



MAKING THE YARRA RIVER PLANNING CONTROLS PERMANENT

Protecting the Yarra from Inappropriate Development



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FUNDED BY



ACKNOWLEDGEMENT

We acknowledge that the Yarra River - Birrarung - flows through the traditional lands of the Wurundjeri people. We offer our respect to the Elders past, present and future of these traditional lands, and through them to all Aboriginal and Torres Strait Islander People.

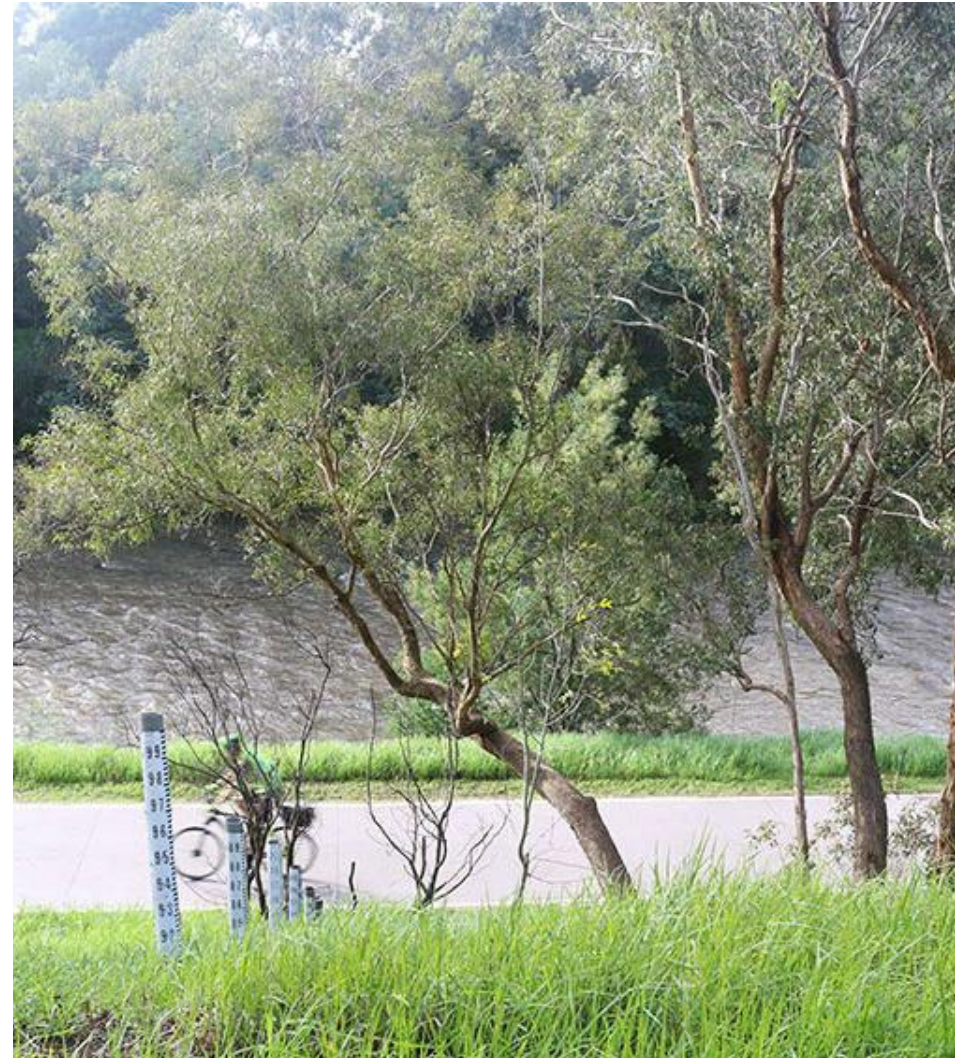
DISCLAIMER

The Yarra River Keeper Association (YRKA) thanks Ethos Urban for its support in preparing this document. The views expressed in this document are those of the YRKA.

This document is intended to provide an overview of the planning and development framework that applies to the Yarra River Corridor. The information contained in the report is of a general nature, and should not be used for the purposes of decision-making.

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A Call to Action

In February 2017, the State Government of Victoria introduced new planning controls for the Yarra River. Coupled with the Yarra River Protection (Willip-gin Birrarung murrn) Act these new controls herald a new era for the protection of the river.

There have been previous attempts to create better governance along the Yarra and many have had a degree of success, but there has been strong community frustration that the river that is at the heart of Melbourne's imagination is not actively and effectively protected against the twin pressures of a drying climate and an expanding population.

With the forthcoming Yarra Strategic Plan, driven by transformative governance that binds government agencies in a long term plan, these controls are able to deliver significant protection and improvement along the Yarra.

The Yarra/Birrarung Act covers public lands on the river and the planning controls address private land. The two actions neatly dovetail, fulfilling the promise of the State Government's election platform of 2014.

However the planning controls are, at this stage, still only temporary. They have yet to be made permanent, though they are set to expire in January 2021.

Time is dripping through the hourglass and the Yarra Riverkeeper Association has prepared this report to advocate for **improved, strengthened and permanent controls** to protect the waterway that underpins the ecological, social and cultural health of the city and the catchment. Planning initiatives and opportunities on the river will require attention to deliver the 2014 promise in full.

Andrew Kelly

Yarra Riverkeeper







PART

1

Introduction

1.1 Purpose

The purpose of this document is to assist the Yarra Riverkeeper Association ('YRKA') in advocating for the improvement, strengthening, and permanency of existing planning controls that protect the Yarra River. This will enable the Association, and interested members of the community, to be well placed to speak for stronger, consistent controls that enable better design and development outcomes to protect the Yarra River corridors for the enjoyment and appreciation of future generations.

This document highlights the urgency of the matter. Sections of the river are under ongoing and emerging development pressure, yet the existing controls for the river are temporary and due to expire by January 2021. It also seeks to highlight other planning initiatives and opportunities on the river that require attention. Introducing permanent and effective planning controls for the river is a once-in-a-generation opportunity to determine how we can best protect and enhance the Yarra River in the face of unprecedented pressures.

The YRKA intends for this document to be used as a resource and advocacy tool for planning and other policy development at the State and local government level.

When possible, this document should be used alongside the *Protecting the Yarra Corridor Through Better Planning* report. This will support the YRKA's advocacy efforts to be part of pre-policy discussions, moving away from reacting to policy to early involvement in policy creation and agenda-setting.

