



Protecting the rivers of the west

Governance reform for community and
the environment in western Melbourne



Environmental
Justice Australia



Helen Macpherson Smith Trust

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Environmental Justice Australia is a not-for-profit public interest legal practice. Funded by donations and independent of government and corporate funding, our legal team combines a passion for justice with technical expertise and a practical understanding of the legal system to protect our environment.

We act as advisers and legal representatives to the environment movement, pursuing court cases to protect our shared environment. We work with community-based environment groups, regional and state environmental organisations, and larger environmental NGOs. We also provide strategic and legal support to their campaigns to address climate change, protect nature and defend the rights of communities to a healthy environment.

While we seek to give the community a powerful voice in court, we also recognise that court cases alone will not be enough. That's why we campaign to improve our legal system. We defend existing, hard-won environmental protections from attack. At the same time, we pursue new and innovative solutions to fill the gaps and fix the failures in our legal system to clear a path for a more just and sustainable world.

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“ The outcomes of the project are already being used by various community groups to inform advocacy and lay groundwork for legislative and policy change ”

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INTRODUCTION

This document reports on an innovative project undertaken by Environmental Justice Australia (EJA), with community organisation partners, to design and produce proposals for improved protection and restoration of urban rivers and waterways in the west of Melbourne.

The Helen Macpherson Smith Trust funded this project over a period of nine months, from December 2017 to August 2018.

The work undertaken under this grant has been instrumental in bringing together community groups and public agency staff in order to engage in a deep, structured conversation around the future of river law and policy applying to western Melbourne. It has developed directions and outputs by which communities, environmental NGOs, local government and public agencies may be guided in future protection and management of these key environmental assets.

This project has been successful in:

- refining and advancing a method of NGO- and community-led ‘thought leadership’ in the design of environmental policy and law reform ideas;
- engaging and activating community organisations across Melbourne’s western and north western regions around new and better approaches to environmental management and problem-solving;
- building on emerging models and ideas of ‘river law’ (using the law in new ways to protect and restore rivers and waterways), consolidating this concept and establishing scope for its wider and deeper application in waterway protection.

Lawyer Bruce Lindsay (third from left) and community members



OUR PROJECT

This project concerned the development of ideas for better protection of key environmental and social assets in Melbourne's west. The project had two features:

1. to achieve a set of policy and law reform proposals directed to recognition, protection and, over time, restoration of the Maribyrnong and Werribee Rivers. In the course of the project minor urban creeks and waterways between the two rivers were also included.
2. to enable a participatory design process whereby community members, either individually or through community organisations, come together in a structured way to conceive of and debate a reform program. This is a process EJA pioneered in development of proposals for a Yarra River Act. This model is discussed further below.

1. Policy and law reform proposals

The first feature concerns outcomes and, in particular, those enabling communities to strategically engage and advocate on waterway health, environmental outcomes and the social benefits derived from improved management arrangements for these rivers.

The Maribyrnong and Werribee Rivers are major urban waterways in Melbourne's west. They are key environmental and amenity assets for communities in the metropolitan and hinterland areas. However, they are also degraded and neglected as a consequence of historical and current human impacts and pressures.

These pressures are ongoing and to a significant degree entrenched through planning and water management decisions. Additionally, less-than-optimal governance arrangements entrench a poor environmental and amenity record, and are a major impediment to protection and restoration that would benefit the community.

The western region of Melbourne is expanding rapidly. The effects of conventional urbanisation on streams and waterways in cities and peri-urban

areas in well known, frequently leading to adverse ecological and public amenity impacts such as:

- increased stormwater flows compromising in-stream ecosystems, groundwater recharge, water quality and soil health of adjacent lands;
- loss of riparian land and biodiversity to development;
- loss or compromise of open space or native vegetation or both;
- loss or compromise of access to waterways.

Conventional urbanisation leads to extensive areas of impervious surfaces, built forms, noise, traffic and residual access to natural places, if not their wholesale modification or absence. This has all impacted on the west's waterways.

2. 'Participatory design'

The focus of the work for this project was a series of four workshops convened and led by EJA, with the support and assistance of partner organisations – Friends of Steele Creek (FoSC), the Werribee River Association (WRA) and the Friends of the Maribyrnong River Valley. Our colleagues from the first two organisations have been most closely associated with this project but the networks and associations of all those community groups was essential to the success of the project.

