

Welcome!

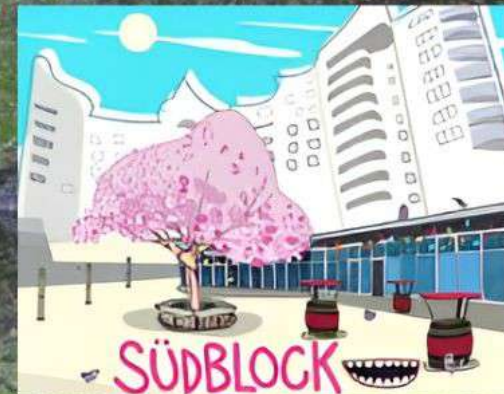
Lecture & discussion with Erin O'Donnell "Rights for Rivers: Enforcement or Relationship Repair?"

Hosted by: Living Rivers Foundation

Umwelt 
Bundesamt



Bundesministerium
für Umwelt, Naturschutz, nukleare Sicherheit
und Verbraucherschutz



GRÜNE LIGA Netzwerk
Ökologischer
Bewegungen



LIVING RIVERS
FOUNDATION

Tonight & tomorrow with Erin O'Donnell – Join Us!

Tonight – Film at Patagonia

Film screening followed by discussion

"We Are River People! Aren't We?"