To view the *Protecting the Yarra Corridor Through Better Planning* report please visit: <http://yarrariver.org.au/wp-content/uploads/2018/09/Protecting-the-Yarra-River-Through-Better-Planning-Report-by-Ethos-Urban-1.pdf>



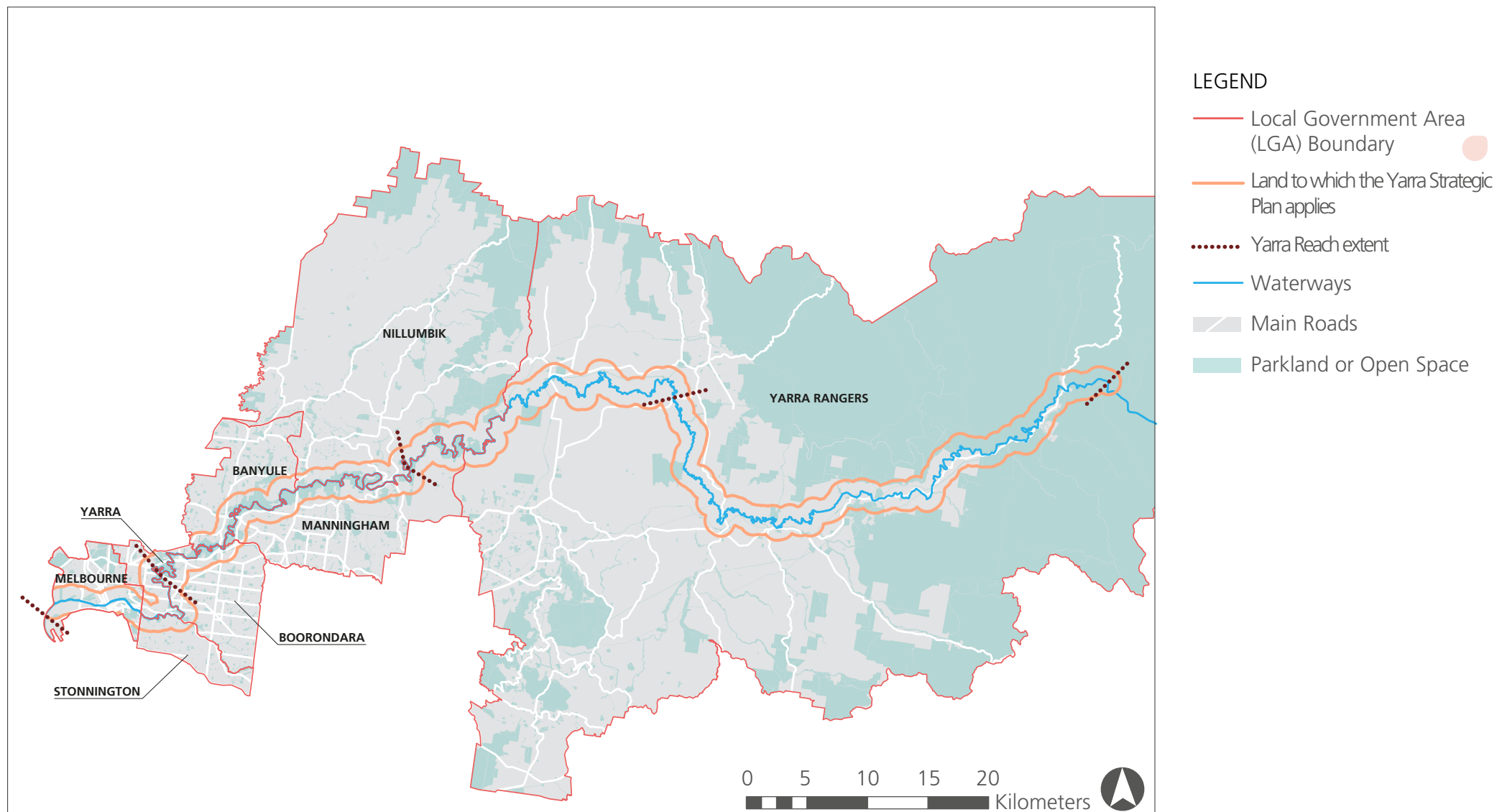


Figure 1. *The Yarra River in its municipal context.*

1.2 Yarra Riverkeeper Association

The Yarra Riverkeeper Association ('YRKA') is a key stakeholder in planning for the river.

The YRKA is an independent community of citizen-advocates that works solely in the interest of the Yarra River. The YRKA was incorporated in 2005 and is part of the Waterkeeper Alliance of more than 150 waterkeepers worldwide.

The Association was instrumental in the initiation and passing by State Government of the Yarra/Birrarung Act, unopposed, in September 2017. It was also active in the push for improved planning controls in the Yarra Corridor.

YRKA was active in the efforts in 2013 and 2014, with Melbourne Water and the City of Boroondara, to introduce planning controls along the portion of the river below Coppin Grove. The then Planning Minister, Matthew Guy, introduced mandatory controls in Boroondara to protect the river frontage.

The Association also supported the City of Yarra's initial innovative proposals to protect the corridor within the city's area based on the report *The Yarra River Corridor Study* (Planisphere), which were implemented into the planning scheme. This in turn fed into the expansion of these controls by the State Government in the form of the Yarra River Planning Controls.

In 2017, the YRKA published *Protecting the Yarra Corridor through Better Planning: Punt Road Bridge to the Urban Growth Boundary*, which provides guidance for understanding the existing planning processes behind the protection of the Yarra River.



1.3 Context

On the 26 February 2017, the Yarra River Action Plan was announced by the Premier Daniel Andrews. The plan can be seen as a response to the election promise made during the lead up to the November 2014 election for a Yarra Act and a Yarra Trust.

The Andrews government, following the success at the 2014 State election, appointed a Yarra River Ministerial Advisory Committee which drafted the Yarra River Action Plan for consideration by the government. The government supported all 30 recommendations of the committee, 28 were adopted in full and the remaining two were accepted in part, effectively strengthening the two proposals.

The Yarra River Action Plan is the foundational document for the Yarra/ Birrarung Act, as well as for a number of other initiatives for Victoria's waterways. There are currently temporary planning controls for sections of the river, introduced through Planning Scheme Amendment GC48. It was intended that the Yarra Strategic Plan ('YSP'), an outcome of the Yarra/ Birrarung Act, will feed into the refinement and expansion of these controls.