The participatory design methods include the following elements:

- the lead nongovernmental organisation, with subject-matter expertise as well as organising capabilities (in this case, EJA);
- core supporting community organisations, who play a key organisational role (FoSC and WRA in particular in this case);
- a program of workshops with community members, organisations, interested individuals, council and public agency staff, all participating on an entirely voluntary basis;



Huong Truong MP @HuongTruongMLC · Apr 30

So pumped for the next two @EJ_Aus workshops! Time for the nuts and bolts of how to make all this happen. No politicking - "We want all politicians from all sides to get behind this" ❤️ #RiversofTheWest





- each workshop including preparatory documents and/or presentations, small group discussions, voting on propositions, individual reflections and presentations to the group, and ‘next steps’;
- preparatory documents where required for consideration by a workshop ordinarily but not always done by EJA (subject matter experts) in lay language;
- a summary of outcomes from workshops circulated (to the participants and on the internet);
- incremental consideration and deliberation on issues and outcomes;
- advocacy to or informing of government and other public sector actors of outcomes as the process unfolds.

The method is characterised by NGO-led community engagement leading to substantive proposals for reform. There is engagement with government by the lead organisations and facilitation of community organisations to engage with government and decision-makers at levels appropriate to them (e.g. local councils, local agency staff).

This process was trialled in our work on the Yarra River Act. It proved even more effective in this project on the western rivers and waterways.

THE WORKSHOPS

The four workshops planned and completed for the ‘rivers and the west’ project were as follows.

Key issues

The first workshop identified and considered issues of particular relevance to the management of the rivers and waterways of the west. Two expert presenters spoke to the issues of land-use planning and stormwater management respectively. The group as a whole deliberated on and raised priority issues, goals for better laws, and what means might be available to achieve those goals. The Key Issues workshop was intended to establish a baseline and scope of matters to be considered in law and policy reform.

Visions

The second workshop focused on the question of vision(s) for law and policy reform. This workshop was intended ‘to frame discussion around long-term preferences and ideas, and to begin to articulate visions for the western waterways and catchments. Visions are important not only to inform legislative design, but to enable law reform by providing a *reason or purpose* for better legal and policy frameworks.¹ John Forrester talked about the [Werribee River](#), and

¹ EJA Summary Report: Visions (2018), 1

Geoff Mitchelmore, from Friends of [Lower Kororoit Creek](#), spoke of how developing a vision enabled the impressive restoration works on that waterway. In group discussions, participants workshopped environmental, social, governance and economic visions for their associated waterways.

[Options](#)

In this workshop, based on previous outcomes EJA presented a spectrum of options to the participating group. These options included:

- incremental reform of existing legal and policy instruments, such as planning schemes and waterway strategies;
- adaptation of the Yarra River legislation to the Maribyrnong and Werribee Rivers, as well as strengthening of protections for minor urban creeks in the west;
- a new approach to urban design focusing on 'green infrastructure'.

All participants discussed the models and voted on a preferred approach. The majority selected the latter, 'green infrastructure' model.

[Draft Proposals](#)

The final workshop considered a draft set of proposals for river reform in the west. The workshop included an overview of key features of draft proposals. The Draft Proposals included:

- legislative reform for protection and restoration of the western waterways;
- strategic planning for each waterway plus a biolinks framework within a 'green infrastructure' and 'caring for country' model;
- a single land and water trust to manage public lands and water resources.

Those proposals were developed from the views and ideas expressed by participants over the preceding workshops, in particular the preference for an ambitious, green infrastructure approach.

The features of the Draft Proposals preferred by participants were a Biolinks Framework, a Rivers of the West Trust, Green infrastructure Projects, a Green Infrastructure Fund, and ecological and heritage studies (see Figure 1).

Preliminary documentation, presentations and summary reports from each workshop are available on the [EJA website](#).

Authorised Version	
Yarra River Protection (Wilip-gin Birrarung murron) Act 2017	
No. 49 of 2017	
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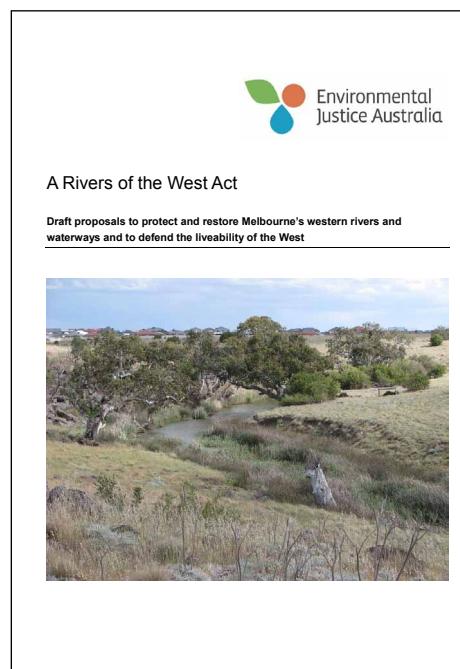


