

Legally living rivers – a global review enriched by a case study of the Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017

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Abstract

Purpose – This study aims to deepen the taxonomy of Ecojurisprudence cases by providing the first global analysis of “legally living rivers.” By legally living rivers, the study refers to any river recognized as “living” in law. The study argues that these rivers constitute an under-examined subsection of River Ecojurisprudence, composing 16 of the total 69 enacted River Ecojurisprudence cases globally (Eco Jurisprudence Monitor). To deepen the concept of a legally living river in governance, the authors’ global analysis is followed by a case study of the environmental governance of a legally living river in Australia, whose living status is enacted in the Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017.

Design/methodology/approach – The research has two parts. First, in an inductive and comparative legal analysis of 16 legally living river cases, the authors assess their text, context and structure, thereby building on the taxonomy and data sets developed by Putzer *et al.* (2022 & 2025) and Kauffman and Martin (2021). Second, under the framework of the evolved taxonomy, the authors developed an in-depth case study of the legally recognized “living and integrated” Birrarung (Yarra River) in the Australian State of Victoria. The Birrarung is chosen as a case study due to its notable position within the set of legally living rivers: the law creates a living status, but does not acknowledge rights or personhood for the river, characteristics generally associated with Ecojurisprudence. The case study analysis combines a doctrinal analysis of the Act and its associated deliverables with a synthesis of the academic literature, demonstrating what a taxonomy-based case study reveals about legally living river governance.

Findings – Legally living rivers occur globally and are established by diverse actors, including national, local and Indigenous legislators, or courts. Within the 16 cases the taxonomy identifies important nuances in the usage of the constructs of legal personhood, legal subjectivity, rights and representation. Noticeably, legally living status neither guarantees status as a legal person or subject nor representation or rights. In the Yarra River Protection (Wilip-gin Birrarung murrong) Act 2017 case study, the authors evaluate the design and implementation of the living river status in governance, using the expanded taxonomy, discussing key elements and identifying takeaways. They discuss how studying the implementation of an Ecojurisprudence case provides deeper insights and identifies the need for implementation evaluation frameworks.

Originality/value – As planetary crises mount and human well-being suffers, Ecojurisprudence has been growing in practice as a response to calls for the law to adapt. This paper (1) contributes to the ability to better analyze Ecojurisprudence through the expanded taxonomy, (2) highlights, through the emerging category of legally living rivers, how a relational theory of change can use different legal pathways, and (3) draws



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attention to the need for robust implementation evaluation frameworks for governance to understand whether Ecojurisprudence and its relational theory of change result in the desired outcomes.

Keywords Rights for rivers, Legally living rivers, Rights of Nature, Birrarung (Yarra River), Australia, Earth jurisprudence, Ecojurisprudence, Environmental law

Paper type Research paper

Introduction

Ecological jurisprudence (hereinafter Ecojurisprudence) is the emerging legal movement whose theory of change is to adapt existing anthropocentric forms of law and governance into ones that recognize the deep sustaining relationship between people and the Earth/nonhuman nature through an ecocentric and relational lens (Murray, 2014; Pelizzon, 2015; Putzer *et al.*, 2022; Kauffman *et al.*, 2025; Putzer *et al.*, 2025). Ecojurisprudence encompasses Rights of Nature and generally supplements existing environmental legislation with the introduction of a nonhuman entity or entities as stakeholder(s) that can participate in governance. Rights of Nature constitute the most popular tool for achieving this aim, making up 454 out of the 597 cases in the Ecojurisprudence Monitor (Kauffman *et al.*, 2025). However, other legal concepts are also vehicles for achieving the relational outcomes of Ecojurisprudence. This paper contributes to this Special Issue by highlighting the need to discuss and better understand Rights for Rivers within the broader context of Ecojurisprudence. This will be done by examining the phenomena of rivers that have been recognized as “living” in a law, court decisions or other document with legal strength. We refer to them as “legally living rivers.” They represent rivers both with and without rights and/or personhood/subjectivity.

This article is written from a scholarly perspective committed to the continued development of an Ecojurisprudence taxonomy and an understanding of this legal innovation. Ecojurisprudence cases were first fully mapped on a global scale by Alex Putzer and the authors of this paper (2022) with an update from Putzer *et al.* (2025). The mapping project began in 2020 to analyze in detail all Ecojurisprudence cases and to develop a taxonomy in consultation with the UN Harmony with Nature program. The resulting database and the emergent taxonomy formed the basis of the Ecojurisprudence Monitor, which was established in 2022 and since then has been kept up to date by the Global Alliance for the Rights of Nature (Kauffman *et al.*, 2025). This paper contributes to existing taxonomies by including a new section on legal status, demonstrating this section’s relevance through an analysis of 16 legally living rivers. Using the evolved taxonomy, we enrich the findings through detailed analysis of a legally living river case study in Australia. Inspired by the key takeaways hereof, we argue that Ecojurisprudence implementation needs to be tracked and evaluated to support evidence-based and informed scholarly discussions. We provide an initial demonstration of how implementation can be analyzed and discuss the need for future development of implementation evaluation frameworks for assessing the environmental governance shifts intended through Ecojurisprudence.

Our central question is:

- How do legally living rivers fit within the spectrum of Ecojurisprudence and what insights does the remarkable case of the [Yarra River Protection \(Wilip-gin Birrarung murrn\) Act, 2017](#), having no rights or personhood, reveal about Ecojurisprudence?

The analysis of the 16 rivers demonstrates diversity in legal structure, with recognized “living” legal status paired with different combinations of rights, personhood/subjectivity and representation. The Birrarung (Yarra) river (hereinafter the Birrarung), is selected as this

article's case study because it is a good example of this variation, as one of five rivers possessing legally living status and representation but no rights or personhood, as well as a strongly developed policy basis for environmental governance implementation. The findings blur the conventional framing of Ecojurisprudence as a simple legal debate between "subject" and "object," demonstrating how the objectified qualities of a river can be challenged in law with relational outcomes without literally making a river a legal subject, as is demonstrated in detail in the analysis of the Birrarung Act.

In exploring our motivating question, this article:

- introduces the methodology and taxonomy;
- inductively analyzes the 16 legally living rivers globally;
- presents a brief history of the Birrarung;
- evaluates the design and implementation of the Birrarung Act;
- discusses key takeaways for researchers and practitioners; and
- concludes by summarizing the findings of the research question.

