

Authorised Version

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

No. 49 of 2017

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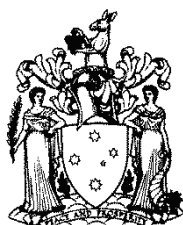
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Authorised Version



Victoria

Yarra River Protection (*Wilip-gin Birrarung murrn*) Act 2017[†]

No. 49 of 2017

[Assented to 26 September 2017]

Preamble

The Yarra River is of great importance to Melbourne and Victoria. It is the intention of the Parliament that the Yarra River is kept alive and healthy for the benefit of future generations.

This Act recognises the intrinsic connection of the traditional owners to the Yarra River and its Country and further recognises them as the custodians of the land and waterway which they call Birrarung.

In the Woi-wurrung language of the traditional owners, *Wilip-gin Birrarung murrn* means "keep the Birrarung alive". The following statement (in the Woi-wurrung language¹ and in English) is from the Woi-wurrung—

*Woiwurrungbaluk ba Birrarung wanganyinu
biikpil*

*Yarrayarrapil, manyi biik ba Birrarung, ganbu
marram-nganyinu*

*Manyi Birrarung murrondjak, durrung ba murrup
warrongguny, ngargunin twarnpil*

Birrarungwa nhanbu wilamnganyinu

Nhanbu ngarn.ganhanganyinu manyi Birrarung

*Bunjil munggany biik, wurru-wurru, warriny ba
yaluk, ba ngargunin twarn*

Biiku kuliny munggany Bunjil

Waa marrnakith-nganyin

*Balliyang, barnumbinyu Bundjilal, banyu bagurk
munggany*

Ngarn.gunganyinu nhanbu

*nyilam biik, nyilam kuliny – balit biik, balit kuliny:
balitmanhanganyin manyi biik ba Birrarung.*

Balitmanhanganyin durrungu ba murrupu,

ba nhanbu murrondjak!

We, the Woi-wurrung, the First People, and the
Birrarung, belong to this Country. This Country,
and the Birrarung are part of us.

The Birrarung is alive, has a heart, a spirit and is
part of our Dreaming. We have lived with and
known the Birrarung since the beginning. We will
always know the Birrarung.

Bunjil, the great Eagle, the creator spirit, made the
land, the sky, the sea, the rivers, flora and fauna,
the lore. He made Kulin from the earth. Bunjil
gave Waa, the crow, the responsibility of Protector.
Bunjil's brother, Palliyang, the Bat, created
Bagarook, women, from the water.

Since our beginning it has been known that we
have an obligation to keep the Birrarung alive and
healthy—for all generations to come.

The Parliament of Victoria therefore enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to provide for the declaration of the Yarra River and certain public land in its vicinity for the purpose of protecting it as one living and integrated natural entity; and
- (b) to provide for the development and implementation of a Yarra Strategic Plan as an overarching policy and planning framework in relation to the Yarra River and certain land in its vicinity; and
- (c) to establish the Birrarung Council to provide advice to the Minister in relation to Yarra River land and other land, the use or development of which may affect Yarra River land, and other matters, and to report annually to the Minister on the implementation of a Yarra Strategic Plan by responsible public entities; and
- (d) to set out principles to which responsible public entities must have regard when performing functions or duties or exercising powers in relation to Yarra River land or other land mentioned in paragraph (c); and
- (e) to provide for the declaration of an area of land as a state significant urban natural entity to be known as the Greater Yarra Urban Parklands; and

- (f) to amend the **Planning and Environment Act 1987** to require ratification by Parliament for amendments to planning schemes in relation to land that is part of the Greater Yarra Urban Parklands; and
- (g) to amend the **Commissioner for Environmental Sustainability Act 2003** to require the Commissioner for Environmental Sustainability to report on the condition of Yarra River land; and
- (h) to make consequential amendments to other Acts.

2 Commencement

- (1) Subject to subsection (3), this Act (except section 63) comes into operation on a day or days to be proclaimed.
- (2) Section 63 comes into operation on the day on which the initial Yarra Strategic Plan comes into operation.

Note

See also section 38.

- (3) If a provision of this Act (except section 63) does not come into operation before 1 December 2017, it comes into operation on that day.

3 Definitions

- (1) In this Act—

amenity includes the features of the Yarra River and its parklands that engage community connection with nature, culture and heritage and enhance community health and wellbeing, whether through tangible or intangible means;

Central Plan Office means the Central Plan Office established by section 4 of the **Survey Co-ordination Act 1958**;

Council means the Birrarung Council established under section 46;

Department means the Department of Environment, Land, Water and Planning;

Department Head means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department;

environment means the physical factors of the surroundings of human beings including the land, waters, atmosphere, climate, sound, odours, tastes, the biological factors of animals and plants and the social factor of aesthetics;

excluded land means—

- (a) the port of Melbourne within the meaning of the **Port Management Act 1995**; or
- (b) any land within a special water supply catchment area listed in Schedule 5 to the **Catchment and Land Protection Act 1994**;

Greater Yarra Urban Parklands means land to which an order under section 59(1) or (3) applies, but does not include land to which an order under section 59(4) applies;

land use framework plan—see section 20(1)(b);

lead agency means a relevant plan entity to which a direction under section 4 applies;

long-term community vision document means the document referred to in section 17;

municipal council means a Council within the meaning of the **Local Government Act 1989**;

Planning Minister means the Minister administering the **Planning and Environment Act 1987**;

public entity has the same meaning as in the **Public Administration Act 2004**;

relevant plan entity means—

- (a) the Department Head; or
- (b) the Melbourne Water Corporation established under section 85 of the **Water Act 1989**; or
- (c) Parks Victoria established under Part 2 of the **Parks Victoria Act 1998**; or
- (d) the Victorian Planning Authority established under Part 2 of the **Victorian Planning Authority Act 2017**; or
- (e) the Port Phillip and Westernport Catchment Management Authority established under Part 2 of the **Catchment and Land Protection Act 1994**;

responsible public entity means—

- (a) the Secretary; or
- (b) the Melbourne Water Corporation established under section 85 of the **Water Act 1989**; or
- (c) Parks Victoria established under Part 2 of the **Parks Victoria Act 1998**; or

- (d) the Victorian Planning Authority, established under Part 2 of the **Victorian Planning Authority Act 2017**; or
- (e) the Port Phillip and Westernport Catchment Management Authority established under Part 2 of the **Catchment and Land Protection Act 1994**; or
- (f) the Roads Corporation continued under section 80 of the **Transport Integration Act 2010**; or
- (g) Victorian Rail Track continued under section 116 of the **Transport Integration Act 2010**; or
- (h) any committee of management or trustees under the **Crown Land (Reserves) Act 1978** in relation to any Yarra River land; or
- (i) any of the following municipal councils—
 - (i) Banyule City Council;
 - (ii) Boroondara City Council;
 - (iii) Manningham City Council;
 - (iv) Melbourne City Council;
 - (v) Nillumbik Shire Council;
 - (vi) Stonnington City Council;
 - (vii) Yarra City Council;
 - (viii) Yarra Ranges Shire Council; or
- (j) any Traditional Owner Land Management Board established under Part 8A of the **Conservation, Forests and Lands Act 1987**; or

- (k) any other public entity prescribed to be a responsible public entity;

Secretary has the same meaning as in the **Conservation, Forests and Lands Act 1987**;

segment, in relation to the environment, means any portion or portions of the environment expressed in terms of—

- (a) volume, space, area, quantity, quality, or time; or
(b) any combination of the things mentioned in paragraph (a);

urban growth boundary has the same meaning as in the **Planning and Environment Act 1987**;

Water Minister means the Minister administering the **Water Act 1989**;

Yarra protection principles—see section 7;

Yarra River land means—

- (a) the Yarra River, including its bed, soil and banks; and
(b) an area of land to which an order under section 14(1) or (2) applies, but does not include land to which an order under section 14(4) applies;

Yarra Strategic Plan means the plan developed under Part 4;

Yarra Strategic Plan area—see section 19(1).

