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Melbourne's Birrarung: the Missed Opportunity for Collaborative Urban River Governance

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Abstract

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Keywords

Governance, collaboration, partnership, urban river corridors



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Abstract

A report submitted to Victoria's Minister for Environment, Climate Change & Water in 2015 identified that the mechanisms in place for governance of Melbourne's Lower Yarra River inhibit the river's potential to enhance the liveability of the City of Melbourne. An absence of shared strategy and coordinated management across multiple government agencies was highlighted. Recommendations were made for revised governance arrangements, but they have been largely disregarded. Scholarship of the structure and function of river governance networks is at an early stage, but this study applies theory from a related field – collaborative governance – to investigate the implications of this lost opportunity for enhanced collaboration. The study explores the opportunity to apply an integrated framework for collaborative governance developed by Emerson, Nabatchi & Balogh, and its constituent elements, to an urban river governance context. The integrated framework is shown to be a valuable tool for illuminating the drivers, engagement processes, motivational attributes and joint capacities that can enable shared decision-making and implementation across multiple organisations and jurisdictions, to achieve desired ends. The study identifies the need to effectively manage political, legal, socioeconomic and environmental influences (the system context), along with the constraints of collaboration dynamics, if a collaborative governance regime is to be successfully implemented. The study identifies that factors such as interdependence, leadership direction, consequential incentives and uncertainty play a key role in driving collaboration dynamics, in the context of an urban river corridor. A collaborative multi-regulator partnership approach is advocated as the immediate way forward for the Lower Yarra.

JEL classification: G38, L88, Q58, H11

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1. Introduction

Urban river governance systems in Australia, as in many developed countries, tend to be complex. This reflects the interconnected nature of urban river corridors, which lie at the intersection of two domains – the river, and its catchment with the city (Lerner & Holt, 2012). River governance networks must by necessity involve a wide range of organisations from across public, private and voluntary sectors (Holt, Moug & Lerner, 2012), due to the integration of ecological, economic and social knowledge needed to achieve sustainable management of a river (Wood, Handley & Kidd, 1999; Kidd & Shaw, 2000). Complicated governance impedes the activation and effective management of a river system.

Scholarship of the structure and function of river governance networks is at an early stage, (Holt, Moug & Lerner, 2012) but insights can be drawn from a related field where the literature is now well developed - collaborative governance theory.

Definitions of collaborative governance range from those which emphasise “formal, state-initiated arrangements,” as proposed by Ansell & Gash (2008) “where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus-oriented and deliberative” to those which encompass “multipartner governance” which can include “partnerships among the state, the private sector, civil society and the community” (Emerson, Nabatchi & Balogh, 2011). Such arrangements stand in contrast to “high” approaches grounded in power differentials that sometimes underpin the actions of regulators and government agencies.

When Emerson, Nabatchi & Balogh's integrated framework for collaborative governance was published (Emerson et al, 2011) its authors encouraged the application of their model to new regulatory contexts in order to operationalise their framework and derive new insights into how its dimensions and components interact.

This article aims to build a basis for understanding the levers of effective governance of urban river corridors by means of a case study of the Lower Yarra River in Melbourne. The Lower Yarra is the segment of river that runs alongside and through Melbourne's Central Business District, from the Hoddle Street bridge to the mouth of the river at Williamstown.

What follows is a case study which describes and reviews the inconclusive machinations around river governance reforms and efforts to develop city-wide strategies for the sustainable management of the Lower Yarra over the 5-year period from 2015 to 2019. Reasons for the reform failure are investigated. A documentary review has been undertaken, drawing from publicly available data including the websites and annual reports of State and local Government agencies with jurisdiction over the Lower Yarra River and strategic planning processes conducted by those agencies. Legislation governing the various agencies and describing their responsibilities and mandates and powers has also been scrutinised.

Applying discourse analysis to the publicly available materials, and reviewing relevant academic literature, the article explores models of governance that may be applicable to the context of an urban river corridor.

The objective of this research is to identify frameworks capable of assisting and informing the long-overdue task of reforming the cumbersome urban river governance arrangements which continue to impede the effective management, and activation, of the Lower Yarra.

As Feaver and Sheehy identified, a properly formulated delegation of governance powers should identify and define the boundary of authority of a regulator's authority by specifying both the governance functions the regulator is required to perform and the depth of decision-making discretion required to perform those functions (Feaver & Sheehy, 2015).

2. River Management Models for River Systems

Lerner & Holt (2012) identified three alternative approaches to the effective management of river systems: the unicentric; voluntary action; and partnership management.

The *centralised or unicentric* model - under which a single body has the powers, duties, finance and skills to deliver integrated management for specified ends - would appear to be the most straightforward approach, but this method of river governance is only rarely accomplished. A noteworthy exception from the United States is the case of the Tennessee Valley Authority, created under statute in the 1930s as an economic development agency and granted powers to address the interconnected issues of agriculture, power production, navigation, erosion and environmental improvement (Lerner & Holt, 2012).

By concentrating decision-making authority, a unicentric approach may make it easier to reach conclusions and take actions but this also gives rise to a number of risks and disadvantages. (Lerner & Holt, 2012) This approach internalises conflicts. It separates one domain from other relevant policy sectors, which can be problematic because urban river corridors tend to be situated at the intersection of domains where there are multiple interests. Centralisation tends to conflict with principles of broad representation of and accountability to stakeholders (Kidd & Shaw, 2007). Unicentric approaches can also lead to deficiencies in terms of complacency and give rise to the issues that come with authoritarian blindness.