Methodology

Selection of cases

The methodology of the global review of 16 legally living rivers is doctrinal, inductive and comparative. The river cases were found through the Putzer *et al.* database and the resulting Ecojurisprudence Monitor (Kauffman *et al.*, 2025), which contained 597 Rights of Nature initiatives as per September 9, 2025. To limit these to river-initiatives possessing legal force, the filters outlined in Figure 1 were applied and the search was limited to 'living' rivers, resulting in 25 cases. Only success cases (those which are legally in force) were selected because the focus of this article is to examine the law in practice. Although we would also note that cases which are not in effect constitute an important area for future research. Subsequently, 10 cases were removed (the Ganges and Yamuna, Sukhna Lake, Grand Lake, Marañon River, the River Deben, Tet River, Seine River, Tins River, Tigre River and Monjas River). These cases were removed because they either concerned citizens' declarations that currently lack legal effect, referred to a lake and not a river, were ultimately overturned or were pulled in the database search because of the use of "living" in circumstances where it

The screenshot displays the search interface of the Ecojurisprudence Monitor. It features several filter sections: 'FILTER BY ECO JURISPRUDENCE' with a dropdown set to 'Any'; 'FILTER BY TYPE OF ECOLOGICAL ACTOR' with a dropdown set to 'Freshwater Ecosystem'; 'FILTER BY STATUS' with a dropdown set to 'Approved'; 'FILTER BY LEGAL PROVISION' with a dropdown set to '5 selected'; 'FILTER BY COUNTRY' with a dropdown set to 'Any'; and a 'SEARCH' input field containing the text 'living'. Below these filters are 'Search' and 'Clear' buttons. A 'CURRENT FILTERS' section lists the active filters: 'LEGAL PROVISION: DECLARATION X CASE X STATUTORY LAW X INDIGENOUS LAW X LOCAL LAW X', 'TYPE OF ECOLOGICAL ACTOR: FRESHWATER ECOSYSTEM X', 'STATUS: APPROVED X', and 'SEARCH: LIVING X'. At the bottom, it indicates '1 - 20 of 25 results'.

Figure 1. Filters applied to the initiatives archive - ecojurisprudence monitor

has an alternative meaning than legal status. The case of the Fitzroy River in Australia, an Indigenous legal declaration that is not recognized by the settler-colonial state, was kept while citizens’ declarations were not because of the legal legitimacy provided to Indigenous legal systems by for example, Articles 5 and 15, of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Then, we added the case of the Ni’skà (the Arkansas River) and the Ni’ží’dè (the Salt Fork River), passed by the federally recognized Ponca Nation, possessing tribal sovereignty recognized by the USA, which qualifies for inclusion but did not appear in the search. It was added as one case because the two rivers are encompassed by one document. The resulting data set contains 16 living river cases.

After selecting the 16 cases, the underlying legal documents were analyzed inductively according to the [Table 1](#) categories to identify the basic information and the legal structure of each case. The categories of the taxonomy were established based on previous work on Ecojurisprudence taxonomies and further developed by the authors through the inclusion of a category for *legal status* ([Kauffman and Martin, 2021](#); [Putzer et al., 2022](#)). The legal documents of each of the cases analyzed are available from the authors upon request and are publicly available through the Ecojurisprudence Monitor. When the case language was not in the English language, it was translated into English using Google Translate or the translations available on the Eco Jurisprudence Monitor. All entries for the category “Structure” are direct quotations. For each of the 16 legally living rivers, we included the results of our analysis in [Table 2](#).

Method for assessing the Birrarung case

Our reason for including an in-depth case study of a legally living river is to engage in the important conversation of implementation and ultimately the outcome of Ecojurisprudence. The Birrarung was chosen due to its notable position as a river with detailed policies for the implementation of its representation and living status whilst also allowing a deeper investigation of a legally living river without rights or personhood. Because documenting the implementation and outcomes of Ecojurisprudence cases is a gap in existing literature, the analysis of the Birrarung Act’s implementation utilizes a methodology appropriate for an emergent field of law. We choose to execute an explorative case study employing a legal doctrinal method based on publicly available information and academic literature ([Yin, 2009](#)). The analysis is framed using the taxonomy set out in [Table 1](#) above and therefore serves to illustrate an in-depth qualitative case study use of this taxonomy. The public information consists of the legal text of the Act and the texts of its associated deliverables

Table 1. Taxonomy based on [Putzer et al. \(2022, 2025\)](#), [Kauffman and Martin \(2021\)](#) and [O’Donnell \(2020\)](#) and including a new section on legal status

Basic information	River
	Country
	Year
	Initiating actor
Structure	Rationale
	Legal actor
	Legal status
	Rights
	Representation

Source(s): Added by the authors of this paper

Table 2. The 16 approved legally living river cases identified and analyzed according to the methodology and taxonomy

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Fitzroy River	Australia	2016	Traditional owners from the Fitzroy River catchment area of the Kimberley region of Western Australia	Expression of First Law	Martuwarra nations	"The Fitzroy river is a living ancestral being and has a right to life"	"Right to life"
Rivers in Bangladesh Uncompahgre River	Bangladesh USA	2019 2021	Human rights and peace for Bangladesh Town Council	Illegal encroachment on the Turag river The cultural, provisioning, supporting, and regulating ecosystem services of the river. Threats of climate change, pollution, forest and land degradation, drought, and land development which existing Colorado constitution, federal law, state law, and local policies are inadequate to address due to the assumption that "the natural world is mere human "property"	Bangladesh High Court Town of Ridgeway, Colorado	"Living entity and legal person" "Living entity"	"Basic rights" "A. The right to maintain natural flow sufficient in quantity to maintain ecosystem health; B. the right to support essential functions within its ecosystems, including by horizontal and longitudinal connectivity, recharging groundwater, moving and depositing sediments, and providing adequate habitat for native plants and animals; C. The right to feed and be fed by sustainable precipitation, glaciers, and aquifers; D. The right to maintain native biodiversity; E. The right to restoration and