- (2) In the definition of ***environment*** in subsection (1), ***waters*** has the same meaning as in the **Environment Protection Act 1970**.

4 Lead agency

- (1) The Minister, by written direction, may require a relevant plan entity to be the lead agency for the purposes of this Act.
- (2) Before giving a direction under subsection (1), the Minister must obtain the approval of whichever two of the following Ministers are not the Minister administering this Act—
 - (a) the Planning Minister;
 - (b) the Environment Minister;
 - (c) the Water Minister.
- (3) The Minister must publish a notice of a direction under subsection (1) in the Government Gazette.
- (4) A notice under subsection (3) must state the name of the relevant plan entity that the Minister has directed to be the lead agency.
- (5) On the giving of a direction under subsection (1)—
 - (a) the relevant plan entity is taken to be the lead agency for the purposes of this Act while that direction remains in force; and
 - (b) any earlier direction under that subsection is revoked by force of this subsection.
- (6) Despite anything to the contrary in the Act under which a relevant plan entity is established or constituted, or appointed, or any other Act under which the entity performs functions or exercises powers, a relevant plan entity which is the lead agency—
 - (a) has the function of being the lead agency under this Act; and

(b) has all powers necessary to perform the functions of the lead agency during any period that the entity undertakes that role.

(6) In this section—

Environment Minister means the Minister administering the **Commissioner for Environmental Sustainability Act 2003**.

5 Objects

The objects of this Act are—

- (a) to recognise the importance of the Yarra River, and its parklands and associated public places, to the economic prosperity, vitality and liveability of Melbourne and the Yarra Valley, including—
 - (i) the ecological health, and the cultural, social, environmental and amenity values of the Yarra River and the landscape in which the Yarra River is situated; and
 - (ii) the environmental significance of the biodiversity corridor along the Yarra River; and
- (b) to recognise that Crown land and freehold land owned by the State, that is adjacent to the Yarra River and which is used as public open space or as a park, is part of the one living and integrated natural entity, and to protect that land; and
- (c) to establish an overarching policy and planning framework to coordinate and harmonise planning for the use, development and protection of the Yarra River, its parklands and other land in its vicinity; and

- (d) to establish the Birrarung Council to advocate for protection and preservation of the Yarra River.

6 Act binds the Crown

This Act binds the Crown in right of Victoria and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2—Yarra protection principles

7 Part sets out Yarra protection principles

The Yarra protection principles are set out in this Part.

8 General principles

- (1) Proposed development and decision-making should be based on the effective integration of environmental, social and cultural considerations in order to improve public health and wellbeing and environmental benefit.
- (2) Decision-makers should take into account the best practicably available information about the potential impacts of climate change so as to avoid, so far as possible, serious or irreversible damage resulting from climate change.
- (3) Decision-makers should take into account the impact of any individual action or policy on public health and wellbeing and seek to ensure that public health and wellbeing is enhanced by the action or policy.
- (4) Each generation should ensure that the environmental, social and cultural benefits that have been acquired are maintained or enhanced for the benefit of future generations.
- (5) Protection of the environment and delivery of sustainable development is a responsibility shared by all levels of government, industry, business, communities and the people of Victoria.

9 Environmental principles

- (1) If there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental

degradation or for failing to assess the risk-weighted consequences of the options.

- (2) Environmental practices and procedures should ensure that biodiversity and ecological integrity is maintained or enhanced in ways that are proportionate to the significance of the environmental risks and consequences being addressed.
- (3) If approaches to managing environmental impacts on one segment of the environment have potential impacts on another segment, the best practicable environmental outcome should be sought.
- (4) 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.

10 Social principles

- (1) The existing amenity of Yarra River land, including its natural features, character and appearance, should be protected and enhanced for the benefit of the whole community.
- (2) Community consultation and participation should play an essential and effective role in the protection, improvement and promotion of Yarra River land.

11 Recreational principles

- (1) Community access to, and use and enjoyment of, Yarra River land should be protected and enhanced through the design and management of public open space for compatible multiple uses that optimise community benefit.

- (2) Public open space should be used for recreational and community purposes that are within the capacity of that space, in order to sustain natural processes and not diminish the potential of that open space to meet the long-term aspirations of the community.

12 Cultural principles

- (1) Aboriginal cultural values, heritage and knowledge of Yarra River land should be acknowledged, reflected, protected and promoted.
- (2) The role of the traditional owners as custodians of Yarra River land should be acknowledged through partnership, representation and involvement in policy planning and decision-making.
- (3) The cultural diversity and heritage of post-European settlement communities should be recognised and protected as a valued contribution to the identity, amenity and use of Yarra River land.

13 Management principles

- (1) There should be coordination between all levels of government and government agencies when designing policies and programs and making decisions in relation to Yarra River land.
- (2) When designing policies and programs, the best practicable measures available at the time should be used.
- (3) Implementation of natural resource management should aim for continuous improvement and extend beyond compliance with relevant laws and requirements.

Part 3—Yarra River land and other land

14 Governor in Council may declare area to be Yarra River land

- (1) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may declare an area of land forming part of land specified in subsection (3) to be Yarra River land.
- (2) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may add land specified in subsection (3) to Yarra River land.
- (3) For the purposes of subsections (1) and (2), the specified land is land—
 - (a) that is adjacent to the Yarra River, or any part of which is within 500 metres of a bank of the Yarra River; and
 - (b) that is one of the following types of land—
 - (i) land reserved under the **Crown Land (Reserves) Act 1978**;
 - (ii) land under the **Land Act 1958**;
 - (iii) reserved forest within the meaning of the **Forests Act 1958**;
 - (iv) land under the management and control of the Secretary under the **Wildlife Act 1975**;
 - (v) land that is a park within the meaning of the **National Parks Act 1975**;
 - (vi) freehold land owned by a responsible public entity; and

- (c) that is not one of the following types of land—
 - (i) excluded land;
 - (ii) land that is privately owned;
 - (iii) land that is owned by a municipal council.
- (4) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may remove land from Yarra River land.
- (5) The Minister must—
 - (a) if the Minister administering this Act is not the Planning Minister, obtain the approval of the Planning Minister before making a recommendation under subsection (1), (2) or (4); and
 - (b) consult with the Council before making a recommendation under subsection (4).
- (6) An order under this section must identify the land to which it applies by reference to a numbered plan lodged in the Central Plan Office.

15 Land to which Yarra Strategic Plan may apply

- (1) The Planning Minister, by notice published in the Government Gazette, may declare land comprising any land specified in subsection (3), or a part of land specified in that subsection, for the purposes of section 19(2).
- (2) Before publishing a notice under subsection (1), the Planning Minister must obtain the approval of the Minister administering this Act if the Planning Minister is not the Minister administering this Act.

