

# THE CASE FOR PLACE-BASED PLANNING ON WURUNDJERI WOI WURRUNG COUNTRY

## Project description

The Upper Merri Creek is a sub-catchment area within the Birrarung which includes a major growth area to the north of Melbourne. Wurundjeri Woi Wurrung Corporations' Water Unit, Hume City Council, City of Whittlesea, Mitchell Shire Council, Yarra Valley Water, Melbourne Water and the Victorian Planning Authority are working together to develop and implement an Integrated Water Management (IWM) plan for the Upper Merri Creek sub-catchment.

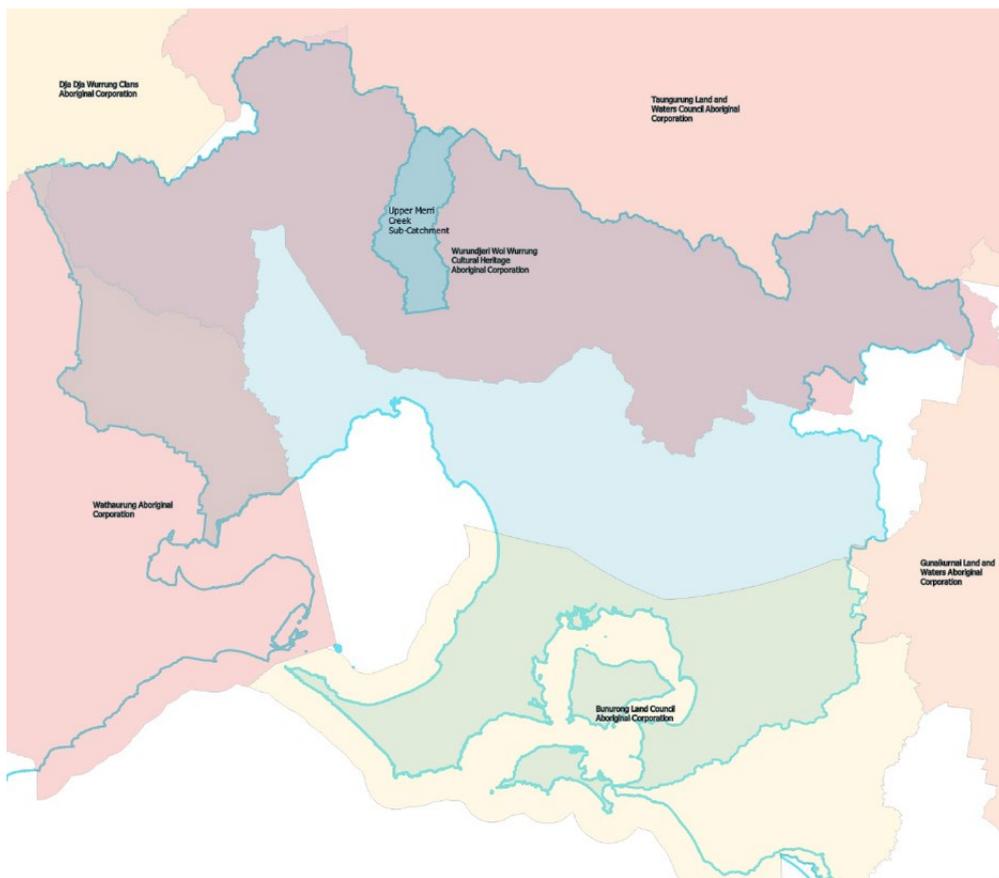


Figure: Boundaries of Registered Aboriginal Parties in the context of the Upper Merri Creek Sub-Catchment. Source: Adapted by Yarra Valley Water from Victorian Dept. Premier and Cabinet (2020).

This project is piloting a new partnership approach to managing all water resources. This approach supports all agencies working collaboratively to address challenges and create positive outcomes for the evolving local community and the environment in the Upper Merri Creek sub-catchment. Unlike the other IWM processes that have occurred on Country, fundamental to the Upper Merri IWM is the recognition of Wurundjeri Woi Wurrung people's inherent rights as sovereign people.

It is also understood that for genuine Wurundjeri Woi Wurrung participation, resourcing is a prerequisite for participation, as determined by Wurundjeri Woi Wurrung. A Cultural Flows Assessment (applying the methodology developed by the National Cultural Flows Research Project (2018)) and Wurundjeri Woi Wurrung community engagement are fundamental to the ongoing, iterative process for place-based planning on Wurundjeri Woi Wurrung Country.