The YSP however, as a transformative and innovative outcome of legislation, has been delayed. Given the timetables of planning processes within government, there is now urgency in initiating the process to confirm these controls.

The Healthy Waterways Strategy 2018 is a key strategy developed by Melbourne Water, with the community, for the whole catchment, not just the Yarra River corridor. Its focus is on waterway health. This strategy is renewed on a five-year cycle and the 2018 strategy builds on the previous Healthy Waterways Strategy and Stormwater Strategy 2013. The strategy is implemented for the Yarra Catchment through the Co-Designed Program for the Yarra Catchment.

To view the *Yarra River Action Plan* please visit: https://www.planning.vic.gov.au/__data/assets/pdf_file/0024/27177/DELWP0032_YarraRiverActionPlan_v27_weba.pdf

To view the *Yarra River Strategic Plan Progress Report* please visit: https://s3.ap-southeast-2.amazonaws.com/hdp.au.prod.app.mw-yoursay.files/9915/4035/6260/Progress_Report_for_the_Yarra_Strategic_Plan.pdf

To view the *Healthy Waterways Strategy 2018-28* please visit: <https://www.melbournewater.com.au/about-us/strategies-achievements-and-policies/healthy-waterways-strategy>





PART

2

Yarra River Planning Controls

2.1 Making the Controls Permanent

The State Government approved Planning Scheme Amendment GC48 on the 24 February 2017, implementing interim planning controls to protect the Yarra River from inappropriate development. The amendment applies to land within and abutting the Yarra River corridor between Punt Road, Richmond and the outer extent of the township of Warrandyte.

The analysis and conclusions which have informed Amendment GC48 are contained in the following two reports:

- + *Lower Yarra River Study (Richmond to Fairfield) - Recommendations Report*
- + *Middle Yarra River Study (Ivanhoe to Warrandyte) - Recommendations Report*.

To view the **Lower and Middle Yarra River Study** reports please visit: <https://www.planning.vic.gov.au/policy-and-strategy/waterways-planning/yarra-river-controls>

The Amendment GC48 interim planning introduces has two new overlays:

- + **Significant Landscape Overlay (SLO), Yarra (Birrarung) River Corridor Environs**
 - This has been applied to both public and private land within the wider landscape setting of the Yarra River corridor. Within this area a continuous corridor of vegetation and canopy trees are the dominant features of views of the corridor to and from public open space and the Yarra River itself.
 - The purpose of the SLO is to identify significant landscapes and to conserve and enhance their character. It does this by managing the siting and design of buildings, removal of vegetation and earthworks within the broader Yarra River corridor setting.
- + **Design and Development Overlay (DDO), Yarra (Birrarung) River Corridor Protection**

This has been applied to specific areas of private land immediately adjacent to the Yarra, area which are highly visible from the river.

 - The DDO sets mandatory building heights, development setbacks and overshadowing rules, tailored to meet local landscape requirements. It seeks to ensure future development does not encroach on the landscape and environmental values and amenity of the Yarra River.
 - The DDO also requires that all application within 100 metres of the banks of the

Yarra River be referred to Melbourne Water as a determining referral authority. As a determining referral authority, an objection by Melbourne Water will result in the refusal to grant a permit for the application by the responsible authority and conditions set by Melbourne Water are required to be included in any permit granted.

These controls are applied across six municipalities (Yarra, Boroondara, Stonnington, Manningham, Banyule and Nillumbik planning schemes) to ensure consistency between the objectives, permit triggers and decision guidelines for development within the Yarra River environs, and are included in the planning schemes as follows:

COUNCIL	WDDO	SLO
CITY OF BANYULE	DDO2	SLO1
CITY OF BOROONDARA	DDO31	SLO1
CITY OF MANNINGHAM	DDO2	SLO2
SHIRE OF NILLUMBIK	DDO10	SLO15
CITY OF STONNINGTON	DDO3	SLO1
CITY OF YARRA	DDO1	SLO1

The controls operate on a 'sliding scale' depending on how far a site is from the river, with varying degrees of limitation placed on matters such as building height and setbacks in the different river corridor areas.

The amendment process that will translate these provisions into permanent controls will take a considerable amount of time, particularly as additional analysis may be required in order to strategically justify permanent controls. The length of time the required to complete the study and prepare the amendment will need to be considered, which means that it is best to act on this as early as possible. The amendment should also be considered an opportunity to extend the area the covered by

the planning controls upstream and downstream of the Yarra and across the broader catchment. The timeline below provides a guide for this process.

Following the adoption of permanent SLO and DDO controls, it will be important to amend local planning policy frameworks to ensure alignment with these controls. Municipal toolkits were prepared to support the interim controls, and these could be adapted to provide guidance in relation to the permanent controls.

The maps on the following pages contrast the extent of the area covered by the Yarra/Birrarung Act with that covered by the SLO and DDO approved under Amendment GC48.¹



¹ This timeline is based on actual and projected timelines for previous planning scheme amendments of a similar scope that relate to the Yarra River.