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Te awa tupua (the Whanganui River)	New Zealand	2017	The Whanganui iwi and the New Zealand government	Treaty settlement	New Zealand national legislature	“A spiritual and physical entity... an indivisible living whole. (and) a legal person”	preservation of adequate ecosystem health” “Rights, powers, duties, and liabilities of a legal person”
Birrarung (Yarra River)	Australia	2017	The state of Victoria and the Wurundjeri traditional owners	Establishing co-management of the Yarra river as a living and integrated entity and recognizing Wurundjeri stewardship	State of Victoria	“Living and integrated natural entity”	No
Laje River	Brazil	2023	Proposed by Indigenous councilman Francisco Oro Waram, leader of the Waram Indigenous village, supported by Indigenous councilman Wen Cacami, and the NGOs “comvida” (committee for the defense of Amazonian life) and “Mapas”	Translating the worldview and understanding of the Indigenous Waram into legal language	City of Guajará-Mirim	“Living entity... (and) subject of rights”	“Subject of rights”
Whangaehu iver	New Zealand	2019	The Ngāti Rangī and the New Zealand government	Treaty settlement	Government of New Zealand (treaty settlement)	“Living and indivisible whole from Te wai ā-moe to the sea, comprising physical (including mineral) and metaphysical elements, giving life and healing to	No

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Rangitaiki and Wheao Rivers	New Zealand	2012	The Waikato-Taimui and the New Zealand government	Treaty settlement	Government of New Zealand (treaty settlement)	its surroundings and communities; “The Rangitaiki river is the tipuna awa and living taonga of ngāti manawa”	No
Tavignanu River	France	2021	Tavignanu vivu, UMANI and terres de liens corsica, and assisted by notre affaire à tous	Response to the authorization of the opening and operation of a buried waste facility for household waste and asbestos by the oriente environment company adjacent to the river tavignanu	Assembly of Corsica	“Living entity indivisible from eye to mouth, delimited by its watershed and having legal personality”	“The right to exist, to live and to flow, the right to respect its natural cycles, the right to fulfill its essential ecological functions, the right to be free from pollution; the right to feed and be fed by aquifers in a sustainable manner, the right to maintain its native biodiversity, the right to regeneration and restoration, the right to legal standing in a court of law”
Boulder Creek Watershed	USA	2021	Save the Colorado: nederland trustee Alan Apt	The cultural, provisioning, supporting, and regulating ecosystem services of the watershed. The interconnectedness between people and the watershed. The inadequacy of federal	Town of Nederland, Colorado	“Living entity,”	“Fundamental and inalienable rights: 1. The right to maintain natural flow sufficient in quantity to maintain ecosystem health; 2. The right to support essential functions within its ecosystems, including by

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
				law, the Colorado constitution, state law and policy, and local laws due to the assumption of the natural world as human “property” to address multi-faceted environmental crises			horizontal and longitudinal connectivity; recharging groundwater; moving and depositing sediment, providing adequate habitat for native plants and animals; 3. The right to feed and be fed by sustainable precipitation, glaciers, and aquifers; 4. The right to maintain native biodiversity; 5. The right to exist free of pollution; 6. The right to be restored to, and preserved in, a state of ecosystem health; and 7. The right to exist free of activities, practices or obstructions that interfere or infringe upon these rights. The watershed and its living and non-living natural components and communities - including forests and wildlife - possess, at minimum, fundamental and inalienable rights to exist, maintain integral health, regenerate, evolve, and be restored”

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Muteshekau-shipu (Magpie River)	Canada	2021	Innu council of Ekuanitshit, the minganie regional county municipality, CPAWS Quebec, the association Eaux-Vives minganie	Protecting the muteshekau-shipu from industrial development including dams. Respecting the self-determination and biocultural rights of the innu of Ekuanitshit. The cultural, provisioning, supporting, and regulating ecosystem services of the watershed, including its high recreational value. Promoting legal pluralism and the recognition of indigenous legal traditions. Protecting the rights of future generations. Addressing the systems which facilitate environmental degradation and climate change	Joint declaration between minganie regional county municipality and the first nation innu council of Ekuanitshit	"Living entity... (and) legal person"	"As a legal person, the magpie river and its watershed hold fundamental rights, including, but not limited to the right to maintain its natural biodiversity, the right to be free from pollution, and the right to sue"
Piatúa River	Ecuador	2019	Lopez huatoteca nicolas carlos, charpentier stacey andres felipe, valenzuela rosero jose feliciano, aguinda pilla cristian rigoberto,	The approval of the environmental license of the genefran S.A. hydroelectric project in the piatúa river violated the right to prior	Criminal unit of Pastaza and Ecuador constitutional court	"Living element"	Yes

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Waikato River	New Zealand	2010	granda garrido andre mauricio, villarroel villegas enid susana, sarzosa santos lenin espartaco, reyes gomez jacinio rigoberto, melo cevallos mario efrain, Vargas santi marlon richardm, curipallo alava yajaira anabel the Waikato-Tainui and the New Zealand government	consultation of the indigenous people of kichwa nationality of ponkisc and santa clara and the rights of nature as established in the constitution of Ecuador	Government of New Zealand (treaty settlement)	“To Waikato-Tainui, the Waikato river is a tupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. The river has its own mauri, its own spiritual energy and its own powerful identity. It is a single indivisible being”	No
Snake River	USA (nez perce nation)	2020	Nez perce tribe	Protecting the river and its salmon populations from water pollution, over-diversing and damming	Nez pearce tribal nation	“Living entity”	“Fundamental rights... at minimum: te right to exist, the right to flourish, the right to evolve, the right to flow, the right to regenerate, and the right to restoration”
Esdilagh	Esdilagh First Nation	2020	Esdilagh first nation	Expressing “dechen ts’edlhtan (literal translation ‘laying down	Esdilagh first nation	“Tu (waters, including the sturgeon/fraser river) is a life form, it has its	No

(continued)

Table 2. Continued

River	Country	Year	Initiating actor	Rationale	Legal actor	Legal status	Rights
Ni'ská (the Arkansas River) and ni'zi'de (the Salt Fork River)	(unceded Canada) USA (Ponca Nation)	2022	Ponca tribe of Indians of Oklahoma	the stick', in english the term is better known as 'law') in its written form" Sacred relationship and responsibility between and towards waterbodies and the ponca people. Interconnectedness between people and nature. Contamination of life-giving waterbodies. Toxic Rivers effecting ecosystem health and ponca tribal members' well-being	USA (ponca nation)	own spirit with human qualities" "Living entities"	"Inherent fundamental, and inalienable rights including the right to naturally exist and regenerate; the right to clean and unpolluted water; the right to natural groundwater and surface water recharge; the right to a healthy natural environment and native biodiversity; and the right to perform their natural ecosystem functions; the rights to clean and unpolluted water and to a healthy natural environment and native biodiversity"

Source(s): Authors' own work

from the year of implementation (2018) until and including the year of analysis (2025). These deliverables consist of the “Yarra River 50-Year Community Vision” (hereinafter Community Vision) and the strategic plan entitled “Burndap Birrarung burndap umarkoo (What is good for the Birrarung is good for us all)” (hereinafter Strategic Plan). The academic literature review covers the existing scholarship on the Birrarung and the Act.