Figure 1: Workshop participants' preferred features in Draft Proposals

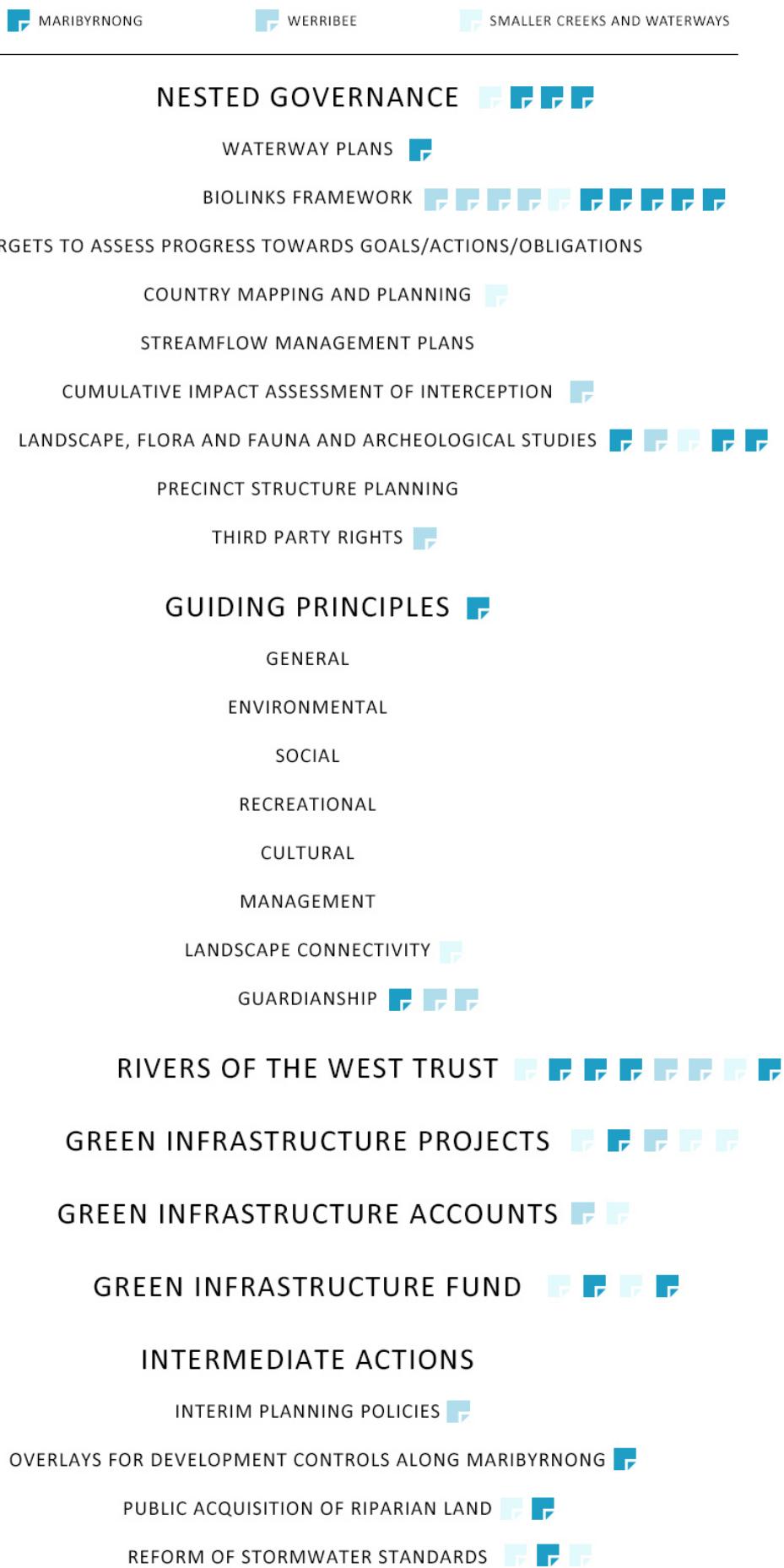


Table 1: Workshop participants by theme

Workshop	Theme	Number of participants
1	Key issues	43
2	Visions for rivers and waterways of the West	38
3	Options for law and policy reform	30
4	Draft proposals	28

'REVERSE CONSULTATION' AND PREPARATION OF FINAL PROPOSALS

After the series of workshops, EJA decided to circulate Draft Proposals to staff within municipal councils across the western region and public agencies in order to obtain those organisations' views and feedback on the proposals. Relevant public agencies included Melbourne Water, Southern Rural Water, City West Water, DELWP, Parks Victoria, and Port Philip and Westernport Catchment Management Authority.