Current Application of Yarra River Planning Controls

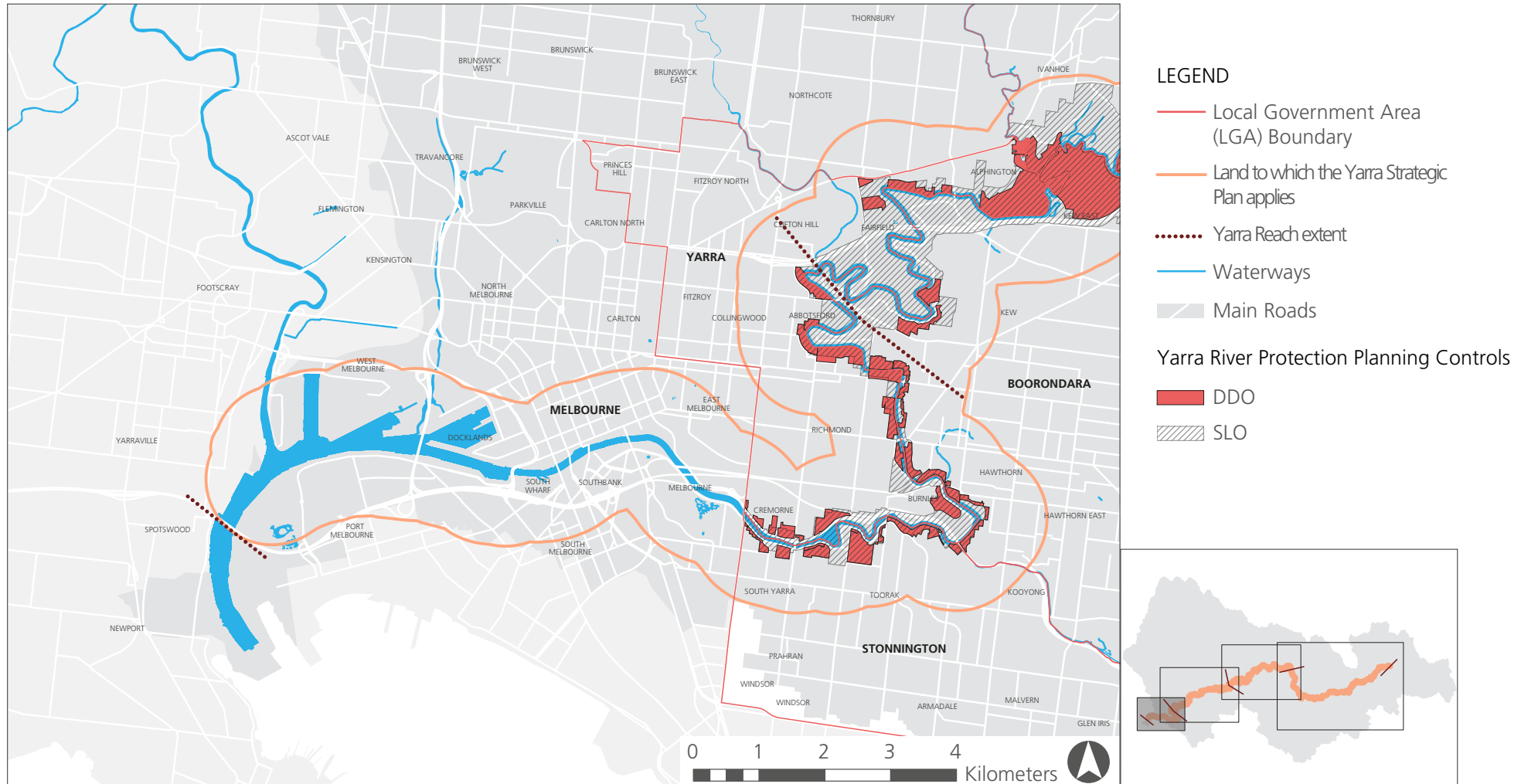


Figure 2. Inner City Reach Yarra River Protection Planning Controls

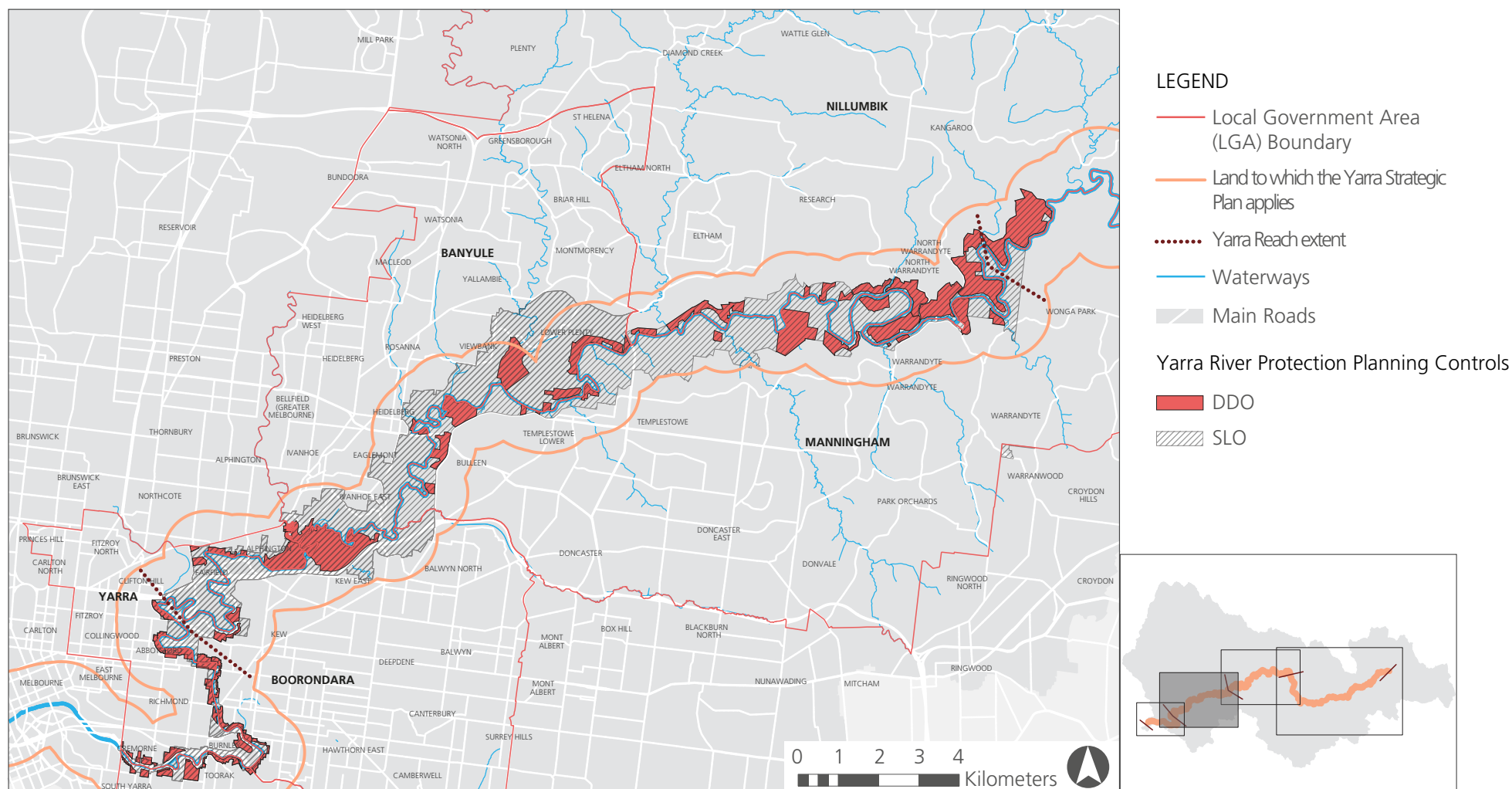


Figure 3. Suburban Reach Yarra River Protection Planning Controls

NOTE: The planning controls are only applied up to the Urban Growth Boundary in Warrandyte.