A second model, at the other end of the spectrum of river governance models, is the idea of *voluntary action* under which citizens and local groups set local priorities, take local action and have local responsibility. This involves a 'bottom up' rather than 'top down' approach. An essential feature of this approach is that groups and citizens have no powers or duties, nor are they democratically accountable. This model was strongly advocated in the 2010s in the United Kingdom (and elsewhere) under the political slogan "Big Society". Lerner & Holt described important features of voluntary groups' contributions – they connect with the citizens, are often effective lobbyists and can frequently mobilise people to take action on the ground (Lerner & Holt, 2012).

An obvious potential deficiency of this approach, if employed in its purest form, is a lack of defined decision-making structures resulting in unpredictable outcomes. Local groups pursuing voluntary action tend not to be suited to, nor even wish to, assume management roles; that is not their *raison d'être*. Lerner & Holt (2012) concluded that, in all of the thirteen case studies they examined,

arrangements which dealt with complex problems through an entirely voluntary approach were ineffective.

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

There are three principal axes of a multi-dimensional model of partnership management which need to be addressed - *power*, *representation* and *process*. According to Plummer & Fitzgibbon (2004) these three axes locate any particular arrangement within the overall space of possible arrangements. Experience shows that regulatory backing, sufficient finance and skills are essential to deliver real change. In Lerner & Holt's sample group of case studies discussed above, successful projects which dealt with complex and competing issues all had some form of partnership working with strong leadership, technical expertise available and good engagement with a wide range of stakeholders. All had regulatory backing so that there were powers available to at least one of the partners to require actions. All had significant finance available. Partnership also requires organisations to pool their resources, powers and skills and negotiate compromises between competing issues (Lerner & Holt, 2012).

The research of Lerner & Holt suggests that a partnership-oriented governance model (based upon agreement and compromise) has potential to be highly effective in circumstances where there are complex and competing issues and dispersal of power, duties and finance among multiple actors. However, to date, there has been very little emphasis on bringing in an overt partnership model to optimise the governance of the Lower Yarra River. The question arises: if a partnership model is to be trialed in this setting, what mechanisms must be in place to allow the system to function effectively?

3. Collaborative Governance – System Context, the Regime & Drivers

Collaborative governance hinges on the robustness of structures and processes for policy development and decision-making (Berends, Ritter & Chalmers, 2016). Holt, Moug & Lerner (2012), examined the behaviours of actors in connection with the five major rivers running through the urban areas of Sheffield in the United Kingdom. Their work demonstrates ways in which interpretive policy analysis and social network analysis can be combined to reveal network structures and the leadership characteristics occurring within an interconnected group of organisations. This unearthed ways in which governance networks can potentially widen the scope of material and information which actors can access and also, by developing relationships among actors, facilitate knowledge and the exchange of resources.

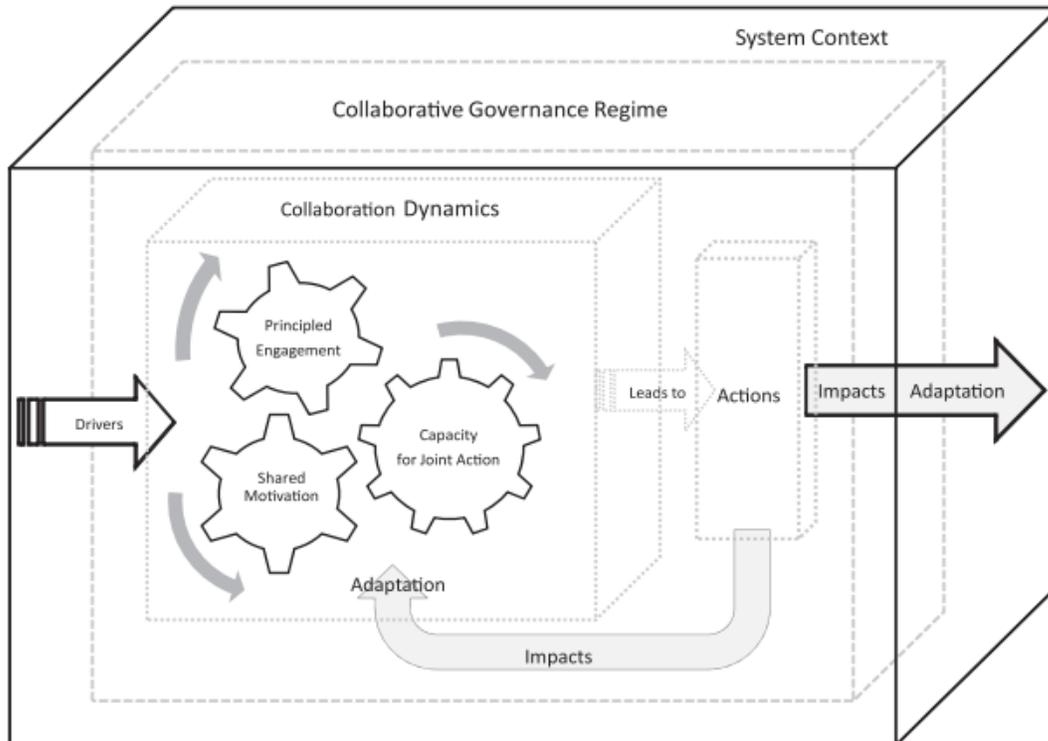
An integrative model for collaborative governance proposed by Emerson, Nabatchi & Balogh, 2011 aimed to illuminate the drivers, engagement processes, motivational attributes and joint capacities that enable shared decision-making, management and implementation across organisations and jurisdictions. The authors' objective was to offer a conceptual map by which to navigate the various dimensions, components and elements of collaborative governance. Their

integrative framework, depicted in Figure 1 below, was based on a systematic review of a broad array of relevant literature: Bryson, Crosby and Stone, 2006; Bentrup, 2001; Innes & Booher, 1999; Selin & Chavez, 1995; Daniels & Walker, 2001; Ring & Van de Ven, 1994; Thomson & Perry, 2006; Wood & Gray, 1991; Koppenjan & Klijn, 2004; Agranoff & McGuire, 2001; Leach, 2006; Agrawal & Lemos, 2007; Emerson et al, 2009.