## Purpose of this case study

1. To clearly articulate the collaborations required to deliver outcomes described in Wurundjeri Woi Wurrung people's Country Plan and supporting frameworks including (but not limited to): the Yarra Strategic Plan, Nhanbu narrun ba ngargin twarn Birrarung, Cultural Flows Assessments, Cultural Values Assessments and Cultural Heritage Management Plans.
2. To provide feedback on the Upper Merri Creek IWM Plan pilot project which includes the first application of the Cultural Flows Assessment methodology developed by the National Cultural Flows Research Project in an urban / peri-urban context.

## Priority strategic context

We, the Woi-wurrung, the First People, and the Birrarung, belong to this Country. This Country, and the Birrarung are part of us. The Birrarung is alive, has a heart, a spirit and is part of our Dreaming.

We have lived with and known the Birrarung since the beginning. We will always know the Birrarung. Bunjil, the great Eagle, the creator spirit, made the land, the sky, the sea, the rivers, flora and fauna, the lore. He made Kulin from the earth. Bunjil gave Waa, the crow, the responsibility of Protector. Bunjil's brother, Palliyang, the Bat, created Bagarook, women, from the water. Since our beginning it has been known that we have an obligation to keep the Birrarung alive and healthy—for all generations to come.

In lieu of formal (legislated) recognition of the inherent rights of Traditional Custodians, a framework for embedding Registered Aboriginal Parties (RAPs) into planning processes is required. In the Upper Merri Creek IWM pilot project we requested a Partnership Statement from all partnering organisations to recognise our inherent rights and acknowledge our equitable involvement with government agencies in the process.

Wurundjeri Woi Wurrung have rights and a moral obligation to care for water under our lore {law} and customs.

These have never been forfeited, and are yet to be protected through Treaties.

The UN Declaration on the Rights of Indigenous People (UNDRIP), which Australia is a signatory to, includes references to water. Details of these are contained in our Cultural Flows Assessment.

In Victoria the following policy positions of government support the recognition of Aboriginal rights:

### **1. Victorian Aboriginal Inclusion Framework**

This framework provides policy makers, program managers and service providers in the Victorian Government with a structure for reviewing their practice and reforming the way they engage with and address needs of Aboriginal people. Key elements of this framework include:

- Munganin–Gadhaba ‘Achieve Together’ (DELWP Aboriginal Inclusion Plan) commits to contributing to the wellbeing of Aboriginal communities by reconnecting us to water for cultural, economic, customary and spiritual practices. It aims to:
  - Provide Victoria’s Traditional Custodians with access to water
  - Involve Traditional Owners in water management and planning decisions
  - Increase Aboriginal employment and business opportunities in water management.

### **2. Victorian Aboriginal Affairs Framework (VAAF) 2018-2023**

The goals, objectives, measures, guiding principles for self-determination, and actions within the VAAF set a clear direction for how government will plan, act, measure and evaluate to progress change. The VAAF action logic identifies “transfer power and resources to communities”.

### **3. Water for Victoria (August 2016)**

Includes commitments for inclusion of Aboriginal people in the planning and management of water resources. Chapter 6 specifically commits to:

- Recognise Aboriginal values and objectives of water;
- Include Aboriginal values and traditional ecological knowledge in water planning;
- Support Aboriginal access to water for economic development; and
- Build capacity to increase Aboriginal participation in water management

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

The Yarra River Protection (Wilip-gin Birrarung murrn) Act focuses on a relatively narrow corridor set back from the Yarra river channel, but the Wurundjeri Woi Wurrung people maintain that management needs to consider values, priorities and aspects that lie beyond the designated Yarra River Land and are seeking to be independent and active partners on an equal level and be contributors to the future of the Yarra catchment (Birrarung) management.

### **5. Water and Catchment Legislation Amendment Act 2019**

Intended to embed recreational and Aboriginal cultural values into the planning and operations of water resource managers. The Act provides (amongst other objectives) greater

recognition and involvement of Traditional Custodians. This legislation supports Aboriginal cultural uses of water and underpins opportunities to use water for economic development for Traditional Owners and Aboriginal Victorians. It will also support the self-determination of Traditional Custodians by providing opportunities that best meet their water management needs.