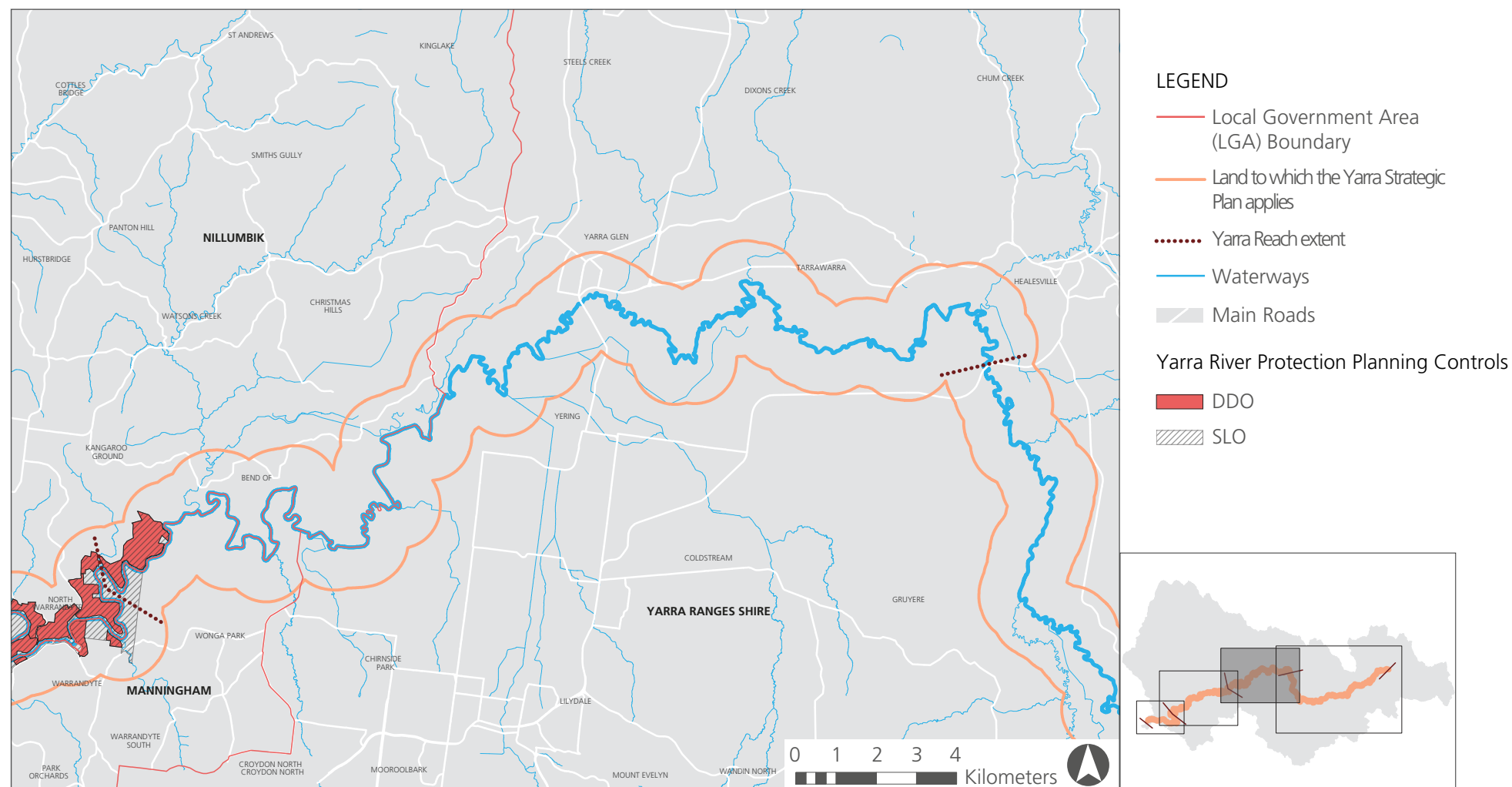


Figure 4. Lower Rural Reach Yarra River Protection Planning Controls

NOTE: The planning controls are not applied in this river reach.