Emerson, Nabatchi & Balogh’s framework was intended to have potential application in a range of sectors and contexts. They anticipated that applying the framework to various regulatory contexts would lead to further insights into the conditions required for a collaborative governance regime to be successfully established and elaborate how the dimensions, components and elements within their framework interact. A need for further theory testing was recognised, in order to operationalise the proposed integrative framework and its components. The Emerson et al framework has been applied, for example, to the context of reform of Western Australia’s ‘Alcohol and Other Drug’ sector, where it was found to be a useful structure for the explication of collaborative governance (Berends, Ritter & Chalmers, 2016).

The integrative framework, which is readily applicable to the context of urban river governance, consists of three nested dimensions.

Figure 1 - Emerson, Nabatchi & Balogh's Integrative Framework for Collaborative Governance



The first dimension that Emerson et al suggest be considered is the *system context* - the host of political, legal, socioeconomic, environmental and other influences that affect, and are affected by, the collaborative governance regime. Included in the seven elements they suggested constituted the system context were (see Table 1 below) “policy legal frameworks” and “prior failure to address issues” as well as “trust”. These influences generate opportunities and constraints and influence the dynamics of the collaboration. As will be evident from the discussion in sections 5, 6 and 7 of this article, below, it is important to not only review the history of the failed Lower Yarra River reform processes of 2015-19 but also to identify levels of suspicion and mistrust that may linger amongst stakeholders.

Within a given system under study, it is important to surface institutional, interpersonal and other risk factors which exist and could potentially affect the dynamics and performance of collaboration, at the outset or at any time during the life of a partnership model. The kinds of factors which may potentially influence the nature and prospects of collaboration include: resource conditions in need of improving (this could include concerns over ongoing access to funding); historic levels of conflict among recognised interests and resulting impact on working relationships (Ansell & Gash, 2008); political dynamics and power relations within particular communities or across levels of government; and the degree of connectedness within and across existing networks (Selin & Chavez, 1995).

The system context links to the second dimension of Emerson et al's framework - the *collaborative governance regime* (CGR) itself: the particular system for public decision-making which permits cross-boundary collaboration. Each CGR has its own distinctive collaborative dynamics and actions that shape the extent to which the regime can be effective. Collaborative dynamics consist of three interactive components: principled engagement, shared motivation and capacity for joint action. These three components work together in an interactive and iterative way to produce collaborative actions – the steps taken to implement the shared purpose of the CGR. These steps can lead to ‘impacts’ (actions both within and external to the regime) and potential ‘adaptation’ which can transform a complex situation or issue. Focused attention to all three of the interactive components of collaborative dynamics - by all parties expressing a commitment to collaborative governance - is essential if effective governance is to be achieved.

From the system context and the CGR emerge the third dimension, *drivers*, which set the direction for the CGR and play a crucial role in its establishment. A key proposition was advanced by Emerson, Nabatchi & Balogh: “One or more of the drivers of leadership, consequential incentives, interdependence, or uncertainty are necessary for a CGR to begin - the more drivers present and recognized by participants, the more likely a CGR will be initiated”.² They drew a distinction between the kinds of “contextual variables” they saw as comprising the system context and these four “essential drivers, without which the impetus for collaboration would not successfully unfold” (Emerson et al, 2011).

² This was the first of ten ‘propositions’ presented by the authors (as a first cut) in an effort to describe the causal mechanisms that link the components and elements of the nested dimensions in the framework. The ten propositions were described as preliminary working assumptions in need of future testing and validation.

Table 1 - Emerson, Nabatchi & Balogh's Diagnostic or Logic Model Approach to Collaborative Governance

Dimension and Components	System Context	Drivers	The Collaborative Governance Regime			Outputs Collaborative Actions	Collaborative Outcomes	
			Collaborative Dynamics				Impacts	Adaptation
			Principled Engagement	Shared Motivation	Capacity for Joint Action			
Elements within Component	- Resource Conditions - Policy Legal Frameworks - Prior Failure to Address Issues - Political Dynamics/ Power Relations - Network Connectedness - Levels of Conflict/Trust - Socio-economic/ Cultural Health & Diversity	- Leadership - Consequential Incentives - Interdependence - Uncertainty	- Discovery - Definition - Deliberation - Determination	- Mutual Trust - Mutual Understanding - Internal Legitimacy - Shared Commitment	- Procedural/ Institutional Arrangements - Leadership - Knowledge - Resources	Will depend on context and charge, but might include: - Securing Endorsements - Enacting Policy, Law, or Rule - Marshalling Resources - Deploying Staff - Siting/ Permitting - Building/ Cleaning Up - Enacting New Management Practice - Monitoring Implementation - Enforcing Compliance	Will depend on context and charge, but aim is to alter pre-existing or projected conditions in System Context	- Change in System Context - Change in the CGR - Change in Collaboration Dynamics

4. The Case Study – the Birrarung Described

Modern governance systems, as well as being dictated by geography, can be viewed as derivatives of the history of the area where they are situated – a melange of geographical and historical factors.

The City of Melbourne in the southeast of Australia had its genesis as an illegal squatter camp established by European colonisers in 1835, (Boyce 2012) near the mouth of an ancient river. This watercourse was given the name ‘Yarra’ when the early European settlers misinterpreted the pronunciation of Aboriginal words for the term ‘it flows’.³ The river, called ‘Birrarung’ by the indigenous inhabitants of what is now Victoria, has been significant in the development of the City of Melbourne in a range of ways. It was initially a source of fresh drinking water. The river, as it existed for millennia up to the early 1830s, was:

A radically different watercourse than the one that exists today, which from the present-day Botanic Gardens to Port Phillip Bay now flows through an almost totally artificial channel. The river was tidal up to a rocky basalt ledge (where Queens Bridge now stands), at which point it was as much as ninety metres wide. What the British would call ‘the falls’ acted as a barrier to the saline tidal flows, ensuring that upstream of the rocks could be found a permanent source of fresh water (Boyce, 2012; citing Presland, 2008).