## **6. Water corporation Letters of Expectations**

Each year the Minister for Water writes to all 19 Victorian water corporations to outline performance expectations for the coming business planning year, taking the opportunity to communicate the government's priorities for the water sector with a Letter of Expectations (LOE). The current LOE outlines expectations for the water sector's role in recognising and supporting Aboriginal cultural values and economic inclusion. Water corporations need to:

- Include Aboriginal values and objectives for water through water planning, increased participation and supporting access to water for economic development. Collaborating with Traditional Custodians in water planning and management is an aspect of maintaining access to Country and its resources.
- Improve access to water for Traditional Custodians and Aboriginal Victorians to provide opportunities for economic development. Water-related Aboriginal enterprises can contribute to economic self-determination for Traditional Custodians.
- Incorporate Aboriginal customary knowledge into water management (where appropriate), and assist Traditional Custodians to plan for, and adapt to, the impacts of climate change.

## **THE ECHUCA DECLARATION**

The Wurundjeri Woi Wurrung acknowledge the statements made by the Murray Lower Darling Indigenous Nations (MLDRIN) and endorsed by the Northern Basin Aboriginal Nations (NBAN) in the Echuca Declaration (2010):

*“Cultural Flows are water entitlements that are legally and beneficially owned by the Indigenous Nations and are of a sufficient and adequate quantity and quality to improve the spiritual, cultural, environmental, social and economic conditions of those Indigenous Nations. This is our inherent right.”*

We extend these statements to cover the lands and of the Wurundjeri Woi Wurrung people and emphasise that we maintain our spiritual and cultural identity, life and livelihood from our lands and waters; and have never given up our sovereignty over our Country and it is our Country that has always sustained us.

Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation (Wurundjeri Woi Wurrung) is currently finalising a Country Plan which details the overarching objectives for managing the land and waters of the Country for which Wurundjeri Woi Wurrung people are Traditional Custodians.

## Project drivers

Melbourne Water's Healthy Waterways Strategy 2018-28 is a co-designed strategy developed in partnership with state and local government, retail water corporations and the community. The strategy for the Yarra catchment provides direction towards a regional vision for the health of rivers, estuaries and wetlands in the Birrarung.

The Yarra River Protection (Wilip-gin Birrarung murrong) Act (2017) and the Yarra Strategic Plan give effect to this long-term community vision. One of the key features of the Act for Aboriginal people in Victoria is the establishment of an independent entity, the Birrarung Council, to help develop and oversee the implementation of a strategic plan for the management of the Yarra River. The Yarra Strategic Plan is intended to give effect to Wurundjeri Woi-wurrung people's place-based policy response to the Act and Community Vision, Nhanbu narrun ba ngargunin twarn Birrarung. The Yarra Strategic Plan is currently being developed.

## Outcomes sought

The Wurundjeri Woi Wurrung Water Unit piloted a process known as a Cultural Flows Assessment to identify the objectives of the Wurundjeri Woi Wurrung Corporation for the Upper Merri Creek sub-catchment. These objectives will inform others on how they can work with us to achieve mutually beneficial outcomes.

- Cultural flows for First Nations can build a pathway for reform in water law and policy across Australia. This pathway can:
- Strengthen First Nations' interests and roles in water management (governance, decision-making and delivery of on ground works);
- Support and celebrate cultural values as well as allowing Traditional Owners to deliver their responsibilities for Country;
- Enhance environmental outcomes; and
- Build socio-economic opportunities around water.

The National Cultural Flows Research Project outlined three law and policy approaches: 'Water Rights', 'Increase Influence', and 'Transform Foundations' which will advance cultural flows. Each approach, has different legal outcomes and effects, and each approach offers specific opportunities to build cultural flows objectives along a broader pathway of legal and policy reform. Each approach, therefore, is an essential, integral dimension of any overarching cultural flows program.