Legally living rivers

Ecojurisprudence is a rapidly growing area of law, policy and civil society initiatives that encompasses various legal approaches and wordings ([Kauffman et al., 2025](#); [United Nations Harmony with Nature, 2026](#)). The Ecojurisprudence Monitor reports that 597 such cases exist globally of which 125 pertain to acknowledged freshwater ecosystems (meaning lakes and rivers) and 69 thereof have been enacted. Out of the 69 enacted river cases, 25 recognize rivers as “living.” About 16 out of these 25 living rivers cases qualify as per the methodology set out in section 2 as “legally living rivers,” which means that those rivers have a legally recognized status as ‘living’. These 16 were selected for inductive analysis as explained in section 2. The results are presented in [Table 2](#) and provide the basis for identifying structural similarities and differences across the cases.

Initiating actor and rationale

Out of the 16 cases, 12 of them were initiated by Indigenous people or groups. Out of these 12, seven were brought in partnership with a nonindigenous actor (local government, national government or local NGOs), this includes the Birrarung. The other five cases were initiated solely by Indigenous actors. Across these 12 cases, Indigenous actors assert their own legal systems and worldviews through written forms of Western/colonial legal systems or, for the cases in New Zealand, by using treaty renegotiation processes. The 12 cases vary in the extent to which they adopt Western legal constructs, such as rights, legal person or subjectivity. According to the inductive analysis, we found that the Indigenous actor initiatives are rationalized in response to:

- Environmental crises which are frequently recorded as impacting individual and community well-being, livelihoods and cultures.
- The colonial implementation of systems of law centered on private property and the human individual and/or.
- A long-standing sense of responsibility, obligation or stewardship toward natural entities grounded in an Indigenous law, culture, religion and/or worldview.

The other four cases were initiated by NGOs and local governments, frequently with grassroots characteristics. These cases are motivated by:

- The critical cultural provisioning, supporting and regulating ecosystem services of a river.
- The deep interconnectedness between humans and nonhumans.
- The failure of existing laws and policies to prevent environmental crises.

Legal actor (establishing power)

How a river is legally recognized as living varies. The pathways range from national, local or Indigenous legislators, to court rulings. Five cases were implemented nationally, six originated from local legislators, five were written in Indigenous legal systems, and one

concerns a court case. In this list, the Magpie River is double counted as it is a joint resolution from both the local government, the Minganie Regional County Municipality and the local First Nation, the Innu Council of Ekuanitshit.

Legal status

This is a new category in the taxonomy and as illustrated in the “wording of living status recognition” column, there is diversity in the specific word choice used. Out of the cases analyzed here, in one case, the Laje River, the concept of legal subject has been used for the river. In another four cases, the concept of legal person was employed for the river, including the Magpie, the Bangladeshi rivers, the Whanganui and the Tavingnau. In the remaining 11 cases in the analysis, neither the concept of legal personhood or legal subject is used, but they refer to the river as a living entity. Interestingly, of these 11 cases, six cases recognize rights for a river without linking the recognition directly to the construct of being a legal person or subject. These cases include the Ní’skà (the Arkansas River) and Ni’žǐ’dè (the Salt Fork River), the Piatúa, the Snake River, the Boulder Creek Watershed, the Uncompahgre and the Fitzroy River. These rivers therefore are recognized as legally living entities with rights. The other 5 / 11 cases recognize living entity status and neither rights nor personhood, these include the Birrarung (Yarra) River, the Whangaehu River, the Rangitaiki and Wheao Rivers, the Waikato River and the ʔEsdilagh River.

As outlined by Erin O’Donnell, words such as legal persons and legal subjects are more commonly used for Rights of Nature in the common law jurisdictions (USA, Canada, Australia, New Zealand) and in civil law jurisdictions (Europe or South America) respectively (O’Donnell, 2020, p. 649). Both are legal constructs which (implicitly) provide an entity with rights. In the 11 cases in which a river has been recognized as living without applying the construct of personhood or subjecthood, the rivers possess living entity status. According to O’Donnell, such living entities are recognized in law but do not have a legal status pursuant to this and therefore do not necessarily have rights and responsibilities (O’Donnell, 2020, p. 650). As O’Donnell explains, this does not make a river a legal subject, however, it may increase the visibility of a river to the law and actors dealing with the law, becoming “more than a mere object” (O’Donnell, 2020, p. 651). In support of O’Donnell’s claim that a river may become more visible to the law is the observation that, for four of the five living rivers with living entity status, representation for such a river is recognized. Our analysis builds on O’Donnell’s, 2020 work by contributing 12 additional cases to the four legally living rivers (Fitzroy, Birrarung, Whanganui and Bangladesh) discussed by her.

Rights

While all the 16 selected cases legally recognize a river as a living entity, not all of them recognize rights. Of the 16 cases, 11 recognize rights for a river. While five of these (the Fitzroy, Bangladeshi Rivers, the Piatúa, the Laje River and the Whanganui) recognize rights/basic rights without further elaboration, the other six provide a list of rights recognized for the river. For those which elaborate, the specifics of the rights recognized vary across the cases (Table 2). Other scholars have elaborated on the characteristics and structure of rights for nonhuman natural entities focusing on adequacy, appropriateness and enforceability (Boyd, 2005; Kauffman and Martin, 2017, 2021; Marshall, 2017a, 2019; O’Donnell and Talbot-Jones, 2018; O’Donnell, 2020; Corrigan and Oksanen, 2021; Lambooy, van Soest and Breemer, 2022; Begum, 2024; Kymlicka, 2024; Rodriguez-Garavito, 2024).

Representation

About 12 of the 16 cases establish representation, a detailed analysis of what this entails is an area for further research. In the Birrarung case study below, we examine the representation modes of the Birrarung as provided for in the Act and the accompanying documents. For deeper analysis of this area of the taxonomy, the form and strength of the representation mechanism is discussed by others (O'Donnell and Talbot-Jones, 2018; Kujala *et al.*, 2019; Lambooy, van Soest and Breemer, 2022; Epstein *et al.*, 2023; Cano-Pecharroman and O'Donnell, 2024; Malhi *et al.*, 2024).

