OPTIONS PAPER:
AFFORDABLE MANAGEMENT OF URBAN RIPARIAN AREAS

Submission from PIA NSW

About PIA
The Planning Institute of Australia (PIA) is the peak body representing professionals involved in planning Australian cities, towns and regions. The Institute has around 4,500 members nationally and around 1,300 members in New South Wales. PIA NSW plays key roles in promoting and supporting the planning profession within NSW and advocating key planning and public policy issues. This submission has been prepared on behalf of PIA NSW by members of the Institute.

Introduction:
The Planning Institute of Australia, NSW Division (PIA NSW) is pleased to have the opportunity to provide a submission to the Local Government and Shires Association (LGSA) on the Options Paper for Affordable Management of Urban Riparian Areas, (“the Report”) dated September 2009 prepared by Eco Logical Australia and MacroPlan Australia.

PIA commends the LGSA for taking the initiative to commission the Report. It is understood the need for the Report which stems from amendments to the Environmental Planning and Assessment Act 1979, whereby Section 94 developer contributions can no longer be used to fund the acquisition and management of riparian areas along with anticipated reforms replacing Section 94 contributions under new Part 5B provisions.

The Report is timely and a valuable resource in promoting dialogue on the ownership and management of riparian lands in urban areas; and in highlighting the need to find a solution to ongoing management of urban riparian areas.

The Report focuses on two key issues: ownership / acquisition of riparian areas and on-going maintenance and management of riparian areas. Ownership options canvassed include: Trusts (government and private), Council and Private (developers, individual land holders and community title).

The Paper concludes that the best management option (within the existing framework) is for local government to own and manage riparian urban areas. The paper argues this opinion is supported by broader legislative and policy directions and views of State Agencies. However, the Paper acknowledges that there are some significant obstacles to Council ownership of riparian
areas primarily related to funding issues; and also acknowledges that Council ownership and management may not be possible in all instances.

While PIA NSW agrees with many of the key points in the Report; PIA NSW is of the view that other ownership and management options, especially the Community Title option, should be given more consideration and investigation. The following comments are provided to help further develop solutions to this complex issue.

**Comments:**
At the very core of the Report is the question of where the financial resources to support the acquisition and ongoing maintenance of urban riparian areas should come from. Solving this question is the key to addressing many of the problems highlighted throughout the Report. The Report basically concludes that the preferred outcome is for urban riparian areas to be dedicated to Councils and that they are the appropriate authority to provide the ongoing management and maintenance required for these sensitive environmental areas in future.

At page 38 in *Conclusions and Recommendations* the Report states that Council ownership and management is the preferred option by most parties “and the one which can achieve the best outcomes.” PIA NSW considers that there is not sufficient evidence presented in the report to justify this finding.

For example, at page 31 where Table 4 presents a summary of ownership options, Community Title is one of the ownership options canvassed and a disadvantage is quoted as “High Risk of Poor Environmental and Social Outcomes.” However, there is no evidence in the Report to support this claim. The views of members with experience in management of riparian areas is that the opposite is the case.

Similarly, Table 4 provides options to mitigate the identified disadvantages for the various ownership options. For Community Title the report states that it may be suited to large rural residential lots but is not appropriate in an urban context. Again, members with experience in this area express the view that Community Title offers excellent potential as a means of providing an appropriate management structure for urban riparian areas as it has built in funding mechanisms which can provide the ongoing finance for the future regular maintenance required over the short, medium and long term. Community Title fits a situation for riparian land to become community land. Councils can ensure management of the land via a Management Agreement that can be a condition of consent and legally binding and therefore enforceable.

The Report recommends a range of policy initiatives which the LGSA should pursue and rates them against key criteria such as cost effectiveness and political acceptability in Table 6 at page 39. One of these policy initiatives is the provision of incentives for developers to dedicate land and provide a Trust Structure to ensure the provision of funding for future maintenance. This option is rated as not politically acceptable without justification. PIA NSW believes this option should be further explored as it may be demonstrated that it can provide the outcomes sought.

Amongst the list of recommendations in the final chapter is a list of policy initiatives which the LGSA is urged to pursue with various State agencies. In Table 7 at page 39, amendments to the
Just Terms Compensation Act are rated as politically unacceptable. Again, PIA NSW suggests this option should be further investigated as it may be appropriate to present a case for riparian areas to be valued on a different basis to non riparian areas.

The Report accepts that it will not always be possible for riparian areas to be owned and managed by Councils and therefore puts forward a variety of scenarios which can be used in different circumstances to maximize environmental, social and economic outcomes. PIA NSW agrees that funding is the key obstacle/issue to be overcome in most instances and therefore reviewing a wide range of options will be essential to find the optimum solution. PIA NSW considers it is not practical to rely on public authorities to provide this funding when most public authorities are struggling to find the resources to adequately manage and maintain their existing infrastructure.

New models for the ownership and ongoing management of urban riparian areas are urgently required and while the report outlines the form that some of these new models might take (such as Trusts which are specifically created for this purpose) they are not discussed in any detail. Similarly, while options for improving Council’s ability to acquire and manage urban riparian areas are mentioned (such as the use of Voluntary Planning Agreements), these are not discussed in any detail. PIA NSW considers that these models and options for financing should be further explored with practical examples of how they might work. As the Report notes, one model will not be suitable for the management of all riparian areas so it is important that the practicality of all models is understood.

**Conclusion:**
PIA NSW considers that the conclusion that Councils are best placed to deliver favourable outcomes for riparian areas is not well substantiated. PIA suggests that suitable funding solutions are more likely to be found outside the sphere of local government. As previously mentioned, funding is at the very core of the successful management and maintenance of urban riparian area. While the Report has acknowledged this fact PIA considers that it does not give it sufficient emphasis in formulating its recommendations. Further, PIA NSW considers that other options for ownership and management should be investigated more comprehensively.

**PIA NSW**
**December 2009.**