Location: Patagonia Store Berlin

Time: 7-9 PM



Patagonia Film Screening



Greywater Tour

Tomorrow - Visit of greywater management site

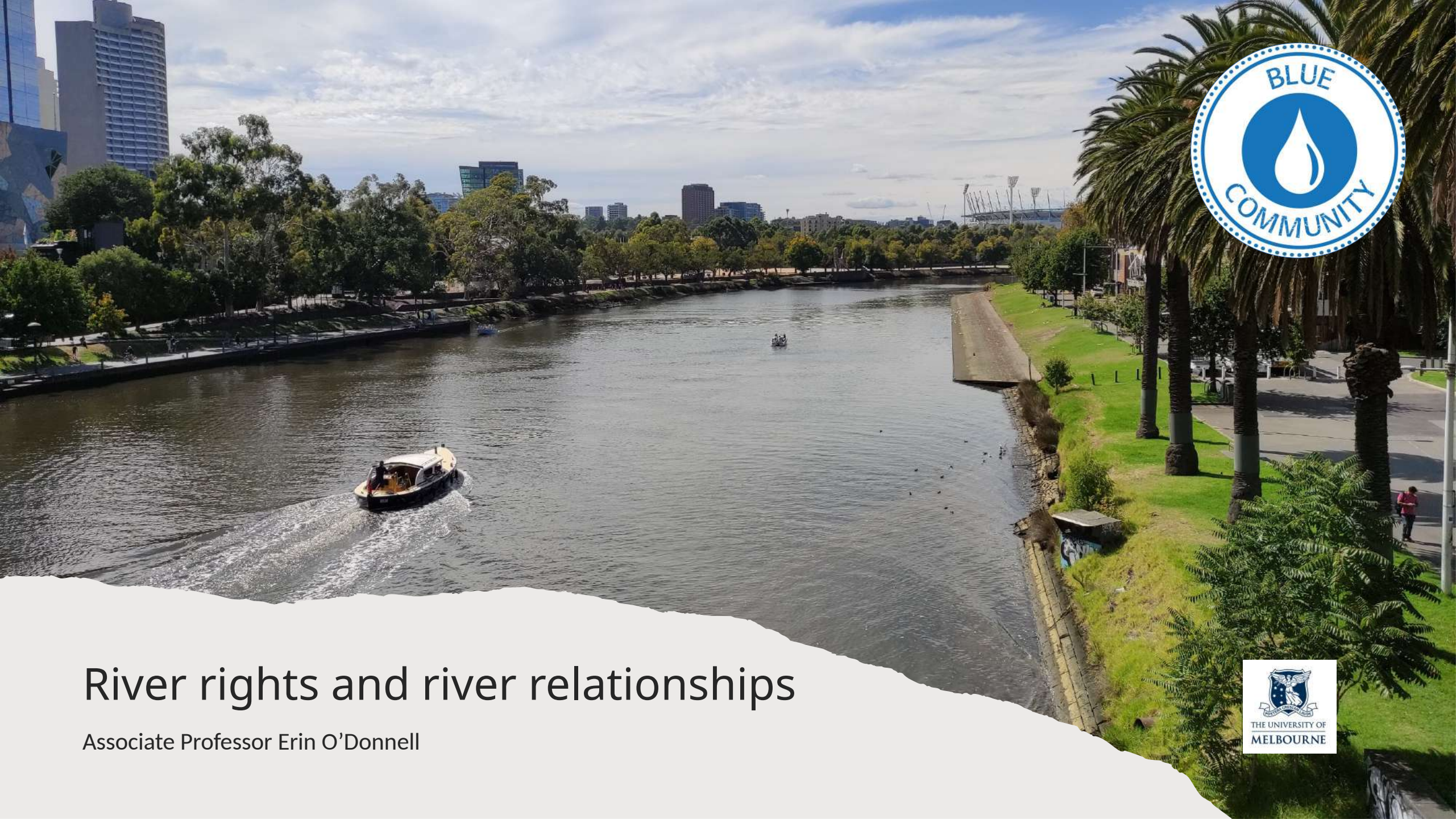
Guided tour with Erwin Nolde

Meeting point in the courtyard

at Bernburger Straße 22, 10963 Berlin

Registration by email: anmeldung@grueneliga.de

Time: 2 - 3:30 PM



River rights and river relationships

Associate Professor Erin O'Donnell



Acknowledgement of Country

I honour the lands and the waters who host me here. I am grateful to everyone who has made my journey possible, and I am proud to be a member of the Blue Community.

I am grounded by my connection to the lands and waters of my home, on unceded Wurundjeri Woi-wurrung Country.





Rivers connect us in embodied ways

Local-global

Hydro-social cycles that extend
across the globe

The migrations of eels, fish and birds
across thousands of kilometres

Who is your local river?

Colonial water law constructs water as a resource for capture and exploitation. Water is only visible, and legible, to law as an object over which humans have dominion.

Western science has supported the colonial project of taming rivers.

What would it look like to bring ourselves (back) into good relations with water? To understand and accept rivers as 'willful, unruly, feeling, and acting beings'?

Quote: Cleo Wölfle Hazard 2022, *Underflows*.



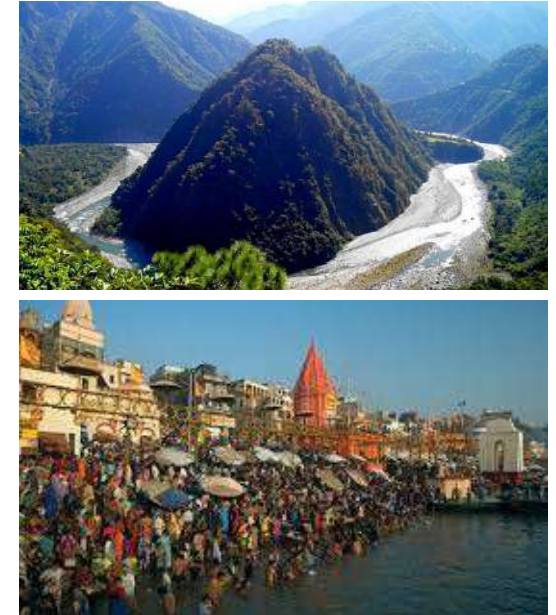
Rivers around the world have become 'persons'



Whanganui River,
Aotearoa
New Zealand



Río Atrato,
Colombia

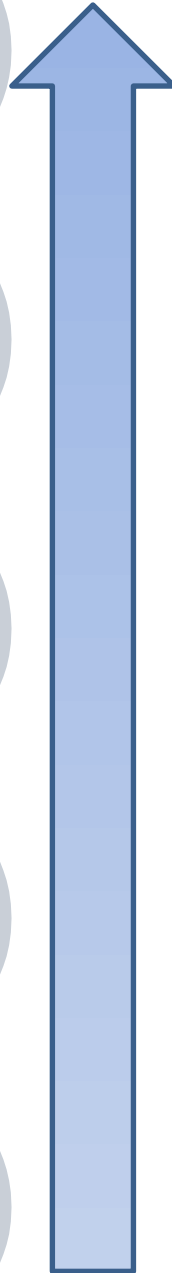


Ganga and Yamuna
rivers, India

Followed by: rivers and lakes in Australia, Bangladesh, Mexico, the USA & Canada

Rights of nature rising: a process of relational repair?

2024
2022
2021
2021
2020
2019
2019
2018
2018
2018
2017
2017
2017
2017
2017
2014
2010
2010
2008
2006



Marañón River, legal subject in Peru (Mixed Court of Nauta)

Mar Menor (lagoon) legal subject in Spain (statute)

Mutahekau/Magpie River legal subject in local law

Blue Mountains Council integrates rights of nature into planning

Orange County (Florida) rights of nature local law (lost in 2022)

Toledo, Ohio local law gives Lake Erie rights (lost in 2020)

Bangladesh High Court recognises rivers as legal/living persons

Colombian Supreme Court recognises Amazon & **Río Cauca**

USA lawsuit to recognise Colorado River fails

Mexico City Constitution recognises nature as having legal rights

Victoria recognises Birrarung/Yarra River as living entity

Colombian Constitutional Court recognises Río Atrato as legal subject

Indian court recognises nature as legal/moral person

Indian court recognises Ganga & Yamuna rivers as legal/living persons

Aotearoa New Zealand gives legal personality to Te Awa Tupua

Aotearoa New Zealand gives legal personality to Te Urewera

Bolivia passes legislation to recognise rights of Mother Earth

Río Vilcabamba case successfully protects river rights in Ecuador

Ecuador's Constitution gives rights to nature

Local governments in USA begin to recognise rights of nature

Indigenous leadership or colonial environmental values?