Melbourne experienced rapid population growth from 1850 onwards as the result of Victoria’s gold rush and the subsequent pastoral boom in the city’s hinterland. In the 1880s, after nearly 50 years of European settlement, as a flood mitigation measure, the falls were dynamited and water levels re-set. Throughout the 1880s, major engineering and canalisation works undertaken by

³ See <https://yarrariver.melbourne/history> (Accessed November 2021).

teams of engineers under the leadership of Sir John Coode, fundamentally re-routed the course of the river, establishing the 'Victoria Harbour' precinct. In the subsequent decades the 'Lower Yarra' was largely turned over to industrial and maritime commerce uses, accompanied by significant pollution and environmental degradation.

During the mid-twentieth century, there were moves to create, protect and extend 'green' and recreational corridors along the river, with a focus on recreational uses including rowing, walking and cycling. Substantial capital-intensive urban renewal projects were pursued in the 1990s and early 2000s, including the refashioning of the then largely derelict 'Docklands' and 'Southbank' precincts which today feature a large sporting stadium, a major casino and high-end apartment accommodation and modern commercial buildings. Environmental management and recognition of indigenous interests are current regulatory focus areas.

This pattern - initial concerns with water supply safety, flood control and other basic functions, followed by a phase in which the industrialisation of the city and maritime-based commerce become the preoccupation, then waterfront landscape construction and development and general civic amenity, leading to contemporary priorities such as ecological restoration and recognition of indigenous custodianship – is broadly consistent with a schema identified by Hu by which riverine cities tend to develop (Hu 2016). Over time, priorities for urban river management tend to progress through a series of stages, as economic development occurs.

The Yarra River has become central to Melbourne's successful promotion of itself as an internationally renowned 'destination' - a 'lifestyle' city known for its parklands and its hosting of major cultural and sporting events including the Australian Open tennis, Formula 1 Grand Prix and festivals such as 'Moomba'. Such events showcase the river and its environs.

However, the level of development and urban renewal achieved to date for the Lower Yarra, and the contribution the river currently makes to the civic amenity of the city, falls significantly short of its potential and compares unfavourably with benchmark cities around the world.⁴

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

5. The Fragmented Governance of Use of the Lower Yarra River

At one level the complexity of the regulatory arrangements for the Lower Yarra is understandable, in view of its historical context. For major cities, river governance systems are a mirror of social history. Governance structures tend to develop gradually over time, reflecting the prioritisation of certain functions (for example, water supply safety, economic activity generation or environmental management) at particular points in a river's history. Only rarely do the custodians of river systems get to 'start with a clean piece of paper' in designing governance systems that conform to modern-day norms.

⁴ Chicago's Riverwalk is an often-referenced example of best practice – see the City of Melbourne's 'Yarra River – Birrarung Strategy' of December 2019 https://hdp-au-prod-app-com-participate-files.s3.ap-southeast-2.amazonaws.com/6515/7542/1939/Part_1_Yarra_River_Birrarung_Strategy_LOW_RES.pdf (Accessed November 2021)

Nevertheless, the arrangements that pertain to the Yarra are abnormally fragmented. A comprehensive mapping of the governance use frameworks that afflict the Lower Yarra River was undertaken in 2015 by a Committee of Inquiry into the governance of the Lower Yarra River (Lower Yarra River Use Future Directions Group Report, 2015). This was initiated by the State of Victoria’s Minister for Environment, Climate Change & Water.⁵ The Committee was called the Lower Yarra River Use Future Directions (‘LYRUFDD’) Group.⁶ It had a particular focus on how to achieve ‘activation’ of river-based commercial enterprises.

The work of this Group identified twelve distinct clusters of regulation or oversight.

Table 2: Clusters of regulation or oversight of Melbourne’s Lower Yarra River⁷

Overseeing Body	Description
Parks Victoria	Parks Victoria is responsible for the management of recreation, leisure and tourism for all waterways under the <i>Water Industry Act 1994</i> (Vic) including recreational activities on the Yarra and Maribyrnong Rivers. It also has responsibility for waterways management under the <i>Marine Safety Act 2010</i> (Vic). Parks Victoria is responsible for managing facilities for navigational safety and port infrastructure for commercial activities, in an environmentally responsible manner. It has a delivery function for the management of berths on the Yarra and Maribyrnong Rivers.
City of Melbourne	The City of Melbourne, though the municipal local government authority which might be expected to exercise significant control of its river systems, in fact has quite limited powers. The City’s website says “Specific to the lower Yarra River, the City of Melbourne is responsible for the lower and upper promenade of the Southbank, leasing of rowing sheds and tourist signage in the area” and in addition has “powers to carry out activities under the Local Government Act 1989.” According to that website “Along with Development Victoria and Parks Victoria, we share responsibility for coordinating waterways development, provision of infrastructure and the improvement of recreation, leisure, tourism and water transport.” Separately, the City’s ‘Waterways Unit’ carries out “responsibilities across Docklands waterways precinct as CoM under the Crown Land Reserves Act. Responsibilities include allocation and licensing of berths for vessels, direct management of Melbourne City and Yarra’s Edge Marina, day to day operations of the waterways, contract management and marina leases management.” ⁸
Other Municipalities	Under Melbourne’s dispersed local government model the municipalities of Yarra, Stonnington and Maribyrnong have jurisdiction over sections of the Lower Yarra. The municipalities of Moonee Valley and Boroondara also abut the waterway.