- (3) For the purposes of subsection (1), the specified land is land of any kind that is located more than one kilometre from a bank of the Yarra River—
- (a) that is wholly within the municipal districts of any of the following municipal councils—
 - (i) Banyule City Council;
 - (ii) Boroondara City Council;
 - (iii) Manningham City Council;
 - (iv) Melbourne City Council;
 - (v) Nillumbik Shire Council;
 - (vi) Stonnington City Council;
 - (vii) Yarra City Council;
 - (viii) Yarra Ranges Shire Council; and
 - (b) that is not excluded land.
- (4) A notice under subsection (1) must identify the land to which the notice applies by reference to a numbered plan lodged in the Central Plan Office.

Part 4—Yarra Strategic Plan

Division 1—Purpose of Yarra Strategic Plan

16 Purpose

The purpose of a Yarra Strategic Plan is to—

- (a) guide the future use and development of the Yarra Strategic Plan area; and
- (b) identify areas for protection within the Yarra Strategic Plan area.

Division 2—Long-term community vision

17 Lead agency must develop long-term community vision document

- (1) Before preparing the initial Yarra Strategic Plan, the lead agency must develop a long-term community vision document for Yarra River land.
- (2) The long-term community vision document must set a vision for a period of at least 50 years that identifies—
 - (a) the unique characteristics of Yarra River land; and
 - (b) community values, priorities and preferences in relation to that land or specific areas or segments of that land, including preferences for future land uses, protection and development of that land.
- (3) The process for developing the long-term community vision document must include active community participation and co-design.

Division 3—Preparation of Yarra Strategic Plan

18 Lead agency must prepare Yarra Strategic Plan

- (1) The lead agency must prepare a Yarra Strategic Plan in accordance with this Part.
- (2) The lead agency must develop a Yarra Strategic Plan—
 - (a) through an open and collaborative process involving responsible public entities, local community reference forums and the Council; and
 - (b) in accordance with any guidelines under section 22; and
 - (c) having regard to the Yarra protection principles; and
 - (d) in accordance with best practice regarding public participation, by seeking to collaborate with the community and ensure that community concerns and aspirations are understood and considered; and
 - (e) having regard to any relevant legislation, current policies and plans of the Government and responsible public entities relating to land use, waterway health, biodiversity, cultural heritage, transport or other social, economic or environmental policies or plans relevant to Yarra River land.

19 Land to which the Yarra Strategic Plan applies

- (1) A Yarra Strategic Plan must specify the land to which it applies (the *Yarra Strategic Plan area*). That land must be—
 - (a) Yarra River land; and
 - (b) land of any kind (other than excluded land) that is located within one kilometre of a bank of the Yarra River; and

- (c) land that the lead agency has specified under subsection (2).
- (2) The lead agency may specify part or all of the land declared by notice under section 15(1) as land to which the Yarra Strategic Plan applies.
- (3) A Yarra Strategic Plan must include a description of the Yarra Strategic Plan area. The description may be by reference to a map.

20 Contents of Yarra Strategic Plan

- (1) A Yarra Strategic Plan must—
 - (a) give effect to the vision expressed in the long-term community vision document; and
 - (b) include a plan for the Yarra Strategic Plan area (a *land use framework plan*) that—
 - (i) creates the spatial structure for the future use and development of that area; and
 - (ii) identifies areas for protection within that area.
- (2) In addition, a Yarra Strategic Plan must—
 - (a) contain the long-term community vision document developed for Yarra River land under section 17; and
 - (b) set out the broad objectives of a Yarra Strategic Plan and the values that it seeks to recognise, protect and promote, including environmental values, landscape values, cultural heritage values and amenity values; and
 - (c) contain performance objectives for waterway health, river parklands amenity, landscape amenity and environmental, cultural and heritage values to be achieved over a

- specified period in relation to Yarra River land; and
- (d) identify regional infrastructure networks; and
 - (e) identify projects for the protection and improvement of Yarra River land that should be carried out at the earliest opportunity; and
 - (f) set out a narrative description of the river corridor; and
 - (g) set out a decision-making framework against which individual projects and proposals may be assessed or evaluated; and
 - (h) state the parts of a Yarra Strategic Plan that are intended to be binding on responsible public entities and the parts that are in the nature of recommendations to which responsible public entities are only required to have regard; and
 - (i) cover any other matter relating to waterway health, river parklands amenity, landscape amenity or environmental, cultural or heritage values that the Minister, by written direction given to the lead agency, directs is to be dealt with by a Yarra Strategic Plan.

21 Contents of land use framework plan

A land use framework plan must—

- (a) include spatial plans for the Yarra Strategic Plan area; and
- (b) indicate the broad direction for the future use and development of the Yarra Strategic Plan area; and
- (c) identify areas for protection within the Yarra Strategic Plan area; and

- (d) recognise and protect Aboriginal tangible and intangible cultural values, and other cultural and heritage values; and
- (e) identify riparian zones and areas of high environmental or landscape value that must be protected from development; and
- (f) identify areas for urban revitalisation or renewal; and
- (g) identify important views and viewsheds that provide a sense of place and connection with Yarra River land from and to surrounding areas; and
- (h) identify areas for the attraction of commercial activities and services; and
- (i) identify locations suitable for a wide range of community activities and events; and
- (j) nominate habitat corridors and ecological values for improvement and the achievement of more resilient biodiversity outcomes, in terms of the following—
 - (i) localised habitat or features within Yarra River land;
 - (ii) the role of Yarra River land in linking or maintaining the health of key habitat areas close to Yarra River land and minimising disruptions of sensitive flora and fauna; and
- (k) define open space and urban forest networks that will provide for the amenity and recreation needs of local communities; and
- (l) identify movement and access networks that link people to the Yarra River landscape and its parklands and as part of the larger regional trails network; and

- (m) incorporate any agreed strategic transport infrastructure including identified current or future river crossings and principal bicycle networks; and
- (n) identify public authority infrastructure and land management proposals that may affect Yarra River land; and
- (o) recognise projected climate change impacts, flood risks and bushfire risks.

22 Planning Minister may issue guidelines

The Planning Minister may issue guidelines to the lead agency in relation to river corridor framework planning.

Division 4—Consultation for draft Yarra Strategic Plan

Subdivision 1—Public sector entity and Ministerial consultation

23 Lead agency must prepare draft Yarra Strategic Plan for consultation

- (1) The lead agency must prepare a draft Yarra Strategic Plan and give a copy of that plan to the responsible public entities for endorsement by them and by the Ministers responsible for those entities.
- (2) A Minister responsible for a responsible public entity may give a written direction to the entity in relation to the endorsement of a draft Yarra Strategic Plan.
- (3) After a draft Yarra Strategic Plan has been endorsed in accordance with subsection (1), the lead agency must give a copy of the draft Yarra Strategic Plan to the Minister for review and approval for release for public consultation.

- (4) After the Minister has approved a draft Yarra Strategic Plan for release for public consultation, the lead agency must make a copy of the draft Yarra Strategic Plan available for public inspection, free of charge, at the agency's office.

