, this desire could lead to significant disagreements amongst legitimate stakeholder groups as to future uses of the river and its environs. For this reason, it is vital that governance arrangements put in place for the river should be robust and fit-for-purpose. They should, in fact, be exemplary.

In this submission I will focus on one specific aspect of the Draft Yarra Strategic Plan – the inadequacies of its proposed approach to river governance.

2. Background

This ancient river, called ‘Birrarrung’ by the indigenous inhabitants of what is now Victoria, has been significant in the development of the City of Melbourne in a range of ways. It was initially a source of fresh drinking water. The river, as it existed for millennia up to the early 1830s, was:

A radically different watercourse than the one that exists today, which from the present-day Botanic Gardens to Port Phillip Bay now flows through an almost totally artificial channel. The river was tidal up to a rocky basalt ledge (where Queens Bridge now stands), at which point it was as much as ninety metres wide. What the British would call ‘the falls’ acted as a barrier to the saline tidal flows, ensuring that upstream of the rocks could be found a permanent source of fresh water.¹

Melbourne experienced rapid population growth from 1850 onwards as the result of Victoria’s gold rush and the subsequent pastoral boom in the city’s hinterland. In the 1880s, after nearly 50 years of European settlement, as a flood mitigation measure, the falls were dynamited and water levels re-set. Throughout the 1880s, major engineering and canalisation works undertaken by teams of engineers under the leadership of Sir John Coode, fundamentally re-routed the course of the river, establishing the ‘Victoria Harbour’ precinct. In the subsequent decades the ‘Lower Yarra’ was largely turned over to industrial and maritime commerce uses.

During the mid 20th Century, there were moves to create, protect and extend ‘green’ and recreational corridors along the river, with a focus on recreational uses including rowing, walking and cycling. Substantial capital-intensive urban renewal projects were pursued in the 1990s and early 2000s, including the refashioning of the then largely derelict ‘Docklands’

¹ Boyce at pp 3 and 74-7, citing Presland G, ‘The Place for a Village: How Nature has Shaped the City of Melbourne’ (Melbourne: Museum Victoria, 2008): 84-5.

and 'Southbank' precincts which today feature a large sporting stadium, a major casino and high-end apartment accommodation and modern commercial buildings. Environmental management and recognition of indigenous interests are current regulatory focus areas.

This pattern - initial concerns with water supply safety, flood control and other basic functions, followed by a phase in which the industrialisation of the city and maritime-based commerce become the preoccupation, then waterfront landscape construction and development, leading to contemporary priorities such as ecological restoration and recognition of indigenous custodianship – is consistent with a schema identified by Hu by which riverine cities tend to develop.²

The Yarra River has become central to Melbourne's successful promotion of itself as an internationally renowned 'destination' - a 'lifestyle' city known for its parklands and its hosting of major cultural and sporting events including the Australian Open tennis, Formula One Grand Prix and festivals such as 'Moomba'. Such events showcase the river and its environs.

A widely held view in Melbourne is that the level of development and urban renewal achieved to date for the Lower Yarra, and the contribution the river currently makes to the civic amenity of the city, falls significantly short of its potential. Unfavourable comparisons have been made with the achievements of benchmark cities around the world, for example the Chicago Riverwalk.³

3. Governance as an Impediment

What has held the revitalisation of the Lower Yarra precinct back? Whilst there are a range of factors, an aspect frequently cited is its governance arrangements.

A range of reports published over the past five years have highlighted the challenges presented by the complex governance arrangements that have surrounded the Lower Yarra. For instance, a report produced in 2015 for the State of Victoria's Minister for Environment, Climate Change and Water by the Lower Yarra River Use Future Directions Group (a group which had a particular focus on achieving 'activation' of river-based commercial enterprises) said:

The current management of the Lower Yarra River is not realising the potential it has to add to Melbourne's liveability and its role as a leading world city. There has been no clear governance direction, shared vision or strategy for the holistic management of the Lower Yarra River ... Consequently development of tourism, commercial activities, recreational use and everyday activation on the Yarra River has not kept

² (Hu at p 126.)