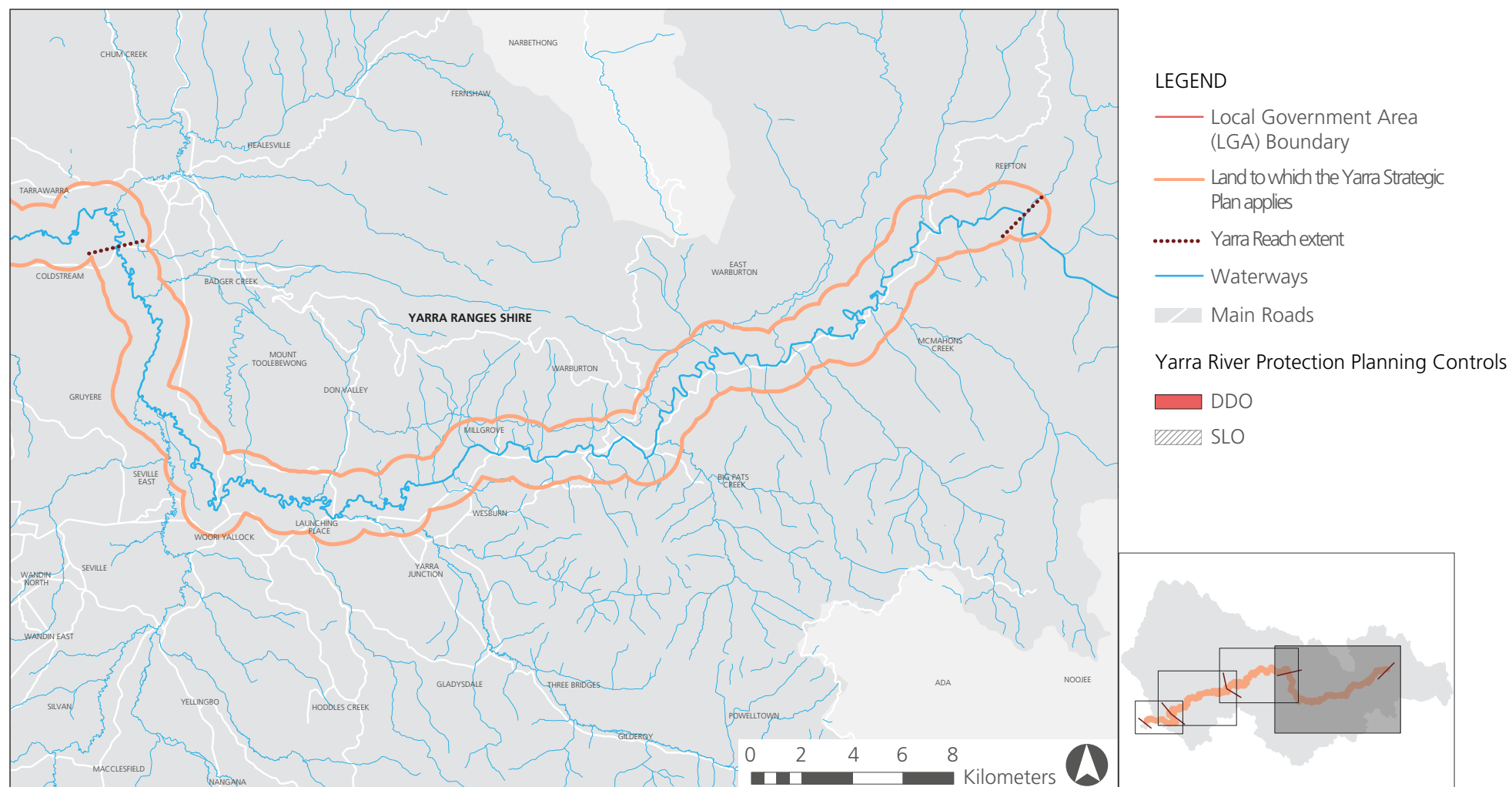


Figure 5. Upper Rural Reach Yarra River Protection Planning Controls



ACTIONS

- Stakeholders** *Advocate to the Metropolitan Planning Offices of Department of Environment, Land, Water and Planning (DELWP) that the process for making the interim Yarra River planning controls permanent be commenced as soon as possible in order to avoid the controls expiring in January 2021.*
- Government** *Additional research and analysis may be required to refine the planning controls before they are made permanent.*

2.2 Expansion of Areas Covered by Existing Yarra River Planning Controls

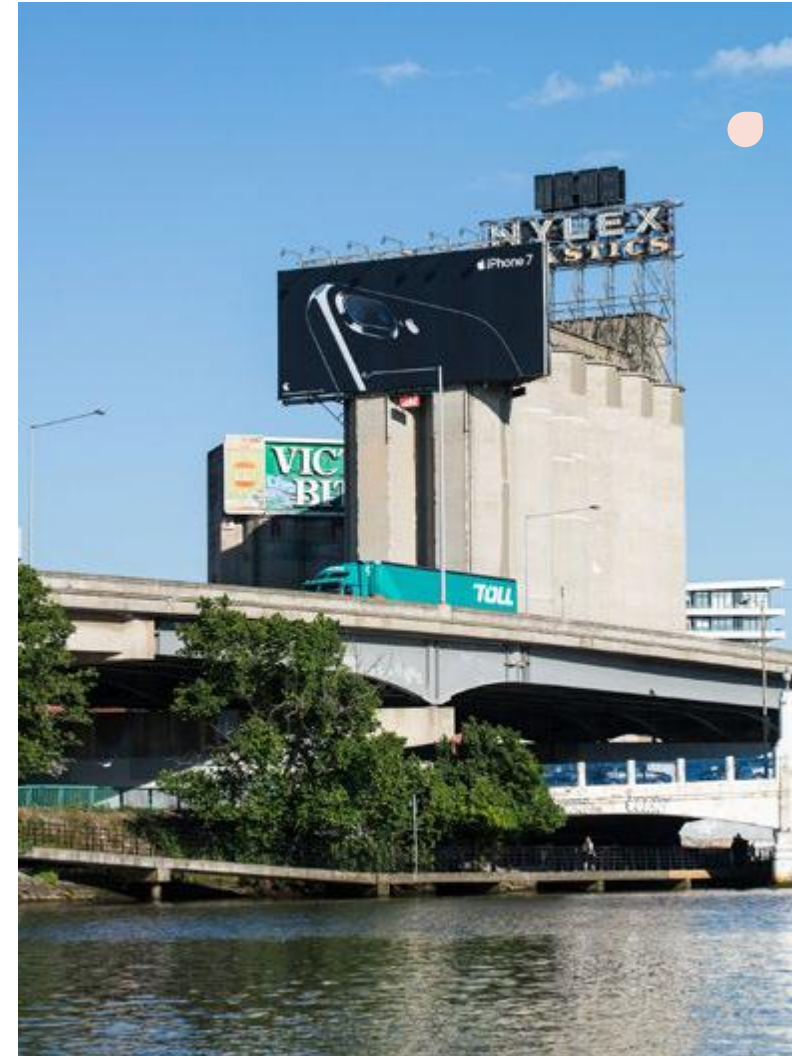
The geographical extent of the interim planning controls were based on a need for strengthened planning management for suburban sections of the river corridor that were under pressure for development. A landscape assessment approach was taken to establish the inland boundaries that run parallel to the river.

This process was identified as a short-term action in the Yarra River Action Plan for urban areas along the river.² However, the action does not define what is meant by 'urban areas' and there is currently no direction provided for applying the approach to the rural areas upstream of the Yarra or to the central city and port lands downstream.

Furthermore, the DDO applies only to private land as previous studies have not undertaken a detailed analysis of current and/or potential development opportunities to justify additional planning controls for public land.

In addition to making the interim controls permanent, consideration should also be given to expanding the areas to which they apply. Areas susceptible to development pressure that should be considered for inclusion within the planning controls include:

- + Land in the lower reaches of the Yarra, to the west of Punt Road Bridge (this would require an assessment of the adequacy of existing controls);
- + Land in the upper reaches of the Yarra and within the Urban Growth Boundary, to the east of Warrandyte;
- + Public land along the corridor that is not subject to master planning; and
- + Land adjacent to and within the tributaries of the Yarra River, at least to the extent of the Yarra Strategic Plan.



² Action 10 of the Yarra River Action Plan



ACTIONS

Stakeholders *Advocate to DELWP for the expansion of Yarra River planning controls west of Punt Road, east of Warrandyte, on public land that is subject to development pressure, and along tributaries within the Yarra Strategic Plan area.*

Talk to Councils³ containing Yarra River land and DELWP to commence a review of the existing controls and to identify any additional strategic development sites urgently before the 2021 expiration.