⁵ See Attachment 2 to the Lower Yarra River Use Future Directions Group Report presented to the Minister for Environment, Climate Change & Water in November 2015 (pp 15-16).

⁶ The LYRUFDD Group was chaired by businessman Tony Kelly. Other Group members were representatives from the City of Melbourne and a range of State Government instrumentalities (Parks Victoria; the Department of Economic Development, Jobs, Transport & Resources; the Department of Environment, Land, Water & Planning), Melbourne Convention & Exhibition Centre, the Melbourne Passenger Boating Association and the Yarra River Business Association.

⁷ This table has been updated, and reflects the position as at 30 November 2021.

⁸ See www.melbourne.vic.gov.au (accessed March 2021).

Department of Environment, Land, Water & Planning	This Department has responsibility for the development of policy and legislation advice relating to the management of public land and water and a policy function in relation to berths. It provides policy advice on marine conservation, coastal issues and local ports.
Department of Transport	This Department is responsible for development of policy and legislation advice relating to maritime safety and ports.
Maritime Safety Victoria	This State-level regulator of maritime safety is responsible for determining standards and procedures for navigation and maritime safety on State waters.
Water Police	The police service is responsible for law enforcement on the water, search and rescue and coordination of marine incidents involving recreational vessels, yachts, fishing vessels and commercial vessels in port.
Business Associations	There are a range of Associations which provide advocacy for local businesses and are therefore prominent stakeholders. These include the Yarra River Business Association and Docklands Chamber of Commerce.
Development Victoria	This body, formerly named Places Victoria, is the State Government’s property development agency delivering urban renewal for defined precincts including Melbourne’s Docklands and Fisherman’s Bend.
Port of Melbourne	The Port of Melbourne Corporation has prescribed responsibilities for the management and development of the Port of Melbourne. This includes channel services, berthing services, cargo marshalling facility services and other services that allow access or use of port infrastructure.
Environment Protection Authority	This is the environmental regulator for pollution issue, with responsibilities for provision of independent assessment, reporting and advice about water quality issues.
Melbourne Water	This agency leads and coordinates water quality management for the Yarra River. It is responsible for “the environmental management of all waterways, including the bed and banks of the lower Yarra River. This includes drainage and sewage systems, treating and supplying drinking and recycled water and flood protection.” ⁹

It is notable that many of the regulators listed above consider themselves to have responsibility for establishing a Vision and Strategy for the City’s river system. A party wishing to start up an activity in the Birrarung precinct, whether on-water or along a riverbank, is obligated to conduct detailed discussions with a multiplicity of agencies.

The LYRUFDF Group came to the following troubling, but accurate, conclusions:

The current management of the Lower Yarra River is not realising the potential it has to add to Melbourne’s liveability and its role as a leading world city. There has been no clear governance direction, shared vision or strategy for the holistic management of the Lower Yarra River ... Consequently development of tourism, commercial activities, recreational use and everyday activation on the Yarra River has not kept pace with development along the banks of the river ... There are many government authorities with a role in managing on river activities, but no one agency has the responsibility for the vision, activation of the river and the economic growth that will deliver jobs and tourism value ... Very significant private equity [is potentially] available to invest in river operations, specifically in integrating land-based

⁹ *ibid.*

infrastructure with on-water activity [but] those interests will not consider investment in the waterway under the current governance regime.¹⁰

6. The Recommendations of the LYRUFDF Group

When they delivered their Report to the Minister for Environment, Climate Change & Water in November 2015, the members of the LYRUFDF Group provided clear and compelling recommendations for addressing the Lower Yarra's overly complex regulatory arrangements. Their Report recommended the formation of an interim Committee charged with working towards a single, independent waterways authority, and argued for a single independent port authority to govern the local waterways. It advocated entirely new governance arrangements, to be led by an independent and interim advisory body consisting of three government appointed members, who would work with the incumbent regulator Parks Victoria to manage the waterway.¹¹ The suggested name for this body - which would employ a CEO and draw support from Parks Victoria and the City of Melbourne – was the Lower Yarra Port Board.

The LYRUFDF Group unanimously recommended a single entity be created to be fully responsible for on-river activities and supporting infrastructure. It was proposed that a new local port and Port Manager be established covering the waters and gazetted lands (i.e. berths) of the Lower Yarra and Lower Maribyrnong Rivers, with this new port to be created using existing legislative and administrative instruments.¹² A key obligation would be to establish a 'Management Committee'¹³ with prescribed functions for the Lower Yarra and Lower Maribyrnong Rivers, as follows:¹⁴

- Commence the implementation of the Vision for the Lower Yarra by coordinating the efforts of the existing agencies and provide a single point of contact for the private sector and waterway users;
- Develop a 'Yarra River Economic Development Strategy' in collaboration with stakeholders including updating the strategies for tourism, recreation and economic development activities on the Lower Yarra;
- Oversight the tender process for passenger boat berths and finalise site selection for 'back-of-house' facilities and ensure this land is secured for development of the facilities;
- Provide a single point of contact for the private sector looking to invest in and use the Lower Yarra River;
- Prepare business cases for future investment and facilitate investment from the Government and the private sector to improve the amenity of on-water activities;
- Coordinate marketing and promotional materials for the Lower Yarra; and

¹⁰ LYRUFDF Group Report, 2015

¹¹ Parks Victoria were given the option of having a fourth member on the Committee.

¹² The Minister for Environment, Climate Change and Water could ask the Minister for Ports to recommend the Governor in Council appoint a new Port Manager and place certain obligations on that manager.

¹³ The Management Committee would be headed up by a high profile influential and independent chairperson with demonstrated capability to work across government and the private sector, a track record of achievement, commercial acumen and experience relevant to waterways management, with other members of the Committee to have skills in economics, marketing and water safety.

¹⁴ The Committee would be supported by its own dedicated management team comprising a new CEO and Marketing Manager, but draw on the maritime resources of the existing agencies.