Subdivision 2—Public consultation

24 Public submissions on draft Yarra Strategic Plan

- (1) The lead agency must advertise, in any manner the lead agency thinks fit—
 - (a) the availability of a draft Yarra Strategic Plan for inspection; and
 - (b) the opportunity for public submissions to be made to the lead agency on the draft plan, indicating that all submissions will be available for inspection by the public; and
 - (c) the time period for public submissions to be made, being a period of at least 2 months.
- (2) The lead agency must make a copy of all public submissions on a draft Yarra Strategic Plan made to the lead agency available for public inspection, free of charge, at the agency's office.
- (3) At the end of the public submission period, the lead agency must—
 - (a) consider all submissions made to the lead agency; and
 - (b) refer any submissions in relation to the land use framework plan that the lead agency does not fully adopt to a panel appointed under section 25 to conduct a hearing.

Subdivision 3—Panels and public hearings

25 Appointment of panel

The Minister must appoint a panel to consider submissions to be referred to a panel by the lead agency under section 24(3).

26 Composition of panel

A panel may consist of one or more persons.

27 Costs and expenses of panel

- (1) Each member of a panel is entitled to receive any fees and allowances fixed by the Minister in respect of that member.
- (2) The lead agency—
 - (a) must pay the fees or allowances unless the Minister otherwise directs; and
 - (b) if any member of a panel is a person employed by or on behalf of the Crown, must pay to the Crown the amount fixed by the Minister in respect of the costs of remuneration and expenses of that person for the period that the person is a member of the panel.
- (3) The lead agency must pay for, or reimburse, any reasonable costs and expenses incurred for or by a panel in carrying out its functions under this Part unless the Minister otherwise directs.

28 Chairperson

If a panel consists of more than one member, the Minister must appoint one of the members to be chairperson.

29 Panels with more than one member

The following provisions apply to panels with more than one member—

- (a) in the case of a panel of 2 members, the chairperson constitutes a quorum;
- (b) in the case of a panel of more than 2 members, a quorum is half the number of members constituting the panel and, if this would not be a whole number, the next highest whole number;
- (c) the members of a panel of more than 2 members may appoint a member to act as chairperson at a meeting of the panel if the chairperson is unable to attend;
- (d) the chairperson has an additional or casting vote if there is an equality of votes at a meeting of the panel;
- (e) if there is a quorum, the panel may act despite a vacancy in its membership;
- (f) the Minister may appoint another member to a panel if there is a vacancy.

30 Panel may regulate its own proceedings

Subject to this Part, a panel may regulate its own proceedings.

31 Lead agency to provide assistance

The lead agency must provide a panel with any secretarial and other assistance that the panel requires to carry out its functions under this Part.

32 Conduct of hearings by panel

- (1) A panel must consider the submissions referred to it and give any person who made a public submission referred to it a reasonable opportunity to be heard.

- (2) The panel must give a reasonable opportunity to be heard to—
 - (a) any responsible public entity; and
 - (b) the lead agency; and
 - (c) any person that the lead agency or the Minister directs the panel to hear.
- (3) Subject to this Part and any necessary modification, Division 2 of Part 8 of the **Planning and Environment Act 1987** (except sections 169 and 170 of that Act) applies to the conduct of a hearing by a panel under this Part as if—
 - (a) a reference in Part 8 to the relevant planning authority were a reference to the lead agency; and
 - (b) Part 8 did not refer to the preparation of a planning scheme or an amendment of a planning scheme.
- (4) The panel must report its findings to the Minister, including any recommendations that the panel thinks fit.
- (5) The lead agency must make a copy of the panel's report under subsection (4) available for public inspection, free of charge, at the agency's office.

33 Offences

- (1) A person commits an offence if the person—
 - (a) obstructs a member of a panel while the member is performing functions or exercising powers as a member; or
 - (b) obstructs any person attending a hearing before a panel; or
 - (c) repeatedly interrupts a hearing before a panel; or

(d) without lawful excuse disobeys a direction of a panel.

(2) A person who commits an offence against subsection (1) is liable to a level 10 fine (10 penalty units maximum).

34 Immunity

(1) A member of a panel is not personally liable for anything done or omitted to be done in good faith—

(a) in the exercise of a power or the performance of a duty under this Act or the regulations; or

(b) in the reasonable belief that the action or omission was in the exercise of the power or the performance of the duty under this Act or the regulations.

(2) Any liability resulting from an act or omission that would but for subsection (1) attach to a member of a panel, attaches instead to the State.

Division 5—Revision and approval of Yarra Strategic Plan

35 Lead agency to prepare revised draft Yarra Strategic Plan

After the process under Subdivisions 2 and 3 of Division 4 (the *public submission process*) is completed, the lead agency must—

(a) consider a report of a panel under section 32(4); and

(b) revise a draft Yarra Strategic Plan to take account of—

(i) any amendments arising out of the public submission process; and

- (ii) any recommendations in any report of a panel with which the responsible public entities agree.

36 Lead agency to provide draft plan for endorsement and Ministerial approval

- (1) The lead agency must give a copy of a revised draft Yarra Strategic Plan to the responsible public entities for endorsement by them and the Ministers responsible for those entities.
- (2) A Minister responsible for a responsible public entity may give a written direction to the entity in relation to the endorsement of a revised draft Yarra Strategic Plan.
- (3) After a revised draft Yarra Strategic Plan has been endorsed in accordance with subsection (1), the lead agency must give a copy of the revised draft plan to the Minister for approval.

Division 6—Approval of Yarra Strategic Plan

37 Minister to publish notice of approval in Government Gazette

- (1) The Minister may approve an endorsed Yarra Strategic Plan provided to the Minister by the lead agency under section 36(3).
- (2) The Minister must publish notice of an approval under subsection (1) in the Government Gazette.

38 When Yarra Strategic Plan comes into operation

A Yarra Strategic Plan comes into operation on—

- (a) the day on which notice of its approval is published in the Government Gazette; or
- (b) any later date specified in that notice as the day the Yarra Strategic Plan comes into operation.

39 Approved Yarra Strategic Plan and notice of approval to be laid before Parliament

On or before the 7th sitting day after notice of the approval of a Yarra Strategic Plan has been published in the Government Gazette under section 37, a copy of the approved Yarra Strategic Plan and that notice must be laid before each House of the Parliament.

40 Public availability of approved Yarra Strategic Plan

While an approved Yarra Strategic Plan remains in force, a copy of it must be made available—

- (a) for public inspection, free of charge, at the principal office of the lead agency, each responsible public entity and the Department; and
- (b) on the Internet sites of the lead agency, each responsible public entity and the Department.

Division 7—Amendment of current and preparation of new Yarra Strategic Plan

41 Minor amendments to a Yarra Strategic Plan

- (1) With the prior approval of the Minister, the lead agency may amend a Yarra Strategic Plan if the agency is satisfied that the amendment is of a minor nature so that compliance with this Part (other than this section) in relation to the amendment is not warranted.
- (2) Before giving an approval under subsection (1), the Minister must consult with—
 - (a) the Planning Minister, if the Minister administering this Act is not the Planning Minister; and

- (b) the Minister responsible for a responsible public entity affected by the proposed amendment.