Summary of legally living rivers

This section applied the evolved Taxonomy (Table 1), including its new category for legal status, to 16 legally living rivers. The analysis of the 16 cases reveals a diversity of actors, rationales and legal structures, including combinations of person/subjecthood, rights and representation. This identifies an intriguing and under-examined area of Ecojurisprudence, legally living rivers that do not use legal concepts like rights or personhood (5 / 16 of the cases), constructs that have been the focus of the Ecojurisprudence discussion.

The following section is an in-depth analysis of the [Yarra River Protection \(Wilip-gin Birrarung murrnong\) Act, 2017](#) (hereafter the Act). This case is selected for a deep dive analysis because its detailed policy design facilitates a discussion of implementation, providing insight into the outcomes of living entity status Ecojurisprudence cases.

The Yarra River Protection (Wilip-gin Birrarung murrnong) Act 2017

This section explains the design of the Act through the framework of the taxonomy (Table 1) and reviews its implementation.

River

The Birrarung (or Yarra River) is a 242-kilometer waterway in the Australian State of Victoria that provides approximately 70% of the city of Melbourne's drinking water ([Melbourne Water and Victoria State Government, 2018](#)).

Country

The Birrarung flows through land that has been occupied for at least 65,000 years by the Traditional Owners, the Wurundjeri Woi-Worrung and the Bunurong, two Aboriginal Peoples who are among the oldest living cultures in the world (Clarkson *et al.*, 2017). Kieser (2024) details the history of the Wurundjeri Woi-Worrung and the Bunurong and of the area's colonization to analyze the Act from the perspective of the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The ongoing legacy of colonization is critical to analysis of the Act. The beginning of colonization marked the start of industrial development that degraded the river and the start of the genocide of the Traditional Owners, characterized by legal concepts such as *terra nullius* and *aqua nullius*, the oppression of First Law systems, the deaths of thousands through disease, violence and war, and the 'Stolen Generations' (Berndt and Berndt, 1988; Schmidt, 1990; Human Rights and Equal Opportunity Commission, 1997; Banner, 2005; Boyce, 2011; Otto, 2011; Watson, 2014; Environmental Justice Australia and Yarra Riverkeeper Association, 2015; Marshall, 2017c, 2017b; Broome, 2019; Redvers *et al.*, 2020; Ryan, 2021; Clark, 2022; Poelina, 2024).

The Traditional Owners refer to the River as the Birrarung, meaning "the place of mists and shadows." The longstanding, enduring and existential relationship between the Traditional Owners and the River is central to Traditional Owner custodianship and

encapsulated in the foreword of the “Yarra River 50-Year Community Vision” ([Melbourne Water and Victoria State Government, 2018](#), p. 4):

The Birrarung is a river of mists and shadows – the river and its environs are a living, breathing entity that follows Wurundjeri songlines and forms a central part of the Dreaming of the Wurundjeri [...] We the Wurundjeri are connected to the Birrarung through spirit, culture and nature [...] Wurundjeri people have a deep cultural obligation and a birthright to look after the river.

Initiating actor

The Act is a response to a community movement started in 2010 and led by the Yarra Riverkeeper Association (a not-for-profit community organization that educates about and advocates for the Birrarung) and Environmental Justice Australia (a public interest legal organization for environmental justice).

Rationale

The community movement was inspired by concerns over the River’s ecological well-being and the degradation of the River’s value through development that started in the 1970’s. The Act was designed as a river-governance framework by the Yarra River Protection Ministerial Advisory Committee (Yarra MAC). Yarra MAC was established by the Victorian Labor government. While environmental concern drove the community movement, reconciliation seems to have driven a significant portion of the Act’s design. For example, the Act is unique in five ways that make it a landmark first step in recognizing the rights of Traditional Owners in environmental management in Australia, although it does not fully implement UNDRIP. Kieser identifies that Free, Prior and Informed Consent (FPIC) was not provided and the consultation with Traditional Owners in the design of the Act was limited. Furthermore, the advisory Birrarung Council initially only included the Woi-wurrung, with Bunurong inclusion occurring after the recognition of the Bunurong Land Council Aboriginal Corporation as the Aboriginal Party for the Country downstream of Melbourne in 2021 ([Dunstan, 2021](#); [Kieser, 2024](#)). However, the five ways the Act does align with UNDRIP are:

- (1) Its recognition of Traditional Owner knowledge and stewardship.
- (2) The use of the Wurundjeri Woi-Worrung’s language.
- (3) Legal recognition of the River as one living and integrated natural entity.
- (4) An Advisory structure, the Birrarung Council, which provides the River an independent voice that includes two Traditional Owners.
- (5) A potentially more holistic and inclusive comanagement approach, embodied by the Principles. The Preamble illustrates elements of this ([Table 3](#)) ([Kieser, 2024](#)).

Legal actor

In 2017, the Victorian Parliament adopted the Act.

Legal status

In alignment with the recognition of Traditional Owner culture and knowledge, the central purpose of the Act is to recognize the Birrarung as one living and integrated natural entity [Part 1 (a)]. The Birrarung’s new legal status shifts the River from an object to something closer but not equivalent to a legal subject under Australian law ([O’Donnell, 2020](#)). Unlike other Ecojurisprudence river cases, the Act does not grant the Birrarung legal personhood

Table 3. Preamble of the act in Woi-Wurrung and English

The wurundjer statement in Woi-Worrung	English translation of statement
Woiwurrungbaluk ba Birrarung wanganyinu biikpil Yarrayarrapil, manyi biik ba Birrarung, ganbu marram-nganyinu Manyi Birrarung murrondjak, durrung ba murrup warrongguny, ngargunin twarnpil Birrarungwa nhanbu wilamnganyinu Nhanbu ngarn.ganhanganyinu manyi Birrarung Bunjil munggany biik, wurru-wurru, warriny ba yaluk, ba ngargunin twarn Bunjil munggany biik, wurru-wurru, warriny ba yaluk, ba ngargunin twarn Biiku kuliny munggany Bunjil Waa marrnakith-nganyin Ngarn.gunganyinu nhanbu nyilam biik, nyilam kuliny – balit biik, balit kuliny: balitmanhanganyin manyi biik ba Birrarungwa nhanbu wilamnganyinu Birrarung, Balitmanhanganyin durrungu ba murrupu, ba nhanbu murrondjak!	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

nor rights. An additional caveat to the Birrarung’s changed legal status is that its recognition as “integrated” only includes certain public lands (Part 1.1.a). The public land included is specified in Object 5(b) as, “Crown land and freehold land owned by the State, that is adjacent to the Yarra River and which is used as public open space or as a park.” Consequently, privately owned land or land owned by a municipal council on the banks of the Birrarung is not covered by the Act. Furthermore, neither the source nor the mouth of the River are included in the Act’s scope.