- Assist the Government in continuously improving governance arrangements.

The report also addressed the degree of autonomy of the Management Committee:

The private sector preference is that the new Port Manager and Management Committee effectively be a new entity which is independent and not under the auspices of any existing authority. They prefer that the new entity have its own budget, identity and branding ... The private sector believes this level of autonomy is more likely to attract critical private investment and provide new momentum.¹⁵

On funding, it was recommended that the new governance arrangements be supported by a secure budget and revenue stream, drawn from existing budgets of government agencies plus additional funding on a business case basis. Additional funding of at least \$650,000 per annum was estimated to be required. It was anticipated that some marketing funds would be available from existing organisations to develop the brand of the new entity.¹⁶ Details would be determined through a collaborative approach to implementation.

The Report recommended an agreed vision for the river, a plan for the renewal of berthing licences, strategies for new infrastructure to support on-river activities, investing in dredging of the Yarra River and an improved process for event approvals.

Sensibly, the LYRUFDF Group recommended that future governance arrangements should be guided by a series of principles: an integrated approach to holistically manage the land and waterway across the Lower Yarra;¹⁷ simplified decision making and approval processes;¹⁸ clear responsibility and accountability; decision making processes that are equitable, open, transparent and efficient; opportunities for waterway users including commercial operators to influence decision making; a conduit to private funding and investment; and a secure revenue stream to support infrastructure creation and maintenance.

An alternative (but less preferred) option was also identified: that Parks Victoria become the Port Manager with the Management Committee to be under the auspices of Parks Victoria.¹⁹ This option was, unsurprisingly, favoured by Parks Victoria. Under this model Parks Victoria would provide the management support and appoint a new general manager (or similar) to lead the work and a marketing manager to support the Management Committee. Management support staff would be employees of Parks Victoria, but report in a matrix arrangement to Parks Victoria line management and to the Chair of the Management Committee. Day to day operational activities were to stay with Parks Victoria and other agencies to ensure the Management Committee concentrated on strategic issues and its delineated responsibilities.

¹⁵ LYRUFDF Group Report, 2015.

¹⁶ This would include the Yarra River Business Association, Docklands Chamber of Commerce and Destination Docklands.

¹⁷ Both the berths and on-water activities.

¹⁸ A "one stop shop" was seen as very important to encourage investment in on-river activities.

¹⁹ It was noted that Parks Victoria is an experienced Port Manager and is currently the local port manager in Port Phillip Bay and elsewhere.

After some late dissension with Government representatives, as a compromise, the private sector representatives on the LYRUFDF Group agreed to support this alternative option, which would maintain a lead role for Parks Victoria. They attached some provisos: that the Management Committee members be entrepreneurial with the ability to attract private industry investment and the ability to enable activation of the river; the Management Committee be distinct from Parks Victoria and known as the Lower Yarra Port Board or similar; and that the Management Committee have a much higher status and greater influence than an advisory body. It was proposed that Parks Victoria should place one of its Board members on the Management Committee.

These potential alternative arrangements were to be deemed to be interim and subject to a Ministerial review after 18 months, with the option of creating a fully autonomous entity remaining on the table.²⁰

7. The Outcome and its Aftermath

Initially, according to media reports, there was a consensus position supporting the preferred LYRUFDF Group recommendations. However, Parks Victoria unexpectedly withdrew from the consensus position at the final meeting of the LYRUFDF Group on 16 October 2015.

After the LYRUFDF Group report was published, there was a period of ministerial consideration, but it appears the Government rejected the Group's recommendations almost immediately. Interested media thought, as early as February 2016, that the Minister had rejected the proposed governance reforms, although it took some time for confirmation of this position to be arrived at.

A review of the publicly available materials creates the impression that the events that transpired were the result of a rear-guard 'power play' by Parks Victoria, who expressed concern at the possibility of losing a slice of budget funds. Speaking publicly in July 2016 the CEO of Parks Victoria cast doubt on whether an independent authority would be established in the future, noting that a number of other reviews were underway.²¹

Another possible explanation for the Government decision is that it had decided, by the end of 2015, to proceed with a comprehensive '50 Year Community Vision' planning process for the entirety of the Yarra River (from the Yarra Valley headwaters to the river mouth), led by Melbourne Water as the lead agency – in effect prioritising the Government's reconciliation agenda over river activation.²² In December 2015 the Minister for Planning and the Minister for

²⁰ The Management Committee was to provide six-monthly updates to the Minister for Environment, Climate Change and Water and the Minister for Ports and meet to discuss issues when needed.

²¹ See <https://www.southbanklocalnews.com.au/editions/article/interview-with-bradley-fauteux/>; https://www.southbanklocalnews.com.au/editions/article/questions-aplenty-for-lunch-speaker_5416/; https://www.southbanklocalnews.com.au/editions/article/parks-boss-addresses-businesses_5510/ (Accessed November 2021).

²² The Melbourne Water-led planning process, concluded in 2020, involved municipal government representatives from along the length of the river system and traditional owners but not commercial interests or civic groups. The resulting 'Yarra Strategic Plan' was developed by a 'Yarra Collaboration Committee' made up of representatives from the Wurundjeri Woi wurrung Cultural Heritage Aboriginal Corporation as well as 15 state and local agencies who manage the Yarra River corridor. This activity made a positive step forward by acknowledging the importance

Environment, Climate Change & Water had established an additional review group, the Yarra River Protection Ministerial Advisory Committee, tasked with “engaging with the community, and other stakeholders, and to provide advice and a recommended action plan for the improved management, promotion and protection of the entire length of the Yarra River (excluding the Port of Melbourne waters and the regulation of on-water activities, commercial boats and berthing)”.²³ This began the process which led to the passage of the *Yarra River Protection (Willip-gin Birrarung Murrone) Act 2017*, which elevated the position of traditional owners in decision-making.