42 Preparation of new Yarra Strategic Plan after 10 years

- (1) The Minister must ensure that the following are completed by the lead agency no later than 10 years after the commencement of a Yarra Strategic Plan—
 - (a) a review of the long-term community vision document developed under Division 2;
 - (b) a new Yarra Strategic Plan.
- (2) Subject to any necessary modification, Divisions 1 and 3 to 6 apply to the preparation of a new Yarra Strategic Plan as if a reference in those Divisions to—
 - (a) the initial Yarra Strategic Plan were a reference to the new Yarra Strategic Plan; and
 - (b) a draft Yarra Strategic Plan were a reference to the draft of the new Yarra Strategic Plan being prepared.
- (3) The lead agency may revise or restate the long-term community vision document for the purposes of preparing a new Yarra Strategic Plan.

Division 8—Reporting

43 Responsible public entities to prepare implementation audit report for lead agency

- (1) Each responsible public entity must—
 - (a) prepare a report on the implementation of a Yarra Strategic Plan by the entity over the reporting period; and
 - (b) provide that report to the lead agency.

- (2) For the purposes of subsection (1), the reporting period is—
 - (a) intervals of 6 months; or
 - (b) any other period that the Minister specifies in writing to the responsible public entity and the lead agency.
- (3) If the Minister specifies a period under subsection (2)(b), the Minister must publish notice of that specification in the Government Gazette.

44 Lead agency to prepare annual report for Council

The lead agency must prepare an annual report from the information provided to the agency in any report under section 43 and give the report to the Council to assist it with its functions under section 57(1).

Division 9—Other

45 Specific legislation and a Yarra Strategic Plan

- (1) If a Yarra Strategic Plan applies to any land to which a management plan under the **Heritage Rivers Act 1992** applies, a Yarra Strategic Plan must not be inconsistent with—
 - (a) that Act; or
 - (b) any management plan under that Act unless the Minister administering that Act, after consultation with the Minister administering the Act under which the relevant land is managed (if any), gives a specific written endorsement to the lead agency authorising the inconsistency.
- (2) If a Yarra Strategic Plan applies to any land in a park under the **National Parks Act 1975**, a Yarra Strategic Plan must not be inconsistent with—
 - (a) that Act; or

- (b) any management plan under that Act unless the Secretary gives a specific written endorsement to the lead agency authorising the inconsistency.
- (3) If a Yarra Strategic Plan applies to any land that is reserved under the **Crown Land (Reserves) Act 1978**, a Yarra Strategic Plan must not be inconsistent with—
- (a) that Act; or
 - (b) the purpose for which that land is reserved; or
 - (c) any relevant recommendation of the Land Conservation Council under section 5(1) of the **Land Conservation Act 1970** (as in force immediately before its repeal) applying to the land, of which notice has been given by the Governor in Council under section 10(3) of that Act (as so in force); or
 - (d) any Government response (or amended Government response) under section 25 or 26G of the **Victorian Environmental Assessment Council Act 2001** to any report under section 23 or 26E of that Act applying to the land.
- (4) If a Yarra Strategic Plan applies to any land that is reserved under the **Crown Land (Reserves) Act 1978**, and that land is subject to additional management requirements as a State Wildlife Reserve or a Nature Reserve under the **Wildlife Act 1975**, a Yarra Strategic Plan must not be inconsistent with—
- (a) the **Wildlife Act 1975**; or

- (b) any plan of management under the **Wildlife Act 1975** unless the Secretary gives a specific written endorsement to the lead agency authorising the inconsistency.
- (5) If a Yarra Strategic Plan applies to any land to which a regional waterway strategy for the Yarra River applies (prepared by Melbourne Water Corporation under section 190 of the **Water Act 1989**), a Yarra Strategic Plan must not be inconsistent with—
 - (a) the **Water Act 1989**; or
 - (b) that strategy unless the Water Minister and the environment Minister jointly give a specific written endorsement to the lead agency authorising the inconsistency.
- (6) If a Yarra Strategic Plan applies to any land that is Crown land which is the subject of a joint management plan under Part 8A of the **Conservation, Forests and Lands Act 1987** in respect of appointed land under that Part between the Secretary and a Traditional Owner Land Management Board, a Yarra Strategic Plan must not be inconsistent with—
 - (a) the **Conservation, Forests and Lands Act 1987**; or
 - (b) that joint management plan for the appointed land unless the Secretary and the Traditional Owner Land Management Board jointly give a specific written endorsement to the lead agency authorising the inconsistency.
- (7) Notice of any endorsement under this section must be published in the Government Gazette by the entity giving the endorsement to the lead agency.

(8) In this section—

environment Minister has the same meaning
as in the **Water Act 1989**;

Land Conservation Council means the Land
Conservation Council established under
the **Land Conservation Act 1970**.

Part 5—The Birrarung Council

46 Establishment of the Council

The Birrarung Council is established.

47 Independence of the Council

The Council is to act independently of responsible public entities.

Note

See also section 49(3).

48 Functions and powers of the Council

(1) The main functions of the Council are—

(a) to provide advice to the Minister—

- (i) generally in relation to the administration of this Act; and
- (ii) on particular matters on which its advice is sought relating to the protection and improvement of Yarra River land; and
- (iii) on the development of a Yarra Strategic Plan, including the scope and adequacy of public participation processes; and
- (iv) on the implementation of a Yarra Strategic Plan; and
- (v) on the operation and effectiveness of a Yarra Strategic Plan and its contribution to the protection and improvement of Yarra River land, and the environmental, cultural and heritage values of Yarra River land, including the waterway health of the Yarra River; and

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

- (2) The Council has any other function conferred on the Council by or under this Act or any other Act.
- (3) The Council has all powers necessary to carry out its functions.

49 Constitution and membership of the Council

- (1) The Council consists of not more than 12 members appointed by the Minister, of whom—
 - (a) at least 2 members must be nominees of the Wurundjeri Tribe Land and Compensation Cultural Heritage Council Inc. A0005530A; and
 - (b) at least one member must be a representative of an environment group; and
 - (c) at least one member must be a representative of an agriculture industry group; and
 - (d) at least 2 members must be skill-based members as specified in subsection (2); and
 - (e) at least one member must be a representative of a Yarra River land local community group; and
 - (f) one member is the chairperson.
- (2) A person is eligible to be appointed as a skill-based member if the Minister is satisfied that the person is skilled or has expertise in one of the following—
 - (a) waterway health;
 - (b) aquatic ecology;
 - (c) urban design;
 - (d) landscape architecture;

- (e) urban parks and recreation;
 - (f) statutory planning;
 - (g) environmental planning;
 - (h) public participation processes;
 - (i) community health.
- (3) A person is not eligible to be appointed as a member of the Council if the person is a member or an employee of a responsible public entity.

50 Chairperson

- (1) The Minister must appoint a person to be the chairperson of the Council.
- (2) A person is eligible to be appointed as chairperson of the Council if the Minister is satisfied that the person has suitable skills for the role of chairperson.

51 Terms of appointment of members

- (1) A member of the Council—
 - (a) holds office for the period, not exceeding 4 years, specified in the instrument of appointment and is eligible for reappointment; and
 - (b) is appointed on the terms and conditions determined by the Minister; and
 - (c) is entitled to the remuneration and allowances determined by the Minister from time to time.
- (2) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

52 Resignation and removal of members

- (1) A member of the Council may resign from the office of member by writing to the Minister.
- (2) A member of the Council may be removed from office by the Minister on any of the following grounds—
 - (a) misconduct;
 - (b) neglect of duty;
 - (c) inability to perform the duties of the office;
 - (d) any other ground on which the Minister is satisfied that the member is unfit to hold office.