“Advocating for the legal personality of a river, or more generally advocating for the rights of nature, on the grounds that **all humans over-exploit, abuse and contaminate the environment is misleading**”

“I contend that this western legal construct is **complicit in an ongoing process of decoupling** the oldest living and continuing Indigenous culture in the world from its rights and obligations to and for Country”

V Marshall, Removing the Veil from the ‘Rights of Nature’: The Dichotomy between First Nations Customary Rights and Environmental Legal Personhood, *Australian Feminist Law Journal* 45, 233 (2020).

“the **most transformative** cases of rights of Nature have been consistently influenced and often actually **led by Indigenous peoples**”

“If ecological jurisprudence aims to be both **effective and pluralist**, it should seek recognition and validity *within* Indigenous law, as well as expanding dominant settler colonial legal frameworks to *include* Indigenous law.”

E O'Donnell et al., Stop Burying the Lede: The Essential Role of Indigenous Law(s) in Creating Rights for Nature, *Transnational Environmental Law*, 9, 403 (2020).

Recognising rivers as living and legal entities

1. What **types** of river persons does law recognise?
2. Which **rights** do rivers have?
3. Who can '**speak**' for the rivers? Who **takes action** on their behalf?
4. What kind of **impacts and outcomes** are achieved?
5. Insights from the **Birrarung, a living entity**



More than a
mere
resource:
rivers now
recognised as
beings in law

Legal person

Subject of rights

Living person

Living being or entity

Source: E O'Donnell (2020) 'Rivers as living beings: rights in law but no rights to water?' *Griffith Law Review*, 29(4), pp. 643-668

Examples of rivers as beings in law

Río Atrato, Colombia

‘entidad sujeto de derechos’ [an entity that is the subject of rights], including rights to ‘protection, conservation, maintenance and restoration’

Whanganui River

‘an indivisible and living whole’ and ‘a legal person and has all the rights, powers, duties, and liabilities of a legal person’.

Ganga and Yamuna Rivers

‘juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person’

Turag and all Bangladesh rivers

The court recognised all rivers as legal persons and living entities

Australian examples

Martuwarra Fitzroy River

‘The Fitzroy River is a living ancestral being and has a right to life’

Birrarung Yarra River

The river and the associated land are ‘one living and integrated natural entity’

Who speaks for the rivers?

Río Atrato, Colombia

One man and one woman from 7 villages plus representative from Ministry for Environment

Whanganui River

Te Pou Tupua ('face') advised by Te Karewao
Te Kōpuka (strategy group)

Ganga and Yamuna Rivers

Uttarakhand government officials (appealed)

Turag and all Bangladesh rivers

National River Protection Commission

Birrarung/Yarra River

Birrarung Council – the 'voice' of the river

Martuwarra/Fitzroy River

Martuwarra Fitzroy River Council (no govt recognition)



Impact and outcomes

Río Vilcabamba: rights of the river upheld, developer required to remediate damages

Whanganui River: long-term generational change to guide future decisions on hydropower

Yamuna River: a living person but considered biologically dead – is this murder?

New rights in law but no rights to water

Source: E O'Donnell (2020) 'Rivers as living beings: rights in law but no rights to water?' *Griffith Law Review*, 29(4) pp. 643-668

Rights to water

Río Aquepi

Minimum flow rights

Río Atrato

No property rights

Whanganui River

Legislation does not affect existing water rights

Ganga and Yamuna

No water rights

Turag and other rivers

No water rights

Martuwarra

No water rights

Birrarung

No water rights (VEWH)

Water management

Río Atrato

New institutions to support guardians

Whanganui River

New institutions arrangements but limited affect on water

Ganga & Yamuna

No new arrangements

Turag and other rivers

NRPC limited influence

Martuwarra

No statutory role

Birrarung

Minimal role

Unexpected outcomes

The paradox of legal rights: more power, less protection?