³ See City of Melbourne 'Yarra River – Birrarung Strategy', 2019, p 40.

pace with development along the banks of the river ... There are many government authorities with a role in managing on river activities, but no one agency has the responsibility for the vision, activation of the river and the economic growth that will deliver jobs and tourism value ... Very significant private equity [is potentially] available to invest in river operations, specifically in integrating land-based infrastructure with on-water activity [but] those interests will not consider investment in the waterway under the current governance regime.⁴

Commenting on the Minister's decision not to act upon the recommendations of this group, a journalist opined, in December 2018, that "a high-performing commercial operator assessing Melbourne as a place to introduce river-commuter ferries would take one look at the governance structure and run 100 miles."⁵

By the end of 2019, little progress had been made in addressing governance deficiencies, judging by observations contained within the City of Melbourne's 2019 'Yarra River – Birrarung Strategy' document, arrived at following a six month long process of public consultation. This said:

The overall management of the river is highly complex and fragmented. Many of the opportunities for the river corridor are outside of direct City of Melbourne control and within the jurisdiction of other government agencies or the private sector. Many of the issues and inconsistencies along the river, including challenges from activation proposals, come from organisations operating independently and with different remits.⁶

It was noted in the City of Melbourne Strategy document that the Lower Yarra waterway is affected by "complex land ownership and governance arrangements" which "challenge decision making and the delivery of change."⁷

It was also observed that "the substantial potential of the Yarra River corridor asset as a living ecological entity remains to be fully realised." The City of Melbourne identified a need to "rehabilitate and improve the natural space along the river corridor, not only to benefit the growing population but as a commitment to restoring the ecology of the river." The City saw "an opportunity for the environs of the Birrarung, Lower Yarra to be central to Melbourne's economy, culture and liveability" and it noted that "surrounding uses have little relationship with the waterways and there is limited expression of cultural heritage."⁸

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⁵ Scanlan S, Docklands News, 5 December 2018.

⁶ City of Melbourne 'Yarra River – Birrarung Strategy', 2019, p 7.

⁷ City of Melbourne 'Yarra River – Birrarung Strategy', 2019, p 4.

⁸ City of Melbourne 'Yarra River – Birrarung Strategy', 2019, p 4.

4. Models of Urban River Governance

Urban river governance systems in Australia, as in many developed countries, tend to be complex. This reflects the interconnected nature of urban river corridors, which lie at the intersection of two domains – the river, and its catchment with the city.⁹ River governance networks must by necessity involve a wide range of organisations from across public, private and voluntary sectors¹⁰, due to the integration of ecological, economic and social knowledge needed to achieve sustainable management of a river.¹¹ But complicated governance can lead to inefficiency of decision-making and retard the achievement of effective outcomes.

Three alternative approaches to management of river systems have been identified: the unicentric; voluntary action; and partnership management.¹²

The *centralised or unicentric* model - under which a single body has the powers, duties, finance and skills to deliver integrated management for specified ends - would appear to be the most straightforward approach, but this method of river governance is only rarely accomplished.

By concentrating decision-making authority, a unicentric approach may make it easier to reach conclusions and take actions but also gives rise to a number of risks and disadvantages.¹³ This approach internalises conflicts. It separates one domain from other relevant policy sectors, which can be problematic because urban river corridors tend to be situated at the junction of domains where there are multiple interests. Centralisation tends to conflict with principles of broad representation of and accountability to stakeholders.¹⁴

A second model, at the other end of the spectrum of river governance models, is the idea of *voluntary action* under which citizens and local groups set local priorities, take local action and have local responsibility. This involves a ‘bottom up’ rather than ‘top down’ approach. An essential feature of this approach is that groups and citizens have no powers or duties, nor are they democratically accountable. This model was strongly advocated in the 2010s in the UK (and elsewhere) under the political slogan “Big Society”. Lerner & Holt described important features of voluntary groups’ contributions – they connect with the citizens, are often effective lobbyists and can frequently mobilise people to take action on the ground.¹⁵

However, local groups pursuing voluntary action tend not to be suited to, nor even wish to, assume management roles. Lerner & Holt concluded that, in all of the 13 cases they

⁹ (Lerner & Holt, 2012, 728)

¹⁰ (Holt, Moug and Lerner, 2012)

¹¹ (Wood et al, 1999; Kidd and Shaw, 2000)

¹² (Lerner & Holt, 2012)

¹³ (Lerner & Holt, 2012, 726)

¹⁴ (Kidd & Shaw, 2007)

¹⁵ (Lerner & Holt, 2012, 728)

examined, that case studies which dealt with complex problems through an entirely voluntary approach were ineffective.¹⁶ It is difficult for voluntary action mechanisms to be successful if they are employed in their purest form.