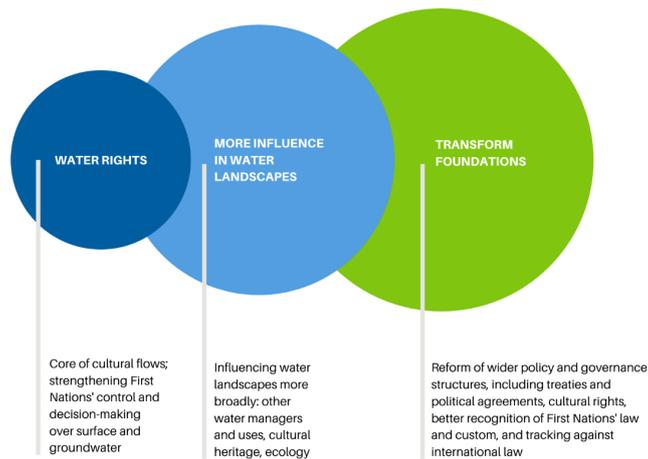


Figure. Three major law and policy approaches to cultural flows.<sup>1</sup>

Implementing cultural flows can help to:

- Show proper recognition of First Nations' roles in relation to water;
- Give responsibilities to different entities (including governments) to bring about cultural flows;
- Strengthen water governance and outcomes;
- Ensure organisations carry out their responsibilities for cultural flows; and
- Work towards cultural flows assessments being a legislated process.

The process for undertaking a cultural flows assessment requires resourcing and time to complete. It may be part of a broader set of inputs to a Country Plan (such as Cultural Values Assessment or survey, Cultural Heritage Management Plans). An overview of this process is as follows:

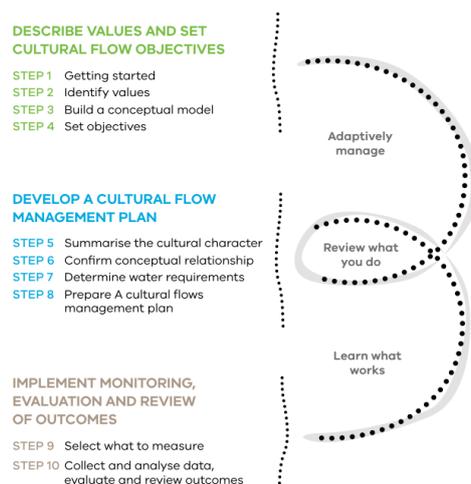


Figure: Steps involved in a cultural flows assessment. Source: National Cultural Flows Research Project

<sup>1</sup> <http://www.culturalflows.com.au/~culturalflowscom/images/documents/Water%20Managers%20Guide.pdf>

Wurundjeri Woi Wurrung Water Unit have led this cultural flows assessment to identify and prioritise the economic, social, ecological and cultural values that are connected to the Upper Merri Creek sub-catchment.

The outcome of this assessment was to identify areas of cultural significance that require access to water or protection from water. This assessment went further than other assessment methodologies, as it also looked to future water and land management and ownership aspirations, including social, cultural and economic opportunities for Wurundjeri Woi Wurrung people.

The cultural values that have been identified through the cultural flows assessment link to land and water health as well as Wurundjeri Woi Wurrung prosperity. Each of the identified outcomes will have its own cultural flows management plan (including identifying and managing risks), to ensure the ongoing sustainability of the outcomes and their contribution to the aspirations of the Wurundjeri Woi Wurrung Country Plan.

Incorporation of outcomes from the Cultural Flows Assessment into the Upper Merri Creek IWM Plan (and other strategies and plans) will inform others on how they can work with us to achieve mutually beneficial outcomes.

Furthermore, the outcomes seek to support Wurundjeri Woi Wurrung access to water for economic development through:

- Capacity building with Wurundjeri Woi Wurrung Water Unit;
- Capacity building (cultural competencies) with partnering organisations;
- Identify opportunities for partnerships and projects that deliver cultural flow / Wurundjeri Woi Wurrung Country Plan outcomes;
- Alignment of strategic outcomes of various parties wherever possible; and
- Development and delivery of a replicable process for engagement of Wurundjeri Woi Wurrung in the Integrated Water Management process.

If this process works well, the Water Unit will look to use the Cultural Flows Assessment process in other sub-catchments.

## Reflections and key learnings

Traditional Custodians, until recently, have had very little involvement and input into water planning and management across the greater Melbourne area. The recent changes in Victorian legislation, requiring water authorities to collaborate and consult with Traditional Custodians is long overdue and is an inherent right that is now being recognised.