In any event, the result of the decisions taken was that the status quo of cumbersome governance arrangements for the Lower Yarra has persisted. The Strategic Plan produced by the Yarra Collaboration Committee advocated, over time, better ‘cross-boundary management’ but the focus of its comments was on collaboration between arms of Government. The content of the Strategic Plan is an incomplete response to the full gamut of issues surrounding the Lower Yarra, with limited attention to commercial concerns. A healthy approach to the next stage of detailed planning would see a full range of stakeholders encompassed within integrated planning processes and not limit involvement to those operating within the Government sector ‘bubble’.²⁴

There was also a response of sorts by Parks Victoria. In December 2016, its Board “established a three-person Lower Yarra River Management Advisory Committee (‘LYRMAC’) with Terms of Reference approved by the Department of Environment, Land, Water and Planning (DELWP) and the Minister for Energy, Environment and Climate Change” charged with a further review of river issues (Parks Victoria Annual Report 2018/19)²⁵.

It is unclear when the LYRMAC Committee reported but its terms of reference said its term ran until 30 June 2018. Presumably, therefore, the Committee finally reported to the Parks Victoria Board around that time, after 18 months of considerations. The details of its report “Lower Yarra River: Recommendations on Future Funding, Governance and Strategic Considerations for Management of the Lower Yarra River” were not publicly aired until a Freedom of Information request was made in late 2018, by the newspaper *Docklands News*.

On governance, the primary recommendations of the Parks Victoria Committee were - under a heading “Parks Victoria and City of Melbourne Alignment” - that work take place “to drive a single strategy and aligned programs of work for the River” (Rec 4.2, p 9) and that “the Minister consider the formation of a Yarra River Management Committee comprising Parks Victoria, City of Melbourne, Melbourne Water and Traditional Owners” (Rec 4.2.1, p 10). A recommended

of strong engagement with the indigenous representative body, but there was limited engagement with other stakeholder groups until nearly the end of the process.

²³ The five-member Ministerial Advisory Committee was chaired by Mr Chris Chesterfield.

²⁴ It is noteworthy, given the focus of this paper, that the Strategic Plan produced by the Yarra Collaboration Committee seeks to embed “*long-term change in the way government agencies and councils work together*” in the Yarra River corridor. To embed collaborative management of the Yarra River corridor, the plan proposes that four changes be implemented over the next 10 years: rolling three-yearly implementation plans and *whole-of government* decision-making; coordinated investment decisions; involvement of all stakeholders in taking care of the river; and support for *Government agencies and Traditional Owners*. The aim is to demonstrate “a serious commitment to cross-boundary management of the Yarra River” (see page 26 of the Draft Report of the Committee).

²⁵ The Committee’s terms of reference required “membership of the Committee to comprise one Board member from Parks Victoria, a Councillor from the City of Melbourne and a person nominated by the private sector”.

action was that “Parks Victoria Waterways District and City of Melbourne Waterways Operations Group develop a small working group to meet regularly to progress alignment” (Rec 4.2.1 viii.) This should have occurred from July 2018 onward but there is nothing to indicate that this working group met over the subsequent two years.

In late 2018, after finally obtaining a copy of the Parks Victoria Committee’s report via its Freedom of Information request, *Docklands News* observed that the earlier sensible suggestions of the LYRUFDF Group were not to be carried through, but the report to the Parks Victoria Board “recommended adding two more players into the mix at the highest level – Melbourne Water and ‘traditional owners’.” It also noted the Committee’s recommendation that whilst the “Lower Yarra Management Committee” should report to the Parks Victoria Board, other stakeholders and river users should feed their views into that Lower Yarra River Management Committee.

The conclusions reached by *Docklands News* were scathing. Commercial operator Jeff Gordon was quoted saying “PV has secured its grip over the waterways” whilst journalist Shane Scanlan opined: “The winners are the bureaucrats who have secured their short-sighted right to hold Melbourne back” and that “a high-performing commercial operator assessing Melbourne as a place to introduce river-commuter ferries would take one look at the governance structure and run 100 miles.”²⁶

The end result of the processes described above is that considerable time has been wasted, at considerable expense. Very little seems to have moved beyond “planning to plan”. There were lower than expected levels of engagement by Parks Victoria over the 2017-19 period and it seems, as at the end of 2019, only a small amount of change had been operationalised.

The lack of progress in addressing governance deficiencies was highlighted by familiar observations contained within the City of Melbourne’s 2019 ‘Yarra River – Birrarung Strategy’ document (which was arrived at following a six-month long process of public consultation). This said:

The overall management of the river is highly complex and fragmented. Many of the opportunities for the river corridor are outside of direct City of Melbourne control and within the jurisdiction of other government agencies or the private sector. Many of the issues and inconsistencies along the river, including challenges from activation proposals, come from organisations operating independently and with different remits.²⁷

The City of Melbourne River Strategy document went on to describe the Lower Yarra as affected by “complex land ownership and governance arrangements” which “challenge decision making and the delivery of change.” The City of Melbourne also observed that “the substantial potential of the Yarra River corridor asset as a living ecological entity remains to be fully realised.” It identified a need to “rehabilitate and improve the natural space along the river corridor, not only to benefit the growing population but as a commitment to restoring the ecology of the river.” There

²⁶ Scanlan, S., *Docklands News*, 11 December 2018. See https://www.southbanklocalnews.com.au/editions/article/bureaucrats-formalise-river-governance-malaise_8121/ (Accessed November 2021).