A third model, which exists at a midpoint on the spectrum of river management systems, is *partnership*. The partnership model involves stakeholder groups coming together in a formal but voluntary arrangement to analyse a situation, agree on a strategy and cooperate to deliver that strategy. This can be achieved without the need for any new legislation or organisation and therefore, in theory at least, is (relatively) non-disruptive and easy to set up.

Whilst each group retains its own powers and duties, and its own skills and finances, groups will contribute to the collective effort as they are able and willing. However, this model creates a hard necessity: all must be achieved by *agreement* and *compromise*.¹⁷

5. The Language versus the Actuality of Collaboration

A review of the Draft Yarra Strategic Plan suggests that, whilst the language of collaboration is used frequently, the *particular form* of collaboration which the report's authors have in mind is that between agencies of Government. It is almost as if there is a belief that, if that is accomplished, all will be well and sound decision-making will be assured.

A step forward has been made by acknowledging the importance of engagement with one indigenous representative body (the Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation) but there is little mention of the legitimacy of other stakeholder groups.

The preferred position of the authors of the Draft Report is depicted at page 26 of the Draft Plan (*italicised emphasis added*):

The Yarra Strategic Plan has been developed by a governance group made up of the representatives from the Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation as well as the 15 state and local agencies who manage the Yarra River corridor. This Group, known as the Yarra Collaboration Committee, exemplifies *the transformational partnerships we are seeking* and demonstrates a serious commitment to cross-boundary management of the Yarra River.

In order to implement the Yarra Strategic Plan, the Yarra Collaboration Committee has decided that we need to embed *long-term change in the way government agencies and councils work together* in the Yarra River corridor. To embed collaborative management of the Yarra River corridor, the plan proposes four changes to be implemented over the next 10 years. [The four changes concern

¹⁶ (Lerner & Holt, 2012, 727)

¹⁷ (Lerner & Holt, 2012, 727).

rolling three-yearly implementation plans and *whole-of government* decision-making; coordinated investment decisions; involvement of all stakeholders in taking care of the river; and support for *Government agencies and Traditional Owners*.]

This exclusionary point of view seems to perceive the Government agencies as being at the 'top table' of governance, alongside Traditional Owners, with – presumably - other stakeholder groups (including those from the private sector and not-for-profit groups) constituting 'second rank' stakeholders.

A healthy approach would see a full range of stakeholders encompassed within governance processes and not purely involve those operating within the Government sector 'bubble'.

It can be seen from the Draft Plan that there are a host of issues in relation to which future differences of view with particular non-governmental stakeholders could arise. For example, the Draft Plan refers to the "need to establish cultural and environmental corridors in order to connect the river to areas beyond the Yarra River" (at page 24) and notes that, for the Wurundjeri Woi wurrung people, a range of sites along the Birrarung are considered "sites of significance" including Federation Square, the MCG and "Birrarung (the Yarra) Falls" south of Queen street in the CBD (see p 22). There is also reference at page 23 to "ancient billabongs and prior waterways" (it is noted that "filled billabongs are often connected hydrologically to the Birrarung") that have "cultural value and significance" (p 23).

6. A Way Forward for Melbourne?

Given the historical context of the way governance arrangements for the Lower Yarra have evolved, it seems obvious that the approach to be taken to its governance must be *highly collaborative*.

In the wake of the lack of success of attempts over recent years to achieve structural governance reforms for the Lower Yarra, it is possible to confidently state: a collaborative governance approach for this river corridor - rather than a 'high' approach grounded in power differentials - is what is needed at this point in time.