Talk to public land managers⁴ that manage Yarra River land about the value of expanding the DDO across public land.

Government *Further analysis may be required to assess the areas identified for additional control to determine their relationship to the corridor, the level of development pressure they are subject to, and the adequacy of existing controls.*

Explore how expanding the areas covered by Yarra planning controls contributes to giving effect to the community vision.

³ Yarra River Councils are councils whose municipal districts include land to which the Yarra Strategic Plan may apply. Section 15 (3) of the Yarra/Birrarung Act identifies these councils to be Banyule City Council, Boroondara City Council, Manningham City Council, Melbourne City Council, Nillumbik Shire Council, Stonnington City Council, Yarra City Council and Yarra Ranges Shire Council.

⁴ In addition to the Yarra River Councils, other public land managers include DELWP and Parks Victoria.

2.3 Improvement of Existing Controls

At present, the interim planning controls that apply along the Yarra River corridor focus on the management of built form, vegetation and landscape. A review of recent and current VCAT decisions regarding development that affect the Yarra River may provide insights regarding their effectiveness in achieving desired development outcomes. This will identify any potential gaps, provide insight on how they can be strengthened, and determine whether additional controls are required. Analysis is also warranted to determine whether the various Councils responsible for applying the controls are doing so in a consistent manner.

Additionally, the objectives of other waterway strategies, such as the Yarra Strategic Plan or the Healthy Waterways Strategy, should be used as a guide to assess the objectives of the existing controls. The Healthy Waterways Strategy's performance objectives for the Yarra River identify a set of quantitative indicators by which actions for the Yarra River can be measured. Planning controls applied to the Yarra can support these targets by translating them into localised actions that focus on sections of the river where they are most in need. Councils and DELWP can improve the existing controls by revising their strategies to reference the Healthy Waterways Strategy's and the Yarra Strategic Plan's objectives.

ACTIONS

Stakeholders	<p><i>Talk to local Councils along Yarra River land and the Metropolitan Planning Office of DELWP about an analysis of Yarra River protection planning controls to their objectives, identify potential gaps, and assess the consistency of outcomes across the river.</i></p> <p><i>Advocate for the preparation of further study into the benefits of introducing additional controls to the Yarra River, subsequent to the introduction of permanent controls.</i></p>
Government	<p><i>Review of planning controls currently in place throughout the Yarra catchment (beyond the study area) to assess whether they support the objectives for Yarra River protection.</i></p> <p><i>Review recommendations in Healthy Waterways Strategy specific to the Yarra River catchment and explore how they can be integrated into current or future planning controls.</i></p> <p><i>Once the Draft Land Use Framework for the Yarra Strategic Plan is released, analyse the Plan and identify any gaps in its application via the planning system.</i></p>

2.4 Considering Broader Catchment Controls

The Yarra River planning controls currently apply only to the river corridor and adjoining private land. Their narrow geographical application means that numerous land uses and developments within the broader catchment that may impact upon the Yarra are not assessed for their impact on the river.

Activities that may impact on the river include infrastructure projects, movement and access networks, stormwater management, and development within habitat corridors, open space areas and urban forest networks, among others. There exists an opportunity to manage the impacts of these activities by emphasising Yarra River protection more broadly within local policy frameworks. Where relevant, planning authorities should align their strategies with the Yarra River Protection Policy in Clause 12.03-1R.

Where there are gaps in the strategy, additional policies and controls within the broader Yarra River catchment may be warranted. Comprehensive background studies would be needed to strategically justify additional controls and to ensure that any potential issues are covered by these controls. Any assessment should also include an analysis of the regulatory impact of additional controls on both responsible authorities and landowners.

Of specific concern is the exemption of declared projects within the meaning of the Major Transport Projects Facilitation Act from the Yarra River Act.⁵ This is a significant gap that could serve to



undermine the achievements of the Yarra River Strategic Plan and planning controls if the principles of the Yarra River Protection Act are ignored. While an amendment to the Major Transport Projects Act to remove the exemption should be the goal, an interim approach would be to advocate for the Minister to require consideration of the Yarra River

Strategic Plan and river protection principles in all cases, for example the North East Link project.

⁵ Yarra/Birrarung Act Sections 62(2), 70(2), 74(2), 75(2) and 77(2)

ACTIONS

Stakeholders *Talk to DELWP and Councils about aligning municipal strategies, policies and controls with the Yarra River Protection Policy (Victoria Planning Provisions, Clause 12.03-1R), Healthy Waterways Strategy and once adopted, the Yarra Strategic Plan.*

Monitor planning permit decisions along the Yarra River and advocate for consistency in decision making between responsible authorities.

Advocate for the Yarra/Birrarung Act to be amended to remove the exemption that applies to declared projects under the Major Transport Projects Facilitation Act.

Government *Assess risks associated with land use and development within the broader Yarra River catchment to determine whether additional policies or controls are warranted.*

Advocate to the Minister for Transport to require the Yarra River Strategic Plan and Yarra Protection principles to be addressed as part of planning for major transport projects that would otherwise be exempt from the Yarra River Act.





PART

4

Conclusions & Timeline

3.1 Conclusions and Timeline

This report highlights that there is an urgent need for the Yarra Riverkeeper Association to advocate to government, and for the government to address three outstanding issues to deliver fully on the promise of the interim Yarra River Planning Controls.

1. The conversion of the temporary Yarra Planning Controls to permanent controls.
2. The expansion of the declared Yarra River lands both upstream and downstream.
3. Improvement of existing Yarra River planning controls

The dates in the table below provide the history and ongoing timeline of the development and implementation of Yarra River planning controls.

DATE	ACTION
DECEMBER 2013	Yarra River Corridor Study (Planisphere/City of Yarra) released. Subsequent amendment of the City of the Yarra Planning Scheme to improve protection for the Yarra River corridor.
DECEMBER 2015	State Planning Policy amended to provide additional protection for the Yarra River (Amendment VC121). Yarra River Protection Ministerial Advisory Committee appointed.
DECEMBER 2016	North East Link announced.
FEBRUARY 2017	Group Amendment GC48 to planning schemes of the six councils on the Yarra River from Richmond to Warrandyte. Yarra River Action Plan released.
DECEMBER 2017	Yarra/Birrarung Act comes into effect.
MAY 2018	Yarra River 50-year Community Vision released.
LATE 2019-EARLY 2020	Melbourne City River Strategy to be endorsed by Melbourne City Council.
LATE 2019-EARLY 2020	Draft Yarra Strategic Plan to be released for public comment.
EARLY-MID 2020	Yarra River Bulleen Precinct Structure Plan to be completed.
JANUARY 31, 2021	Amendment GC48 Controls expire.