Environmental protection goes up

Rivers with legal rights can take *more* action to better protect their rights

BUT

People are *less* likely to want to protect them

Environmental protection goes down

Birrarung: a single living integrated natural entity

Australia's first and so far only river entity

Victoria's first bilingual legislation

Birrarung Council: a voice for the Yarra

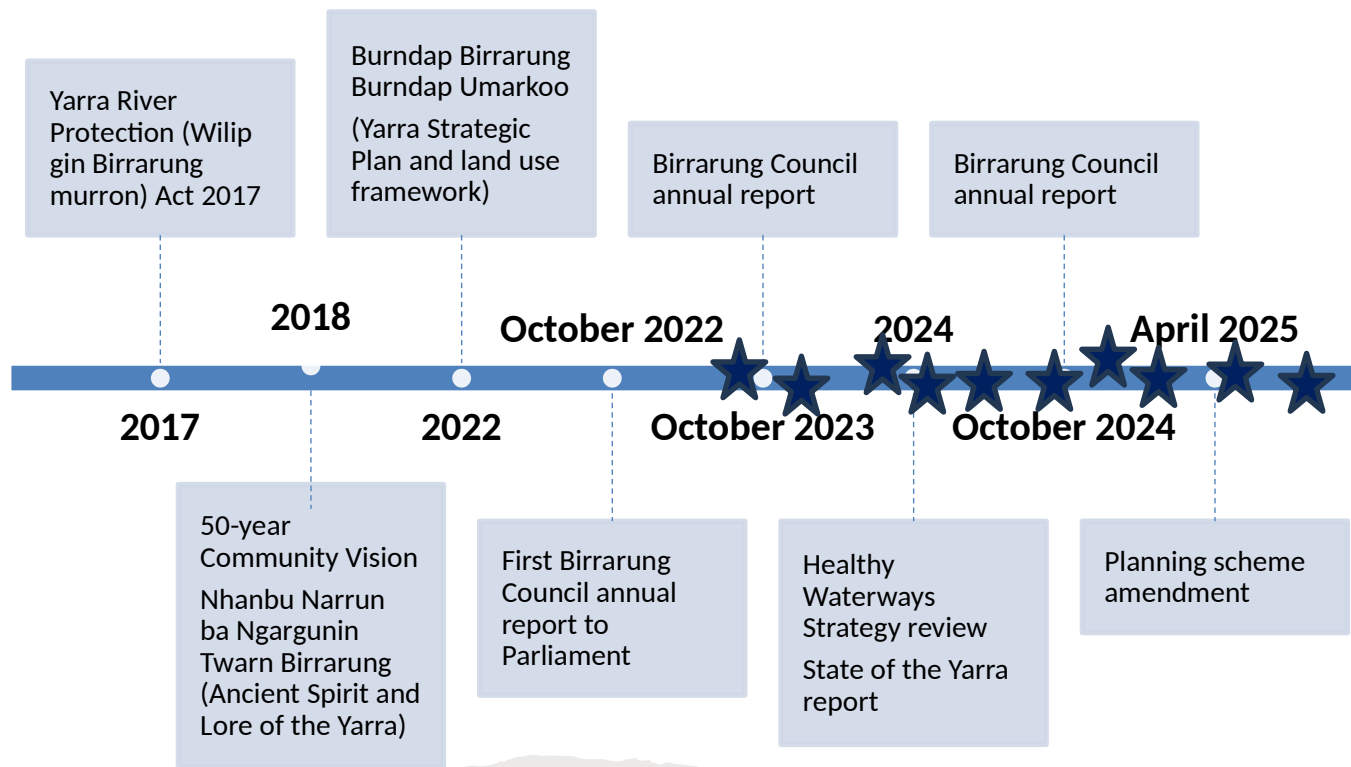
12 members

Advice and advocacy role

- Advise the Minister for Water
- Advocate for the interests of the river
- Speaking for the river, and with the river



New collaborative river management framework



★ Yarning circles



New narratives

- **What can we take FROM the river?**
water supply, drainage, sewage, stormwater, amenity
- **What do we want FOR the river?**
50 year community vision
- **How do we get there WITH the river?**
The river is a partner, and we all work together to care for the river and ourselves



We can learn to listen to living rivers, if:

We build **Blue Communities** that focus on water justice for all, including the rivers themselves

We **centre relationships** in our work with rivers: with humans and the more-than-human community, and, like eels, **extend those relations across oceans**

We ensure that legal recognition of living rivers **changes Western water laws**

We aren't afraid of 'mere' **symbolism** as this is frequently the **beginning of real change**



Panel discussion

Moderator: Michael Bender - Living Rivers Foundation

**Assoc. Prof. Dr. Erin O'Donnell
University of Melbourne
Blue Community Ambassador**

**Prof. Dr. Michael Monaghan
Department of Evolutionary
and Integrative Ecology (IGB)**

**Hendrik von Schlieben &
Kaa Faensen
Initiative for the Rights of the Spree**

**Dr.-Ing. Steffen Schorcht
Deputy Federal Chairman
of GRÜNE LIGA**

Thank you all for being here!

We look forward to seeing you again:

Tonight: Film at Patagonia Berlin • 7:00 PM

Tomorrow: Guided tour Block 6 near Potsdamer Platz • 2:00 PM



Patagonia Film Screening



Greywater Tour