53 Vacancies in membership

- (1) The office of member of the Council becomes vacant if the member—
 - (a) resigns from office; or
 - (b) is removed from office under section 52(2).
- (2) In accordance with this Act, the Minister may fill a vacant office.

54 Presiding at Council meetings

- (1) The person who is to preside at a meeting of the Council is—
 - (a) the chairperson, if the chairperson is present; or
 - (b) a member elected to preside by the members of the Council present at the meeting, if the chairperson is absent.
- (2) The person who is presiding at a meeting has a deliberative vote and, if voting is equal on any question, a casting vote.

55 Proceedings of the Council

- (1) A majority of the members in office for the time being constitutes a quorum of the Council.
- (2) The Council is subject to any written direction given to it by the Minister.
- (3) Subject to any direction of the Minister, the Council may regulate its own proceedings.

56 Validity of decisions of the Council

- (1) An act or a decision of the Council is not invalid merely because of—
 - (a) a defect or irregularity in, or in connection with, the appointment of a member; or
 - (b) a vacancy in the membership of the Council, including a vacancy arising from the failure to appoint an original member.
- (2) Anything done by or in relation to a person purporting to act as chairperson is not invalid merely because—
 - (a) the occasion for the appointment had not arisen; or
 - (b) there was a defect or irregularity in relation to the appointment; or
 - (c) the appointment had ceased to have effect.

57 Report of the Council

- (1) The Council must report to the Minister on the implementation of a Yarra Strategic Plan by responsible public entities.
- (2) A report under subsection (1) must be made on or before 31 October each year after a Yarra Strategic Plan has come into operation under section 38.

- (3) The Minister must cause a report under subsection (1) to be laid before each House of the Parliament—
 - (a) within 7 sitting days after receiving the report; and
 - (b) together with the report submitted to the Council under section 44.

58 Review of the Council

- (1) The Minister must ensure that a review of the role and operation of the Council is completed before the fifth anniversary of the commencement of section 46.
- (2) The Minister may nominate any person to conduct a review under this section.
- (3) The Minister must cause a report of a review under this section to be laid before each House of the Parliament within 10 sitting days after completion of the review.

Part 6—Greater Yarra Urban Parklands

59 Governor in Council may declare land as a state significant urban natural entity

- (1) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may declare an area of land as a state significant urban natural entity to be known as the Greater Yarra Urban Parklands.
- (2) An order under subsection (1) may cover—
 - (a) any Yarra River land—
 - (i) that is used as public open space or as a park; and
 - (ii) that is within the municipal district of a municipal council that is a responsible public entity and that is described in a planning scheme that applies to that municipal district as being within an urban growth boundary; and
 - (b) any other land that the land owner agrees may be covered by the order that is within an urban growth boundary specified in a planning scheme.
- (3) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may include any additional area of land of a type referred to in subsection (2) in the Greater Yarra Urban Parklands.
- (4) The Governor in Council, on the recommendation of the Minister, by order published in the Government Gazette, may remove land from the Greater Yarra Urban Parklands.
- (5) The Minister must consult with the Council before making a recommendation under subsection (4).

(6) In this section—

planning scheme means a planning scheme under
the **Planning and Environment Act 1987**.

Part 7—General

60 Regulations

- (1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations may—
 - (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstances;
 - (c) confer a discretionary authority or impose a duty on a specified person or body or class of persons or bodies;
 - (d) provide in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations—
 - (i) whether unconditionally or on specified conditions; and
 - (ii) either wholly or to any extent that is specified.

Part 8—Amendment of Planning and Environment Act 1987

61 Definitions

- (1) In section 3(1) of the **Planning and Environment Act 1987**, in the definition of *Department*, for "Transport, Planning and Local Infrastructure" **substitute** "Environment, Land, Water and Planning".
- (2) In section 3(1) of the **Planning and Environment Act 1987**, in the definition of *works*, for "topsoil." **substitute** "topsoil;".
- (3) In section 3(1) of the **Planning and Environment Act 1987** **insert** the following definitions—
 - "*Department Head* has the same meaning as in the **Public Administration Act 2004**;
 - Greater Yarra Urban Parklands* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;
 - responsible public entity* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;
 - Yarra protection principles* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;
 - Yarra River land* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;
 - Yarra Strategic Plan* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;
 - Yarra Strategic Plan area* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

62 New section 4AA inserted

After section 4 of the **Planning and Environment Act 1987** insert—

"4AA Obligations of Department Head in relation to Yarra River land

- (1) The Department Head of the Department—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Department Head when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Department Head, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Department Head of the Department in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

63 New Part 3AAA inserted

After Part 3 of the **Planning and Environment Act 1987** insert—

**"Part 3AAA—Yarra River
land protection**

**Division 1—Compliance with
Yarra Strategic Plan**

**46AAA Responsible public entities to comply with
Yarra Strategic Plan**

A responsible public entity which is a planning authority must not prepare an amendment to a planning scheme that relates to Yarra River land that is inconsistent with anything in a Yarra Strategic Plan expressed to be binding on the responsible public entity.

**Division 2—Ratification by Parliament
for amendments to planning schemes**

**46AAB To which amendments does this Division
apply?**

- (1) This Division applies to an amendment to a planning scheme that—
 - (a) has been approved by the Minister under section 35 in relation to the use of land that is part of the Greater Yarra Urban Parklands; and
 - (b) removes, changes or replaces a zone under that planning scheme applying to that land so that the land may be used in a way that is inconsistent with a Yarra Strategic Plan.

- (2) This Division does not apply to an amendment to a planning scheme if the amendment was approved by the Minister before the commencement of this section.

46AAC Ratification by Parliament required for amendments to which this Division applies

- (1) An amendment to which this Division applies does not take effect unless ratified by each House of the Parliament in accordance with this Division.
- (2) Sections 36, 37 and 38 do not apply to an amendment to which this Division applies.

46AAD Procedure for ratification

- (1) The Minister must cause an amendment to which this Division applies to be laid before each House of the Parliament within 7 sitting days of that House after it is approved.
- (2) If a permit has been granted under section 96I in respect of an amendment to which this Division applies, the Minister must cause a notice specifying that the permit has been granted to be laid before each House of the Parliament at the same time that the amendment is laid before that House under subsection (1).
- (3) An amendment to which this Division applies does not take effect unless it is ratified by a resolution passed by each House of the Parliament within 10 sitting days after it is laid before that House.

46AAE Notice of ratification

The Minister must publish a notice of the ratification under section 46AAD of an amendment in the Government Gazette

specifying the place or places at which any person may inspect the amendment.

46AAF When does a ratified amendment commence?

An amendment that has been ratified under this Division comes into operation—

- (a) when the notice of ratification of the amendment is published in the Government Gazette; or
- (b) on any later day or days specified in the notice.

46AAG When does an amendment lapse?

- (1) An amendment to which this Division applies that has not been ratified in accordance with section 46AAD lapses on the day immediately after the last day on which it could have been so ratified.
- (2) When an amendment has lapsed under subsection (1), the Minister must publish a notice in the Government Gazette setting out the date on which the amendment lapsed.
- (3) The publication of the notice under subsection (2) is conclusive proof of the date that the amendment lapsed.