Copies of the Draft Proposals have also been sent to the office of the Water Minister, the Planning Minister, and the Opposition Spokesperson on the Environment.

This reverse consultation process had yet to conclude at the time of writing this report.

A final set of proposals will take account of all feedback including:

- comments from the final workshop;
- subsequent comments from community participants;
- comments from councils and public agencies.

We expect to publish Final Proposals by 30 September 2018.

PARTICIPANTS

Thirty to forty people attended each workshop held for the 'rivers of the west' project. Some people attended only one or two workshops but many attended all four. In general, participation at each workshop was lively and engaged. Attendees generally were members of active community groups in the western suburbs and peri-urban regions (especially in upper river catchments) or were staff employed at municipal councils in the region or at public agencies with responsibility for waterway management. Community group participants included members of 'Friends' groups, Landcare groups, and environment groups.

Numbers of participants are outlined in Table 1 above.



OUTCOMES

Consistent with the participatory design method outlined above the project delivered (or will deliver at the conclusion of consultation) a series of tangible outcomes including:

- four workshops;
- preparatory papers for each workshop;
- summaries and outlines of each workshop;
- a set of final proposals for law and policy reform for rivers of the west.

Draft Proposals for a Rivers of the West Act have been prepared and, once all consultations and feedback have been collated, a final set of proposals will be prepared.

In addition, the project delivered a series of intangible outcomes or contributed to a broader program of 'river law' reform. These outcomes included:

- meetings (briefings) with State Government Ministerial staff and senior Department officers on issues of protection and restoration of western rivers and waterways, feeding into policy development processes.

- meetings (briefings) with Opposition spokesperson on the above issues and similarly feeding into Opposition policy development.
- establishment of a common and structured space among community groups and relevant councils and agencies to consider and collaborate on policy and law reform ideas.
- contribution to the confidence and sense of vision for improved waterway management among active community members and groups.
- significant contribution to policy momentum and debate on urban and peri-urban waterway protection.
- deepened confidence in and demonstration of the utility of the participatory design method (NGO-led community workshopping and design of policy and law reform).

Our 'rivers of the west' project has contributed directly to policy development within the Victorian Government directed to 'action planning' for improved protection of urban rivers including those in the west. On 28 August 2018, the government [announced](#) 'a new community-led approach to ensure iconic waterways in Melbourne's west are protected for generations to come'.



 **John Forrester** @werribeerivkeep · Feb 21
Talking #riversofthewest today with @NickWakelingMP @EJ_Aus @TheYarraRiver
@ecocentrestk @WyndhamCouncil @timpallas



 **Lisa Neville** ● @LisanevilleMP · Aug 28
Joined Elders and Labor colleagues @rwynnemp @MarshaThomsonMP
@DannyPearsonMP @Katie_Footscray today to announce our new plan to protect
and enhance our rivers and creeks in the west. #SpringSt #westisbest 💧



1 6 18



CONCLUSIONS

It is important that the communities who know their local environment have an effective say in how it is managed and what laws and policies are in place for environmental management. Organisation and leadership from within the community and NGOs is essential to this occurring. The success of the ‘rivers of the west’ project was also not possible without the support of funders such as the Helen Macpherson Smith Trust. The support of the Trust follows the earlier support of the Lord Mayors Charitable Foundation for a similar project that led to significant reforms aimed at better protection of the Yarra River. Support from the Trust has made possible the participatory design program, developing intellectual and community content in proposals for improved protection and long-term planning and restoration of western Melbourne’s waterways.

The ‘rivers of the west’ project provided an opportunity to revisit and consolidate the participatory design method, which focuses on bringing community organisations into a deliberative policy-making process on a basis of partnership with lead organisations. That partnership can and in this case did involve participant voting (decision-making) on project outcomes and directions. These procedural (process-based) outcomes are an important part of this project.

The project has provided the opportunity to investigate and prepare reform proposals for the management of rivers and waterways in western Melbourne. These proposals are crucial to continuing the momentum around urban waterway protection that began with our work on the Yarra River Act. It has identified how ‘river law’ might best be applied to the distinct geographic, economic and social circumstances of the West. Application of those ideas to the west has focused on new models of urban design emphasising natural and cultural values.

At the time of writing the outcomes of the project (proposals) are being used by various community groups to inform advocacy and lay groundwork for short- (2018) and longer term (next Parliamentary term) legislative and policy change.

Participants in workshop 4 discuss the Draft Proposals prepared by EJA