Governance research undertaken over the past decade suggests that, in circumstances where there are complex and competing issues and dispersal of power, duties and finance among multiple actors, partnership-oriented governance models based upon agreement and compromise have potential to be highly effective.¹⁸

Definitions of collaborative governance range from those which emphasise "formal, state-initiated arrangements," as proposed by Ansell & Gash ("where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is

¹⁸ (See, for example, Lerner & Holt, 2012)

formal, consensus-oriented and deliberative”)¹⁹ to those which encompass ‘multipartner governance’ which can include “partnerships among the state, the private sector, civil society and the community”.²⁰

A view held by many stakeholders is that the jury is out as to whether the key governmental agencies interested in the Lower Yarra have the mindset and skill sets to support decision-making based on cross-boundary collaboration. There is also widespread scepticism that any of the key agencies are prepared to relinquish any of the current authority they possess over aspects of river governance, and a feeling that this limits the potential for a re-design of decision-making processes.

For there to be any effective change in past behaviour, it is likely that the Lower Yarra governance ‘regime’ – the particular system for public decision-making – will need to be re-designed to enable and promote cross-boundary collaboration.

It is not clear from the Draft Yarra Strategic Plan that any significant work has been done as part of the current review to grapple with these aspects and assess the ‘state of readiness’ of the current regulatory agencies for genuine collaboration.

It is submitted that an assessment should be undertaken which would examine the five factors which, academic research suggests, drive and determine the potential for effective collaboration: leadership, consequential incentives, uncertainty, interdependence and network structure.

Representatives of Melbourne’s academic community with expertise in relevant areas potentially have significant roles to play in supporting a transition to more effective forms of river governance. It would be a relatively straightforward piece of work to apply collaborative governance principles and partnership/network approaches to the management of (at least) the Lower Yarra corridor, and to suggest ways in which the components of a collaborative system could be ‘operationalised’.

7. Consultation

I wish to make a concluding point about the inadequacy of the consultation processes leading up to the closure of the submission-taking process today, 22 March 2020. As far as I can tell, the consultation process was ‘announced’ by means of a limited distribution email sent out in January 2020. Despite my position as a Director of MMHN I was not previously aware this Plan development process was underway and at an advanced stage. The document release occurred during the Victorian school holiday season when many

¹⁹ (Ansell & Gash, 2008, 544)

²⁰ (Emerson, Nabatchi & Balogh, 2011, p 3)

businesses and individuals are, under normal circumstances, inactive or distracted, and also coincided with the height of Victoria's unprecedented Bushfire crisis.

Compounding this, the small number of community consultation meetings and information sessions that had been scheduled for March 2020 were cancelled due to the Coronavirus outbreak, meaning that the opportunity for proper face-to-face engagement with concerned stakeholder groups was lost.

At page 10 of the Draft Plan there is a reference to authorship of the Plan. This says "an independent consultant selected 24 community members to write the 50 year community vision" articulated in the Report. Neither the identity of the consultant nor the 24 community members appear to be disclosed in the Draft Plan. The work was said to have occurred after "engaging with over 2500 Victorians in 2017 to find out what they value about the Yarra." This seems a long time ago to be counted as part of current engagement.

The combination of these factors has led to discussion, amongst Yarra River stakeholders, as to whether the consultation process has been consciously designed to minimise the opportunity for adverse feedback from those whose viewpoints diverge from the architects of the Draft Plan. A process that has the appearance of being too carefully 'stage-managed' does nothing to inspire confidence that the State Government and local Government agencies that have been involved in the development of the Draft Yarra Strategic Plan have a genuine appetite for collaboration with the full diversity of river stakeholders.

The negative perception already held by many river stakeholders of a lack of receptivity of river regulators to genuine, open consultation and debate has been compounded and worsened by this process, not improved.

There seems to have been an inadequate, and very abbreviated, consultation process considering that this Draft Strategy deals with subject matter of such importance. (By contrast, the inclusive consultations undertaken by the City of Melbourne during 2019 in the course of its development of the City's 'Yarra River – Birrarung Strategy' have been commented on by many river stakeholders in a positive way.)

8. Conclusion

The negative perceptions and governance deficiencies highlighted in this Submission simply *must* be addressed by concrete actions and robust processes, which should be put in place urgently. The Birrarung is dearly loved by many people within the broad church of Melbourne society. It is too important to be subject to second-rate governance processes.


22 March 2020