46AAH Application of sections 40, 41 and 42

Sections 40, 41 and 42 do not apply to an amendment to which this Division applies unless and until the amendment is ratified under this Division.

46AAI Application of Division 5 of Part 4

If a permit has been granted under Division 5 of Part 4 and the amendment to which the permit applies is an amendment to which this Division applies—

- (a) if the amendment lapses under section 46AAG(1), the permit is taken to be cancelled on that lapsing; and
- (b) if the amendment is ratified under this Division, the notice under section 46AAE of ratification must also specify the places at which any person may inspect the permit."

Part 9—Amendment of Commissioner for Environmental Sustainability Act 2003

64 Purpose and outline of Act

In section 1(2) of the **Commissioner for Environmental Sustainability Act 2003**, after "Report on the State of the Environment of Victoria" **insert** "and for the preparation of a periodical report on the environmental condition of Yarra River land".

65 Definitions

(1) In section 3 of the **Commissioner for Environmental Sustainability Act 2003**, in the definition of *Report on the State of the Environment of Victoria*, for "section 17." **substitute** "section 17;".

(2) In section 3 of the **Commissioner for Environmental Sustainability Act 2003** **insert** the following definitions—

lead agency has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

66 Functions of the Commissioner

After section 8(a) of the **Commissioner for Environmental Sustainability Act 2003** **insert**—

"(ab) prepare a report on—

- (i) the environmental condition of Yarra River land; and
- (ii) how the environmental condition of Yarra River land has changed since the last report on Yarra River land;"

67 New sections 17A and 17B inserted

After section 17 of the **Commissioner for Environmental Sustainability Act 2003** insert—

"17A Reports on the environmental condition of Yarra River land

- (1) The Commissioner must prepare and submit to the Minister a periodical report on the environmental condition of Yarra River land.
- (2) A report under subsection (1) may be prepared—
 - (a) as part of a Report on the State of the Environment of Victoria; or
 - (b) as a separate report.
- (3) If the report is prepared as a separate report, it must be prepared at intervals not exceeding—
 - (a) 5 years; or
 - (b) if the framework for environmental reporting specifies a shorter period, the shorter period.
- (4) The Minister must cause a copy of a report prepared under subsection (1) as a separate report to be laid before each House of the Parliament within 10 sitting days of that House after the report has been given to the Minister.
- (5) If a report prepared under subsection (1) as a separate report includes recommendations made by the Commissioner, the Minister must, not later than the first sitting day after the period of 12 months since the sitting day on which the report was laid before each House of the Parliament, cause a statement of the response of the Government to be laid

before each House specifying the action (if any) proposed to be taken by the Government with respect to the recommendations.

(6) In this section—

framework for environmental reporting

means the framework approved under section 17(2) for a Report on the State of the Environment of Victoria.

17B Lead agency to provide assistance

The lead agency must give the Commissioner whatever assistance the Commissioner reasonably requires in preparing a report under section 17A."

68 Public availability

After section 21(1)(a)(iv) of the **Commissioner for Environmental Sustainability Act 2003** insert—

"(iva) a report prepared under section 17A, if prepared as a separate report;"

Part 10—Amendment of other Acts

Division 1—Amendment of Catchment and Land Protection Act 1994

69 Definitions

- (1) In section 3(1) of the **Catchment and Land Protection Act 1994**, in the definition of *waterway*, for "1989." substitute "1989;"
- (2) In section 3(1) of the **Catchment and Land Protection Act 1994** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

70 New section 12A inserted

After section 12 of the **Catchment and Land Protection Act 1994** insert—

"12A Obligations of the Port Phillip and Westernport Catchment Management Authority in relation to Yarra River land

- (1) The Port Phillip and Westernport Catchment Management Authority—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Authority when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Authority, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Port Phillip and Westernport Catchment Management Authority in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 2—Amendment of Conservation, Forests and Lands Act 1987

71 Definitions

- (1) In section 82A of the **Conservation, Forests and Lands Act 1987**, in the definition of *traditional owner land management agreement* for "82P." substitute "82P;".
- (2) In section 82A of the **Conservation, Forests and Lands Act 1987** insert the following definition—

"Yarra Strategic Plan has the same meaning as
in the **Yarra River Protection (Wilip-gin
Birrarung murrong) Act 2017**."

72 Joint preparation of management plans

After section 82PA(2) of the **Conservation, Forests and Lands Act 1987** insert—

- "(3) The Traditional Owner Land Management Board and the Secretary must have regard to a Yarra Strategic Plan when preparing a management plan in relation to any appointed land to which a Yarra Strategic Plan applies."

Division 3—Amendment of Crown Land (Reserves) Act 1978

73 Definitions

- (1) In section 3 of the **Crown Land (Reserves) Act 1978**, in the definition of *Trust*, for "1996." substitute "1996;".
- (2) In section 3 of the **Crown Land (Reserves) Act 1978** insert the following definitions—

"Yarra protection principles has the same
meaning as in the **Yarra River Protection
(Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

74 New section 18C inserted

After section 18B of the **Crown Land (Reserves) Act 1978** insert—

"18C Obligations of Secretary in relation to Yarra River land

- (1) The Secretary—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Secretary when performing a function or exercising a power under this Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Secretary, when performing a function or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Secretary in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

75 New section 21AB inserted

After section 21AA of the **Crown Land (Reserves) Act 1978** insert—

"21AB Obligations of committees of management and trustees in relation to Yarra River land

- (1) A committee of management or trustees in relation to land that forms part of Yarra River land—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the committee or trustees when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the committee of management or trustees, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by a committee of management or trustees in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 4—Amendment of Forests Act 1958

76 Definitions

- (1) In section 3(1) of the **Forests Act 1958**, in the definition of *working plan*, for "therefrom." **substitute** "therefrom;".
- (2) In section 3(1) of the **Forests Act 1958** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

77 New section 18B inserted

After section 18A of the **Forests Act 1958** insert—

"18B Obligations of Secretary in relation to Yarra River land

- (1) The Secretary—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Secretary when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and

- (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Secretary, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Secretary in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 5—Amendment of Heritage Rivers Act 1992

78 Contents of management plans

At the end of section 9 of the **Heritage Rivers Act 1992** insert—

- "(2) If the Minister requests a managing authority or a Catchment Management Authority to prepare a management plan in relation to land that forms part of the Yarra River Heritage Area, the managing authority or Catchment Management Authority must have regard to a Yarra Strategic Plan as it applies to that land.
- (3) In this section—
- Yarra Strategic Plan* has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

Division 6—Amendment of Local Government Act 1989

79 Definitions

(1) In section 3(1) of the **Local Government Act 1989**, in the definition of *ward*, for "riding." substitute "riding;".

