Independent River Voices and the role of Indigenous people

Some legislative comparisons between Australia and New Zealand

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Yarra River, ‘Birrarung’

Figure 3: The Yarra River and its catchment

LEGEND
- Yarra River
- Tributary
- Water Body
- Yarra River Reach Boundary
- Key Open Space - Crown Land
- Key Open Space - Municipal
- Other Publicly Accessible Open Space
- Urban Extent
- School
- Main Yarra Trail
- Freeway / Highway
- Major Road
- Local Road
- Rail Station
- Rail Line
- Point of Interest (approximate location)

Yarra River Action Plan (Victoria, DELWP, 2017)
Yarra River, ‘Birrarung’

Photos: K O’Bryan
Whanganui River

Photo: K O’Bryan

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

Five features of significance to Aboriginal Victorians:

1. Aboriginal language in the title and preamble;
2. Recognition as one living and integrated natural entity;
3. Overarching strategic plan;
4. Yarra Protection Principles; and …
Yarra River Protection (Wilip-gin Birrarung murrón) Act 2017 (Vic): Key features

5. Birrarung Council (the ‘independent voice’)
   • At least two Indigenous members out of 12✔
   • Advisory only ☐
   • Involved in developing the Strategic Plan✔
   • Advocates for the protection and preservation of the Yarra✔
   • Independent from government✔
Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (NZ)

• Whanganui River (‘Te Awa Tupua’) as a legal entity:
  • Statutory recognition.
  • Represented by a river guardian (‘Te Pou Tupua’):
    • Membership of two: one nominated by Whanganui Iwi, one by government.
  • Role of Guardian is to protect the River and its values.
  • Decision-makers must consider the River values in any decisions they make.
Some Benefits

• River values are Māori river values (‘Tupua te Kawa’).

• Standing is guaranteed.

• Independent from government.

• Deemed a public authority under the Resource Management Act (NZ)

• Administers/makes decisions on applications to the fund established to protect the health and well being of the river.
Some Disadvantages

• Indirect role for Whanganui Iwi:
  • River Guardian doesn’t represent the interests of its members.

• Indirect role for River Guardian in management:
  • Not involved in decision-making (potential only)
  • Not involved in developing the river strategy

• But in the context of wider settlement – a positive development.
## Some Comparisons

<table>
<thead>
<tr>
<th>Yarra River Protection Act 2017</th>
<th>Te Awa Tupua Act 2017</th>
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</thead>
<tbody>
<tr>
<td>No independent legal status for the river</td>
<td>Independent legal status for the river</td>
</tr>
<tr>
<td>Protection of Aboriginal and other values</td>
<td>Protection of Māori river values</td>
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<tr>
<td>Aboriginal language in the title and preamble</td>
<td>Māori language used more widely in the Act</td>
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<tr>
<td><strong>Birrarung Council:</strong></td>
<td><strong>Te Pou Tupua:</strong></td>
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<tr>
<td>Represents community interests in the river</td>
<td>Represents the interests of the river</td>
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<tr>
<td>12 members (2 Indigenous), no government members, 4 year terms</td>
<td>2 members, 1 nominated by government, one by Māori, 3 year terms</td>
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<tr>
<td>Advice and advocacy role, no involvement in decision-making</td>
<td>Manages the river rehabilitation fund, but no direct role in river management</td>
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