Representation

Part 5 of the Act provides the River with a voice by establishing the advisory-only Birrarung Council (hereafter the Council). The Council is an advisory body to the Victorian Minister for Water, of which two positions, out of 12 total, have to be nominees of the Wurundjeri Woi-Worrung Tribe Land and Compensation Cultural Heritage Council. In addition to the Wurundjeri Woi-Worrung positions, the Council requires representatives of environmental groups, agriculture, the local community and a minimum of two individuals skilled in either waterway health, aquatic ecology, urban design or landscape agriculture. Importantly, the Council does not include any government representatives, securing its independence as an advisory body (O’Donnell and Talbot-Jones, 2018; Lambooy *et al.*, 2022). Notably, this is the first time in Victoria that Traditional Owners have a legislatively mandated voice in river management. The Council has two main roles. The first is to provide advice to the Minister of Water on the administration of the Act, on the protection of the River, and on the Strategic Plan. The second is to advocate for the protection and preservation of the River.

Rights and personhood

The River receives neither rights nor personhood. Other scholars have discussed the implications of legal personhood and rights for the Birrarung, determining that neither

personhood nor rights meet the management aspirations of Traditional Owners. For Wurundjeri Woi-Worrung and Bunurong peoples, rights are an imported and enforced legal concept of settler-colonial law which has historically been used to repress First Law and to erase people, culture and identity. A key illustration of the inappropriateness of rights for First Law is the assumption of a property paradigm under Rights of Nature, which does not adequately represent the long standing relationship between Traditional Owners and Country, concepts such as “care for Country,” and the Aboriginal worldview of belonging and lack of separation from Country (Marshall, 2017a, 2019; O’Byrne, 2019).

Summary

While the Act does not create an independent legal status for the Birrarung, it does give an independent advisory voice to the River through the Birrarung Council and recognizes the Birrarung as one living and integrated natural entity. This recognition challenges the view of rivers as objects and resources, a key assumption of common law and a part of Ecojurisprudence’s relational theory of change. Furthermore, the inclusion and emphasis of Wurundjeri Woi-Worrung language (Woiwurrung), worldview and knowledge; the recognition of the Wurundjeri Woi-Worrung as Traditional Owners; the recognition of the Birrarung as a living and integrated natural entity; the requirement for two Wurundjeri Woi-Worrung representatives in the Council; and the bicultural, holistic, net-gain and precautionary approach of the Principles, all signal a shift in Victorian river management. However, the exclusion of the Bunurong from the Act represents a significant omission in the comanagement bicultural approach (Kieser, 2024).

While the Act signals a shift, it has been criticized for not going far enough to decolonize the Birrarung, in contrast to actions such as returning land ownership to Traditional Owners or empowering systems of First Law, nonetheless, the Act was brought to the Victorian Parliament with Wurundjeri Woi-Worrung support (Wahlquist, 2017; Godden *et al.*, 2020; Provis, 2021; Kieser, 2024).

The next section of this article explores the implementation of the Birrarung Act to understand its implementation and gain insight on the potential outcomes of living entity status river cases of Ecojurisprudence.

Implementation of the Birrarung Act

The Act, which stands out among Ecojurisprudence cases for its relatively robust approach to policy and governance, outlines four objects which embody this law’s theory of change:

- (1) Recognize the environmental importance of the River and of its ecological health and recognize its cultural, social, environmental and amenity values.
- (2) Recognize that Crown and freehold land adjacent to the River form a living and integrated natural entity.
- (3) Develop an overarching policy and planning framework.
- (4) Establish the Birrarung Council.

Part 2 of the Act establishes the “Yarra Protection Principles” (the Principles) which guide the implementation. The Principles consist of environmental, social, cultural, recreational and management components. Key aspects are the integration of a precautionary approach which pursues net-gain for the River, its communities and future generations; the embedding of pluralistic cultural values including those of Wurundjeri Woi-Worrung and post-European settlement communities; the importance of community consultation; and the importance of public health and public access. The Principles outlined in the Act are the guiding values for

the development and implementation of the Strategic Plan, whose specifics are outlined in Part 4 of the Act, meant to guide the future use and development of the Birrarung. The Strategic Plan is to be developed by Melbourne Water, the agency appointed by the Minister for Water, and is to be further informed by the long-term (50 year) Community Vision. In alignment with the Principles, both the Strategic Plan and the Community Vision require active public participation to ensure their co-development.

This section evaluates the extent to which the Act has been implemented, since its passing in 2017, looking specifically at the actions it outlines. These include:

- Creation of a 50 year Community Vision.
- Creation of a 10 year Strategic Plan and overarching management framework.
- Formation of the Birrarung Council. The result of this analysis is an assessment of the extent to which the Act has been institutionalized effectively through its theory of change.

Community Vision

In 2018, the “Yarra River 50-Year Community Vision” (Community Vision) was published. The document was written through consultation with 2,500 individuals and contains a foreword by the Wurundjeri Woi-Worrung; a joint Minister’s foreword; and a section for each reach (upper rural, lower rural, suburban and inner city). Throughout the Community Vision the recognition of the River as a living entity is consistent and emphasized. For example, the document states: “our Yarra River, Birrarung, is respected as a sacred natural living entity and everyone takes responsibility for its care” (p. 9). The many relationships between the River and its communities and landscapes are also recognized. These relationships include the ecological connections between the River, the mountains, the *billabongs* (backwaters and pools formed during flooding) and indigenous plants and animals; the economic relationship of the River to agriculture, tourism and golf courses; the cultural relationships to the Wurundjeri Woi-Worrung and post-European settlement communities; and the recreational relationships between people and the River. The Community Vision for the River is clear about how communities wish to enrich and deepen their relationship to the River by expanding and protecting public spaces, preserving key cultural relationships, and developing tourism and environmental education which center and appreciate the River.

The Strategic Plan

The Strategic Plan is divided into two sections:

- (1) Delivering the Community Vision.
- (2) The Land Use Framework.

The Strategic Plan outlines four performance objectives to deliver the Community Vision. These include:

- (1) A healthy river and lands.
- (2) A culturally diverse corridor.
- (3) Quality parklands for a growing population.
- (4) Protecting the natural beauty of the River corridor.