²⁷ City of Melbourne ‘Yarra River – Birrarung Strategy’, 2019, page 7.

was nevertheless seen to be a continuing “opportunity for the environs of the Birrarung, Lower Yarra to be central to Melbourne’s economy, culture and liveability”. It was noted that “surrounding uses have little relationship with the waterways and there is limited expression of cultural heritage.”²⁸ (City of Melbourne ‘Yarra River – Birrarung Strategy’, 2019)

That such comments continue to be made is a real concern for river stakeholders, given that potential solutions for addressing the jurisdictional confusion and bureaucratic malaise affecting the river were clearly diagnosed and spelt out in the LYRUFDF Group report four years earlier. They suggest little has changed in practice. The consequence is that, as at late 2021, following the two-year period of COVID-19 virus related Lockdowns experienced by the City of Melbourne over 2020 and 2021, the City remains poorly placed to fully capitalise on river-based economic recovery initiatives.

The limited outcomes achieved for the Lower Yarra over the five-year period under study here can be largely attributed to the failure to implement an effective broad-ranging partnership model. Under a partnership-oriented model, whilst each group retains its own powers and duties, and its own skills and finances, groups commit to contribute to the collective effort as they are able and willing. The model creates a hard necessity: all must be achieved by agreement and compromise.

In the wake of the lack of success of attempts over recent years to achieve structural governance reforms for the Lower Yarra, and given the historical context of the way its governance arrangements have evolved, it seems obvious, even trite, to say that the approach that must now be taken to its governance must be *highly collaborative*. The available evidence suggests that a collaborative governance approach for this river corridor - rather than a ‘high’ approach grounded in power differentials - is what is needed at this point in time.²⁹

8. Ways Forward

Although, as yet, there is little indication that, as at the end of 2021, the key regulators have recognised a partnership model as the approach needed in the Lower Yarra context, the necessity of partnering is made clear by the academic literature. We can look to the literature for indicators of the changed behaviours required to enable a culture of collaboration to take root across the bevy of regulators.

If, in the near future, progress is made towards establishing a partnership model amongst those with oversight of the Lower Yarra River, a future detailed study of its workings could contribute rich new insights, by detailing ways in which interdependence, leadership direction, consequential incentives and uncertainty influence forms of collaboration that can facilitate effective governance of an urban river corridor. Specifically, it would be enlightening to examine (i) the extent to which these four drivers were present at various stages in the lead-up to the formation of a fresh

²⁸ *ibid.*

²⁹ A review of the Yarra Strategic Plan process referenced at n 16 above suggests that, whilst the *language* of collaboration may be used frequently, the *particular form* of collaboration which some regulators prefer may be that between agencies of Government.

collaborative governance regime, and to what extent they were influential in the effectiveness of collaborative governance, (ii) which of the components of collaborative dynamics (principled engagement, shared motivation, capacity for joint action) are essential for collaborative success, and (iii) the nature of the causal mechanisms that can drive collaborative initiatives. These were the categories specifically highlighted by Emerson Nabatchi & Balogh as important areas for further exploration in order to elaborate the theoretical framework they proposed (Emerson et al, 2011).

For the context of Lower Yarra River governance, it is unlikely that the elements of interdependence and uncertainty are yet at levels which would catalyse the much-needed changes to relationship dynamics. The necessary impetus will need to be spurred by either leadership or consequential incentives. It is important that these domains should be in focus in future efforts to spark a partnership model.

There would be real value in applying collaborative governance principles and partnership approaches to the management of the Lower Yarra corridor. It is incontrovertible that, for this river corridor, a transition to more effective forms of governance is needed.

9. Conclusion

The jury is out as to whether the key agencies and other stakeholder groups interested in the Lower Yarra have the mindset and skill sets to support decision-making based on cross-boundary collaboration. Within Melbourne's maritime community there is currently widespread scepticism that the key agencies are prepared to relinquish any of the current authority they possess over aspects of river governance, and a feeling that this limits the potential for a re-design of decision-making processes.³⁰

As the 2015 LYRUFDF work showed, for there to be any effective change to past outcomes, it will be necessary for the Lower Yarra River governance regime to be substantially redesigned to enable and promote cross-boundary collaboration. Progress can become bogged down in bureaucratic power games and litigation, as incumbents show themselves to be reluctant to relinquish control. The legal status by which a party holds land is rarely willingly extinguished or passed to others. This article has demonstrated that, in the case of Melbourne's Birrarung, significant enhancement of approaches to consultation will be required for the deficiencies inherent in overlapping and complex governance systems to be overcome and river activation delivered.

No significant work has yet been done to assess the 'state of readiness' of the current regulatory agencies for genuine collaboration. There is clear potential for further analysis to be undertaken through a lens which applies collaborative governance principles to the management of this river system and assesses the state of readiness of the various regulators involved for a partnership approach.

³⁰ A sense of scepticism can be discerned from Position Papers and Notes of Meetings made public over the course of 2020 and 2021 by Jackie Watts, Chair of the Melbourne Maritime Heritage Network - see www.mmhn.org.

Structural reform (aiming for a single regulator) has already been attempted, but this failed. A new approach is required.³¹ The right way forward for the Lower Yarra now is a multi-regulator partnership-oriented approach based on principles of collaborative governance.

However, for this to be delivered all key players must commit to working according to that model. An effective partnership approach requires organisations to pool their resources, powers and skills and negotiate compromises on points of difference. There will need to be focused attention to each of the elements identified in the Emerson, Nabatchi & Balogh framework.

Emerson et al's integrative framework has been shown to be a valuable tool for breaking down and illuminating the drivers, engagement processes, motivational attributes and joint capacities that can enable shared decision-making and implementation across multiple organisations and jurisdictions, to achieve desired ends.

Applying the Emerson, Nabatchi & Balogh framework to the Lower Yarra River context would lead to pragmatic suggestions as to how the components of a collaborative system could be 'operationalised', and also contribute to the further iteration of the framework.

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³¹ The alternative to this is to attempt a resuscitation of the single, independent waterways authority model.

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