However, the changes in the legislation and the Letters of Expectations issued by the Minister must be matched with resources and support to ensure Traditional Custodians are able to participate effectively and equitably. The Wurundjeri Woi Wurrung Corporation, via its Water Unit, has stepped up to the challenge and with the support of partners, has identified areas to be addressed so that the rivers, creeks and Country provide regenerative benefits not only for Wurundjeri Woi Wurrung people and Country, but also to Settler-Melburnians living on Wurundjeri Woi Wurrung Country.

Merri Creek and its sub-catchment remains an important cultural link to Wurundjeri Woi Wurrung people's pre and post-contact heritage in the greater Melbourne area. It remains to be seen if commitments made through the Upper Merri Creek IWM Project Partnership Agreement will deliver on the ground actions aligned with the outcomes identified in the Cultural Flows Assessment.

Key elements that differentiate the Upper Merri Creek Integrated Water Management (IWM) process from other IWM processes are:

- Resourcing has been provided at the outset and with no strings attached: we have received support when it has been requested and have been able to utilise funding at our own discretion.
- Commitment from partnering organisations to building ongoing relationships founded on trust and respect. This is a key risk if individuals move on and the process has not been embedded or legislated. The timeframes have been flexible and not burdensome. The group has appreciated the Wurundjeri Woi Wurrung people have many competing priorities and governance. It can be challenging to integrate the wide ranging aspirations being pursued separate to but aligned with cultural flows.
- There was a 'blank canvas', nothing was already partially decided or designed in relation to the expectations or ideas and we have been part of a co-design of the outcomes: we can see how Wurundjeri Woi Wurrung objectives are being considered rather than being asked to endorse the objectives of others.

We would advocate for these reflections and learnings to be incorporated into IWM outcomes for projects involving water utilities (presented in the *IWM Principles and Best Practice for Water Utilities* paper), through the commentary below:

#### **Outcome 1b – Shared ownership, management & responsibility**

*WW (Woi Wurrung) Comment: Does that mean WW will be gifted a water entitlement? Ownership has a very different meaning. How is "ownership" intended here for WW people?*

#### **Outcome 2a – Collective leadership, long-term vision and commitment**

*WW Comment: How will the projects invest in WW capacity? What is the commitment to this?*

*Whose long-term vision and commitment? Need to list everyone who has signed on? What circumstances exist that allow their participation?*

#### **Outcome 3a – Policy, legislation and regulations**

*WW comment: How will projects work with WW to develop policy, legislation and regulations? This must be a co-design process. How will you resource WW participation in this process.*

#### **Outcome 3b – Cross-sector institutional arrangements and processes**

*WW Comment: Does this mean treaties with each of the sectors and WW? This would be consistent with Cultural Flows methodologies.*

### **Outcome 3d – Economic and financial/funding systems**

*WW Comment: What systems is the project planning (and ideally co-designing with WW) to ensure a system of funding that works for WW?*

### **Key Outcome Area 4: Water Infrastructure and systems that are fit for purpose, resilient and adaptable to change**

*WW comment: Infrastructure that supports the health of Country.*

### **Outcome 4f – Equitable access to water system services**

*WW Comment: How will project address the current inequity for WW? This section does not address the foundational equity issue, and it really should*

### **Key Outcome Area 5: Improved ecological health and biodiversity of natural environments**

*WW Comment: It's hard to separate environmental and cultural values. WW cultural values included here*

### **Outcome 5a – Healthy and biodiverse habitat**

*WW Comment: Work with WW to identify those areas of interest to WW so that cultural values can be recorded and embedded to enhance Country. This requires substantial resourcing.*

### **Key Outcome Area 6: Healthy, cool, green cities and regions supported by blue and green infrastructure.**

*WW Comment: and Healthy Country*

### **Key Outcome Area 7: resource efficiency and recovery towards regenerative outcomes**

*WW Comment: For a healthy, sustainable Country.*

### **Outcome 8b – Water-related business opportunities**

*WW Comment: what are these opportunities for WW people? Traditional Custodians rights to resources can align with delivering recognition and support of Aboriginal cultural values and, particularly, economic inclusion (consistent with requirements in water authorities Letter of Expectations and Chapter 6 of Water for Victoria).*

## **Partnership Statement for Upper Merri Creek**

Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation and Upper Merri Creek sub-catchment partners: Victorian Planning Authority, Mitchell Shire Council, City of Whittlesea, Hume City Council, Yarra Valley Water, and Melbourne Water.