The first part of 2020 is a crucial period for the Yarra River with several important strategies to be released. This highlights the urgency of the matter and the need for the YRKA to be involved at an early stage in the process. If followed, the actions identified within this document will ensure that there will be no further delays to the timeline above.







Appendix

Yarra River 50-year Community Vision

Informed by the requirements of the Yarra River Act, Melbourne Water was tasked to develop a long-term community vision document for Yarra River land. The Act states that the process for the development of this 50-year vision will include active community participation and co-design.

For the expression of this whole-river vision, the Yarra River is divided into four river reaches:

- + Upper Rural Reach – Upper Yarra Dam to Healesville
- + Lower Rural Reach – Healesville to Warrandyte
- + Suburban Reach – Warrandyte to Dights Falls
- + Inner City Reach – Dights Falls to Port Phillip Bay

The Yarra/Birrarung Act requires the Yarra Strategic Plan to give effect to the community vision⁶ and requires Melbourne Water to complete a review of the long-term vision no later than 10 years after the commencement of the Yarra Strategic Plan. Melbourne Water may revise or restate this community vision for the purposes of preparing the new strategic plan.

The Yarra River 50-Year Whole River Vision is as follows:

Our Yarra River, Birrarung, is recognised around the world as an iconic example of a nurturing relationship between a river and its community.

Flowing from source to sea, it is the resilient lifeblood of past, present and future generations of Victorians. It connects and enriches our flourishing city, suburbs, regions and beyond.

Our Yarra River, Birrarung, its essential role in our lives and its rich history, are respected, understood and protected. It has cared for us for thousands of years and will for thousands to come.

The vital and continued role of Traditional Owners as custodians of the River, and its role in their culture, is recognised and celebrated.

Our Yarra River, Birrarung and its diverse surrounding landscapes provide a place of refuge, recreation, learning and livelihood. It brings communities together and supports sustainable local economies.

Its clean waters and connected network of thriving green spaces nurture biodiversity, and deepen the relationship between people and nature.

Our Yarra River, Birrarung is respected as a sacred natural living entity and everyone takes responsibility for its care. Its health and integrity are paramount and uncompromised.

What is good for the Yarra is good for all.

⁶ Yarra/Birrarung Act Section 20(1)(a)

In the development of an overarching vision for the Yarra River, a vision for each of the Yarra/Birrarung's four reaches (upper rural, lower rural, suburban and inner-city) had also been written. These are:

RIVER REACH	VISION
UPPER RURAL (HEALESVILLE - UPPER YARRA DAM)	<p>Goodness flows from the top down.</p> <p>Careful and innovative management of our Yarra River, Birrarung and its neighbouring lands ensures the natural replenishment of local billabongs and wetlands and supports a continuous envelope of spectacular indigenous vegetation.</p> <p>Our Yarra River, Birrarung supports employment and the social and economic well-being of local communities. Those communities and their landholders provide a valuable connection with the natural environment and the water.</p> <p>The potential of our reach's biodiversity is fostered and enhanced by our enthusiastic local custodians, supporting the environmental health of the entire Yarra River, Birrarung.</p>
LOWER RURAL (HEALESVILLE - WARRANDYTE)	<p>From Healesville to Warrandyte, our Yarra River, Birrarung and its surrounding environment is embraced and cared for through a deep understanding and sense of custodianship, the way the Wurundjeri have always done.</p> <p>It is embraced by a wide, mature cloak of indigenous vegetation through the flats, filled with the sights and sounds of native animals and birds.</p> <p>Our Yarra River, Birrarung is home to happy farmers, making a living and caring for the river and its lands.</p> <p>People visit the river in key locations to meet and play in, on and beside the water whilst learning about its rich history, its Wurundjeri carers and incredible environmental values.</p> <p>From Yering Gorge, our Yarra River, Birrarung is continuously replenished by plants and animals from Kinglake and beyond, joining the river on its journey to the city.</p>
SUBURBAN (WARRANDYTE - DIGHTS FALLS)	<p>Our Yarra River, Birrarung provides a continuous network of protected parklands, providing inclusive access to all.</p> <p>A covenant of custodianship is adopted by private landowners along the reach, embedding a culture of respect and responsibility for river values.</p> <p>The river corridor provides a healthy natural environment, enabling swimming, relaxation and other recreational activities. Importantly, it also supports a flourishing natural ecosystem, including networks of billabongs and wetlands, for indigenous plants and animals to thrive.</p> <p>This is a valued place of connection to Wurundjeri culture and community, with a network of hubs of learning, play and celebration. It benefits from a united and integrated approach to governance and land management, guided by the wisdom and practices of Traditional Owners, keeping culture not just in the past but alive into the future.</p>
INNER-CITY (DIGHTS FALLS - PORT PHILLIP BAY)	<p>Our Yarra River, Birrarung is a thriving river for our thriving city.</p> <p>It provides a unique place of transition, both spiritually and physically. Here the river and its treasured banks and backdrops are Melbourne's meeting place; an inclusive and iconic place for connection, celebration, recreation and learning.</p> <p>Our love for its vast and expanding green spaces and clean waters provide a healthy habitat for all.</p>





Key References and Resources



Key References and Resources

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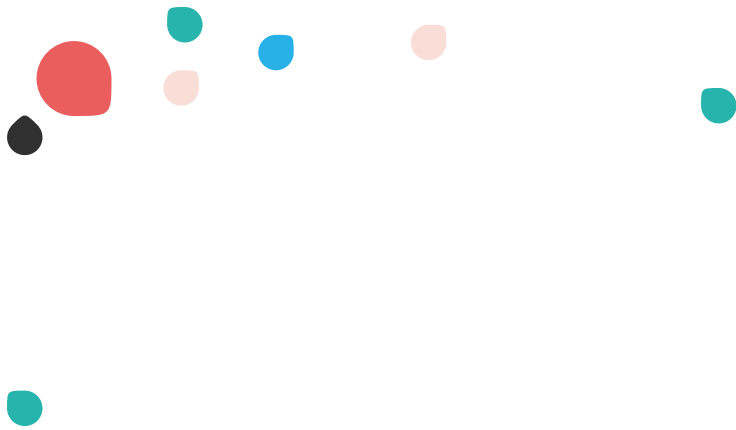
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