(2) In section 3(1) of the **Local Government Act 1989** insert the following definitions—

Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

80 New section 3G inserted

After section 3F of the **Local Government Act 1989** insert—

"3G Obligations of Council in relation to Yarra River land

(1) A Council that is a responsible public entity within the meaning of the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**—

(a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Council when performing a function or duty or

exercising a power under this Act in relation to Yarra River land; and

- (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Council, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by a Council in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 7—Amendment of National Parks Act 1975

81 Definitions

- (1) In section 3(1) of the **National Parks Act 1975**, in the definition of *wilderness zone*, for "Act." substitute "Act;".
- (2) In section 3(1) of the **National Parks Act 1975** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

82 New section 20A inserted

After section 20 of the **National Parks Act 1975** insert—

"20A Obligations of Secretary in relation to Yarra River land

- (1) The Secretary—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Secretary when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Secretary, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Secretary in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

83 New section 27BA inserted

After section 27B of the **National Parks Act 1975** insert—

"27BA Secretary must have regard to Yarra Strategic Plan if preparing a management plan in relation to a park

The Secretary must have regard to a Yarra Strategic Plan if preparing a management plan in relation to a park that forms part of Yarra River land."

Division 8—Amendment of Parks Victoria Act 1998

84 Definitions

(1) In section 3 of the **Parks Victoria Act 1998**, in the definition of *Parks Victoria*, for "Part 2." substitute "Part 2;".

(2) In section 3 of the **Parks Victoria Act 1998** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

85 New section 8A inserted

After section 8 of the **Parks Victoria Act 1998**
insert—

**"8A Obligations of Parks Victoria in relation
to Yarra River land**

- (1) To the extent that Parks Victoria provides services under any agreement in relation to Yarra River land, Parks Victoria—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on Parks Victoria when performing a function or duty or exercising a power under this Act or any other Act or the agreement in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on Parks Victoria, when performing a function or duty or exercising a power under this Act or any other Act or the agreement in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by Parks Victoria in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 9—Amendment of Traditional Owner Settlement Act 2010

86 Definition of *land use activity*

- (1) In section 28(u) of the **Traditional Owner Settlement Act 2010**, for "section." substitute "section;".
- (2) After section 28(u) of the **Traditional Owner Settlement Act 2010** insert—
 - "(v) the preparation of a Yarra Strategic Plan under Part 4 of the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

87 Definition of *decision maker*

- (1) In section 29(q) of the **Traditional Owner Settlement Act 2010**, for "section." substitute "section;".
- (2) After section 29(q) of the **Traditional Owner Settlement Act 2010** insert—
 - "(r) in relation to the preparation of a Yarra Strategic Plan under Part 4 of the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**, the lead agency responsible for the preparation of the plan."

Division 10—Amendment of Transport Integration Act 2010

88 Definitions

- (1) In section 3 of the **Transport Integration Act 2010**, in the definition of *V/Line Corporation*, for "section 128." substitute "section 128;".

(2) In section 3 of the **Transport Integration Act 2010** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**".

89 New section 89A inserted

After section 89 of the **Transport Integration Act 2010** insert—

"89A Obligations of Roads Corporation in relation to Yarra River land

- (1) The Roads Corporation—
- (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Roads Corporation when performing a function or duty or exercising a power under this Act or any other Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Roads Corporation, when performing a function or duty or exercising a power under this Act or any other Act in relation to the Yarra

Strategic Plan area that may affect
Yarra River land.

- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Roads Corporation in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

90 New section 127 inserted

After section 126 of the **Transport Integration Act 2010** insert—

"127 Obligations of Victorian Rail Track in relation to Yarra River land

- (1) Victorian Rail Track—
- (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on Victorian Rail Track when performing a function or duty or exercising a power under this Act or any other Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on Victorian Rail Track, when performing a function or duty or exercising a power under this Act or any other Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by Victorian Rail Track in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 11—Amendment of Victorian Planning Authority Act 2017

91 Definitions

- (1) In section 3(1) of the **Victorian Planning Authority Act 2017**, in the definition of *superseded Authority*, for "operation." substitute "operation;"
- (2) In section 3(1) of the **Victorian Planning Authority Act 2017** insert the following definitions—

Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

92 New section 10A inserted

After section 10 of the **Victorian Planning Authority Act 2017** insert—

"10A Obligations of Authority in relation to Yarra River land

- (1) The Authority—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Authority when performing a function

or duty or exercising a power under this Act in relation to Yarra River land; and

- (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Authority, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Authority in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

Division 12—Amendment of Water Act 1989

93 Definitions

In section 3(1) of the **Water Act 1989** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

94 New section 124A inserted

After section 124 of the **Water Act 1989** insert—

"124A Obligations of Port Phillip and Westernport Catchment Management Authority in relation to Yarra River land

- (1) The Port Phillip and Westernport Catchment Management Authority—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Authority when performing a function or duty or exercising a power under this Act or any other Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Authority, when performing a function or duty or exercising a power under this Act or any other Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Port Phillip and Westernport Catchment Management Authority in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

95 New section 171I inserted

After section 171H of the **Water Act 1989**
insert—

"171I Obligations of Melbourne Water Corporation in relation to Yarra River land

- (1) Melbourne Water Corporation—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on Melbourne Water Corporation when performing a function or duty or exercising a power under this Act or any other Act in relation to Yarra River land; and
 - (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on Melbourne Water Corporation, when performing a function or duty or exercising a power under this Act or any other Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by Melbourne Water Corporation in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**."

96 Preparation of regional waterway strategies

After section 190(3) of the **Water Act 1989**
insert—

- "(3A) In preparing a regional waterway strategy that relates to the Yarra River, Melbourne Water Corporation must have regard to a

Yarra Strategic Plan as it applies to the
Yarra River."

Division 13—Amendment of Wildlife Act 1975

97 Definitions

- (1) In section 3(1) of the **Wildlife Act 1975**, in the definition of *wildlife licence*, for "section 22." substitute "section 22;".
- (2) In section 3(1) of the **Wildlife Act 1975** insert the following definitions—

"Yarra protection principles has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra River land has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**;

Yarra Strategic Plan area has the same meaning as in the **Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017**."

98 New section 14A inserted

After section 14 of the **Wildlife Act 1975** insert—

"14A Obligations of Secretary in relation to Yarra River land

- (1) The Secretary—
 - (a) must not act inconsistently with any part of a Yarra Strategic Plan that is expressed to be binding on the Secretary when performing a function or duty or exercising a power under this Act in relation to Yarra River land; and

- (b) must have regard to the Yarra protection principles, and those parts of a Yarra Strategic Plan not expressed to be binding on the Secretary, when performing a function or duty or exercising a power under this Act in relation to the Yarra Strategic Plan area that may affect Yarra River land.
- (2) Subsection (1) does not apply to the performance of a function or the exercise of a power by the Secretary in relation to a declared project within the meaning of the **Major Transport Projects Facilitation Act 2009**".

Part 11—Repeal of amending Parts

99 Repeal of amending Parts

- (1) Part 8 (except section 63) and Parts 9, 10 and this Part are **repealed** on 1 December 2018.
- (2) Section 63 is **repealed** on the first anniversary of the day on which it comes into operation.

Note

The repeal of Parts 8, 9, 10 and this Part of this Act does not affect the continuing operation of the amendments made by those Parts (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

[†] *Minister's second reading speech—*

Legislative Assembly: 22 June 2017

Legislative Council: 22 August 2017

The long title for the Bill for this Act was "A Bill for an Act to provide for the establishment of an overarching policy and planning framework for the Yarra River, to establish the Birrarung Council, to provide for the declaration of the Greater Yarra Urban Parklands, to amend various Acts in relation to the management of the Yarra River and other Yarra River land and to make other consequential amendments and for other purposes."

¹ The Woi-wurrung text does not exactly match the English words because it is a different language culture.