As the Traditional Owners of the Birrarung and its surrounding Country, the Wurundjeri Woi Wurrung First Peoples will bring their unique knowledge, connections and understandings of the Merri Creek and the wider Yarra catchment into the Upper Merri Creek integrated water management plan to enhance its integrity. At the same time the Wurundjeri Woi Wurrung

recognises the role and contribution to the process that other partner stakeholders will bring to the development and strength of the plan.

The project partners acknowledge the following key issues must be addressed to improve the First Peoples' water rights and First Peoples' ability to genuinely engage and participate in water planning and management processes.

1. First Peoples' desire for water rights and interests to be further acknowledged and protected by law.
2. Existing water planning and management regimes and institutions need to increase First Peoples' participation, influence, self-determination and control.
3. First Peoples' interests in water ownership, management, use and development do not always map easily onto existing "Western" legal, cultural, scientific, environmental and economic frameworks.
4. We need to invest for the long term to improve First Peoples' water rights and involvement in water management.

In recognition of these issues, the following Partnership Statement is entered into by all partners working collaboratively on the Upper Merri Creek IWM Plan. All partners recognise that the successful delivery of the below is contingent upon the Wurundjeri Woi Wurrung First Peoples being adequately resourced:

## **COMMITMENTS**

All parties recognise that the Partnership Statement is an important opportunity to further develop our relationships, building a foundation for working together into the future.

All parties commit to developing mutually beneficial relationships (ie. a collaborative partnership).

We commit to work together and view the quality of our working relationship as an important measure of success.

To achieve a strong working relationship we will:

1. Dedicate effort and resources to developing and managing relationships across our organisations
2. Provide opportunities for and encourage ongoing open and honest communication and feedback
3. Work proactively to resolve conflicts where necessary.

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It is important to understand that as well as having statutory obligations, the Corporation is a representative community advocacy based organisation governed by Elders who represent the broader membership.

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## **COMMON GOALS**

All parties recognise that we have common goals that underpin this Partnership Statement.

We have a joint interest in the Upper Merri Creek sub-catchment:

- The Wurundjeri Woi Wurrung First Peoples input to the Yarra Strategic Plan: Nhanbu narrun ba ngarunin twarn Birrarung (Ancient Spirit and Lore of the Yarra) which is an evolving document;
- The Yarra Strategic Plan;
- The (Melbourne Water) Healthy Waterways Strategy; and
- The Upper Merri Creek IWM Plan.

There are benefits to our organisations from working together:

- We can deliver commitments detailed in the Upper Merri Creek IWM Plan; build capacity, capability and sustainability; and
- Maximise the benefits of integrated and strategic planning and jointly pursue opportunities for innovation.

## **OVERARCHING ACTIONS**

The following overarching actions, arising from the UN Declaration on the Rights of Indigenous People, relating specifically to Cultural Flows; the Echuca Declaration (Sep 2010); Munganin-Gadhaba ('Achieve Together' – the Victorian Government Aboriginal Inclusion Framework) and Water for Victoria (in particular Chapter 6 commitments):

- Recognise Traditional Owner values and objectives of water
- Agree to include Wurundjeri Woi Wurrung Traditional Owners as well as their values and knowledge in water planning
- Support Traditional Owner access to water for economic development
- Build capacity to increase Traditional Owner participation in water management

Will guide what we work together on as part of this Partnership Statement:

The Upper Merri Creek IWM project partners will work collaboratively with Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation in ongoing planning and management of water in the Upper Merri Creek sub-catchment and to develop joint project funding proposals to undertake identified projects.

## **SPECIFIC ACTIONS**

To create clarity about specific areas where the Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation and the Upper Merri Creek IWM partners will work together in partnership, an annual action plan will be developed and included as Schedule 1 of this Partnership Statement. This annual action plan will identify:

1. Planning integration opportunities
2. Specific project initiatives

### 3. Capacity building opportunities

#### **MONITORING**

The Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation and Upper Merri Creek IWM partners will work together to ensure this Partnership Statement is achieving mutual benefits. We will:

- Meet at least quarterly with Management representatives to review progress against the annual action plan.
- Meet annually to review achievements and identify opportunities for the next action plan, including an annual update to the Yarra Strategic Directions Statement.