Each performance objective identifies numerous priority projects and collaborative actions to begin meeting the objective and specifies the responsible authorities for investing in and managing the River. The delivery of the Community Vision emphasizes Traditional Owner custodianship and collaborative management approaches. The second portion of the Strategic Plan provides the Land Use Framework to direct future land use and development based on the values of the Act. The Framework provides specific guidance for the four reaches, identifies new areas for protection, and describes future projects.

Furthermore, a reading of the Strategic Plan reveals more detail as to the land excluded from the Act. The Strategic Plan specifies that the Port of Melbourne (as defined in the [Port Management Act 1995](#)) and any land within a special water supply catchment area listed in Schedule 5 of the [Catchment and Land Protection Act 1994](#), which includes the source of the River, are excluded from the Act's application. This is a significant deviation from the Wurundjeri Woi-Worrung worldview ([Victoria State Government, 2022](#), p. 24):

As Wurundjeri Woi-wurrung people we do not separate the Birrarung from Port Phillip Bay (Narm) or regard the Birrarung as segmented according to reaches, nor disassociate the corridor from the rest of the rivers' catchment. The landscape, through which the Birrarung flows, from its source to the sea, is one integrated, living, cultural landscape.

The Strategic Plan is a mechanism through which Bunurong Traditional Ownership was formally recognized after exclusion from the Act, as marked through a Bunurong Preamble alongside a Wurundjeri Woi-Worrung Preamble. Furthermore, the Strategic Plan emphasizes collaborative river management, entailing the inclusion of both the Bunurong Land Council Aboriginal Corporation and the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation, and it emphasizes Bunurong rights and aspirations alongside Wurundjeri Woi-Worrung ones (pg 8). This shift in recognition is in part due to the recognition of the Bunurong Land Council Aboriginal Corporation as the Aboriginal Party for the Country downstream of Melbourne in 2021 and addresses the earlier omission of the participation of the Bunurong ([Dunstan, 2021](#)).

Since its implementation, the Strategic Plan has faced some criticism, including from Environmental Justice Australia, a public interest legal organization for environmental justice, who claims it is unnecessarily vague, fails to adequately protect the River's tributaries, and that Wurundjeri Woi-Worrung perspectives were not well received during consultation due to cultural barriers and preexisting power imbalances ([Lindsay, 2020](#)). In addition, the National Trust of Australia, an independent nonprofit charity organization, shared their support for the Community Vision but highlighted gaps in the Strategic Plan's ability to secure the vision ([Trust Advocate, 2020](#)). For example, major transportation projects are exempt from the binding portions of the Act and the Strategic Plan ([Victoria State Government, 2022](#)).

The Birrarung Council

Finally, the Birrarung Council has been established and is active in its role in advising the Minister for Water, has helped in the development of the Strategic Plan, and has even expanded its role beyond the specific activities stipulated in the Act. A 2023 review of the Council's work by independent consultants hired by the Department of Energy, Environment and Climate Action, found that the Council is successfully meeting all responsibilities ([RM Consulting Group, 2023](#)). The website of the Council documents its activities since its inception and captures key messages and approaches used ([Birrarung Council, 2021](#)).

In reflecting on what it means to be a voice for the Birrarung, the Council concluded it is not only an advisory voice for government but has a "more profound obligation" to enable

the public to communicate with the Birrarung ([Birrarung Council, 2024b](#), p. 7). This responsibility is an expansion on those outlined in the original Act. In the Foreword to the 2024 Birrarung Council Annual Report, the following statement from the Birrarung illustrates how the Council occupies this role ([Birrarung Council, 2024b](#), p. 4):

I am Birrarung. I yearn to be in relation with you, I want you to know you belong to me and I to you. I want to hold and protect you, to see you thrive, to keep you healthy and vibrant, generous and generative [...] When you come to me I will always call out to you, you will always receive my love and healing if you can be with me and let me hold you.

In their role as the Birrarung's voice, it is evident the Council takes seriously the "river's status as a single living entity, connected from source to sea" ([Birrarung Council, 2024b](#), p. 12). This approach is in alignment with the paradigm shifting intentions of Ecojurisprudence. The Council's website describes the impact they predict as a result of the River's recognition as a single living entity ([Birrarung Council, 2024a](#)):

The Birrarung Council believes the recognition and embracing of the River's status as a single living entity, connected from source to sea, will challenge our mindsets and relationship with the Birrarung and eventually change the institutional behaviours and practices that impact the River and its lands [...] Achieving this transformational shift will require public entities to break out of the currently entrenched business-as-usual approach for managing the River and its lands.

As voice for the Birrarung, the Council is active in its advisory role and makes submissions on major projects, initiatives and planning processes that have significant implications for the future of the Birrarung and its lands as well as on issues that involve the Principles and Objectives of the Act. From the Council's Annual Reports and the Strategic Plan, it seems the Council is capable of engaging critically in its advice. For example, its 2024 Annual Report notes limitations of the Act and its implementation, stating "we have a long way to go in terms of really embedding what it means to recognize Birrarung as a living entity" ([Birrarung Council, 2024b](#), p. 6). An additional role the Council has assumed is the hosting of "yarning circles," whose membership consists of the senior leadership of public entities responsible for the Birrarung ([Birrarung Council, 2024b](#)). The yarning circles provide a space for two-way dialogue between the Council and senior leadership, allowing for the exploration of their work, ideas and challenges related to the implementation of the Strategic Plan.

The analysis of the Community Vision, Strategic Plan and Birrarung Council, alongside what public commentary could be found online, illustrates the Act has progressed in a timely manner through its implementation, the Council has expanded its role as voice for the River, the Community Vision has been well received, but the Strategic Plan has faced criticism for being vague and/or creating loopholes that limit achieving the Community Vision and net gain. These findings demonstrate that the Act has thus far been institutionalized effectively and according to its theory of change with relational perspectives and policies found throughout.

Discussion of the Birrarung Act's implementation

While the Act does not recognize rights or personhood for the Birrarung it does recognize an independent advisory voice for the River and recognizes the Birrarung as one living and integrated natural entity. These two relational actions, combined with an environmental governance framework which explicitly recognizes the relationships and interdependence between the Birrarung and the communities on its four reaches, has made the Act's implementation noticeably different from conventional environmental management. Importantly, our analysis of the implementation confirms that the relational aims of

Ecojurisprudence are possible through a diverse set of legal tools, not just rights and/or personhood. Here, we discuss four key takeaways from this notable case that are useful to practitioners navigating the design of Ecojurisprudence and provide areas of further exploration for researchers.

The first takeaway is that the Act is characterized by compromises between stakeholders' perspectives. For the Act, a perceived tradeoff is the weak legal strength of its representation and the absence of rights or personhood. Some may argue this removes a structured legal tool that could provide stronger protection. Yet, within the local context, and Ecojurisprudence's goal of using legal tools to transform environmental governance, the Act's strengths remain clear. Key context includes Victoria's colonial history, the reconciliation process, and the fact that rights and personhood do not reflect First Law. Within this context, the takeaway crystallizes: Ecojurisprudence initiatives succeed when they build constructive support, not merely when they maximize legal strength. In some cases, strategic 'weakening' may be necessary to secure buy-in and ultimately strengthen governance change. This first takeaway is also supported in other scholars' analyses of the Act ([Provis, 2021](#); [O'Donnell, 2023](#); [Kieser, 2024](#)) and a similar conclusion of principled compromise is observed in the recognition of legal personhood for the Whanganui in 2017 in New Zealand ([Geddis and Ruru \(2019\)](#)).

The second takeaway concerns barriers to recognizing the Birrarung as a living and integrated entity in practice. One common criticism is that the Act fails to respect the Birrarung's "integrated" status because of previously identified exclusions. These exclusions represent at least two systemic barriers. First, the long-standing debate in environmental management about what constitutes a river asks whether a river includes only its main body or also the catchment and banks ([Tadaki et al., 2014](#)). A second barrier stems from the contrast between First Law, which does not recognize property rights, and Australian common law, which does. Similar issues exist elsewhere; for instance, New Zealand's Whanganui River faces private property claims to its riverbed [[Te Awa Tupua \(Whanganui River Claims Settlement\), 2017](#)]. These two barriers illustrate the second takeaway: Ecojurisprudence intentionally challenges foundational social assumptions, resulting in system-scale barriers to implementation that extend the lag between a law's enactment and compliance in practice. This underscores the need to consider complex pathways of implementation when evaluating Ecojurisprudence cases and their impact on large-scale systems' change.

The third takeaway, building on the first two, is that community consultation was central to the Birrarung Act's design and implementation by helping secure legitimacy. The Act embedded consultation, co-development and stewardship into environmental management processes and the effectiveness of this decision is visible in its ongoing implementation, with multicultural legitimacy and its already adaptive approach, such as correcting the omission of the second party of Traditional Owners, the Bunurong. Similar findings are also found in the case of the [Te Awa Tupua \(Whanganui River Claims Settlement\) Act, 2017](#) ([Cribb, Macpherson and Borchgrevink, 2024](#)).

The fourth key takeaway, specifically relevant for scholars documenting and tracking emergent Ecojurisprudence, is the need for a more structured implementation evaluation framework that is complimentary with the taxonomy. Such a framework would likely encompass three levels of implementation:

- (1) Governance and Institutions.
- (2) Outputs.
- (3) Outcomes.

Level 1 addresses whether or not the law has changed decision-making and can be explored through indicators such as new institutional arrangements for governance, changes in authority, the inclusion of new stakeholders and funding flows. Level 2 assesses the outputs/actions of the shifted governance and could include indicators for tracking new projects, stakeholder engagements or enforcement actions. Level 3 assesses the outcomes of the actions resulting from changed governance and could include metrics such as ecological indicators, public health measurements and assessment of values/worldview change within communities. Our case study analysis of the Birrarung mainly assesses the first implementation steps of governance change and institutionalization, provides a high level assessment of the Strategic Plan and Community Vision outputs, and does not address outcomes for communities, ecosystems and their components. Ultimately, frameworks for evaluating outcomes, across community and environmental dimensions, would support increasingly evidence-based analysis of the outcomes of Ecojurisprudence and help to answer whether or not Ecojurisprudence achieves its aim and if its relational theory of change is effective for addressing identified social and environmental crises.

Conclusion

This paper contributes to the conversation on Rights for Rivers by exploring the under-examined phenomena of what we refer to as legally living rivers, i.e. any river recognized as “living” in the applicable legal text. It does so by evaluating 16 legally living rivers and contextualizing them within the broader scholarly conversation of Ecojurisprudence through the application of the evolved taxonomy ([Table 1](#)), with a new category for legal status. We argue that these rivers constitute an under-examined subsection of River Ecojurisprudence, composing 16 of the total 69 enacted River Ecojurisprudence cases globally (Eco Jurisprudence Monitor). As identified, five of the 16 rivers do not recognize rights, legal personhood or subjectivity, yet they share similar rationales and relational theories of change with the other 11 cases. The research question for this project was, “How do legally living rivers fit within the spectrum of Ecojurisprudence and what insights does the remarkable case of the [Yarra River Protection \(Wilip-gin Birrarung murrong\) Act, 2017](#), having no rights or personhood, reveal about Ecojurisprudence?” In response to the first half of the question, the findings demonstrate that the relational theory of change and the desired outcomes of Ecojurisprudence can be achieved using diverse legal tools. The results contextualize legally living rivers as a unique section of the Ecojurisprudence spectrum encompassing rivers both with and without rights, personhood/subjectivity and representation.

Examining the second part of the research question, we assessed the case of the Birrarung, one of the 16 legally living rivers analyzed under our evolved taxonomy. We explored the design and implementation of this case study to shed light on the emerging category of living entity status rivers. The analysis of the Community Vision, Strategic Plan and Birrarung Council finds that the Act has been implemented through effective institutionalization, new governance arrangements and new outputs/projects. The discussion of these findings highlights the importance of place-based and pragmatic approaches in governance redesign, the complex pathways to implementation inherent in Ecojurisprudence, and the importance of community consultation for legitimacy. The Birrarung case study also identifies the need for implementation evaluation frameworks to deepen the future analysis and comparison of Ecojurisprudence cases.

The law is a tool and it must be well defined to serve the common good and to actively resist and reverse unjust power and repression. As planetary crises mount and human well-being suffers, Ecojurisprudence has been growing in practice as a response to calls for the

law to adapt. This paper contributes to our ability to better identify differences in Ecojurisprudence through the expanded taxonomy; it also highlights, through the emerging category of legally living rivers, how a relational theory of change can use different legal pathways; and draws attention to the need for robust implementation evaluation frameworks to understand if Ecojurisprudence and its relational theory of change result in the desired outcomes.

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