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LEGISLATIVE COUNCIL

NSW Reconstruction Authority Bill 2022

Second print

Proposed amendments

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- No. 1      **Primary object of Act—climate impacts**  
Page 2, clause 4, line 40. Omit “efficiently.”. Insert instead—  
efficiently, and  
(d) acknowledging, assessing and planning for the increased rate and frequency of natural disasters as a result of climate change, and  
(e) avoiding or minimising, where possible, actions that would significantly worsen the impacts of climate change.
- No. 2      **Meaning of “disaster” and “event”**  
Page 3, clause 6, lines 7–20. Omit all words on the lines—  
(1) In this Act, a *disaster* means a serious disruption in a community, caused by the impact of an event, that requires a significant coordinated response by the State and other entities to help the community recover from the disruption.  
(2) In this section—  
*serious disruption* means—  
(a) loss of human life or illness or injury to humans, or  
(b) widespread or severe property loss or damage, or  
(c) widespread or severe damage to the environment.
- 6A Meaning of “event”**  
(1) In this Act, an *event* means any of the following—  
(a) a cyclone, earthquake, flood, storm, storm tide, tornado, tsunami, volcanic eruption or other natural happening,  
(b) an explosion or fire,  
(c) a chemical, fuel or oil spill or a gas leak,  
(d) an infestation, plague or epidemic,  
**Example—** a prevalence of foot-and-mouth disease  
(e) a failure of, or disruption to, an essential service or infrastructure,  
(f) an attack against the State,  
(g) another event similar to an event mentioned in paragraphs (a)–(f).

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(2) An event may be natural or caused by human acts or omissions.

No. 3 **Authority's functions**

Page 5, clause 10(1)(j), line 20. Insert "climate" before "disaster risks".

No. 4 **Authority's functions**

Page 5, clause 10(1). Insert after line 32—

- (o1) to carry out climate modelling, including the impact of projected climate change on disasters,

No. 5 **Clearing native vegetation and environmental impact**

Page 6, clause 12, line 28. Omit "appropriate in the circumstances, or". Insert instead—

appropriate in the circumstances, and

- (iv) the development will not involve clearing native vegetation or will involve clearing native vegetation only to the minimum extent necessary, and
- (v) the Authority has taken all reasonable steps to otherwise limit the environmental impact of the development, including excluding other forms of development, or

No. 6 **Clearing native vegetation and environmental impact**

Page 6, clause 12, line 39. Omit "circumstances.". Insert instead—

circumstances, and

- (iv) the development will not involve clearing native vegetation or will involve clearing native vegetation only to the minimum extent necessary, and
- (v) the Authority has taken all reasonable steps to otherwise limit the environmental impact of the development, including excluding other forms of development.

No. 7 **Concurrence from Minister for Environment**

Page 7, clause 12. Insert after line 14—

- (4A) If development on specified land will impact on any of the following, the development may be carried out only with the concurrence of the Minister who administers the *National Parks and Wildlife Act 1974*—
  - (a) a threatened species within the meaning of the *Biodiversity Conservation Act 2016*,
  - (b) an endangered ecological community within the meaning of the *Biodiversity Conservation Act 2016*,
  - (c) an area of outstanding biodiversity value within the meaning of the *Biodiversity Conservation Act 2016*.

No. 8 **Concurrence from National Parks and Wildlife Service**

Page 7, clause 12. Insert before line 15—

- (4B) If the head of the National Parks and Wildlife Service advises the Authority that the head of the Service reasonably believes development on specified land will have a significant or unnecessary environmental impact on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, the Authority must not carry out development on the specified land.

No. 9 **Forbidding development in certain areas and in certain circumstances**

Page 7, clause 12. Insert after line 29—

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- (7A) Development may not be carried out under this section—
- (a) on land that is—
    - (i) part of the national park estate under the *National Parks and Wildlife Act 1974*, or
    - (ii) Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or
    - (iii) land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or
    - (iv) land owned or claimed under the *Aboriginal Land Rights Act 1983*, or
    - (v) a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or
    - (vi) a flora reserve or special management zone under the *Forestry Act 2012*, or
  - (b) in an aquatic reserve under the *Fisheries Management Act 1994*, or
  - (c) in a marine park under the *Marine Estate Management Act 2014*, or
  - (d) if the development will clear any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—
    - (i) the habitat of threatened species,
    - (ii) an endangered ecological community,
    - (iii) an area of outstanding biodiversity value.

No. 10 **Clearing native vegetation—consequential amendment**

Page 7, clause 12. Insert after line 33—

- (9) In this section—
- clearing*, in relation to native vegetation, has the same meaning as in the *Local Land Services Act 2013*, Part 5A.

No. 11 **Membership of Advisory Board**

Page 12, clause 26. Insert after line 38—

- (4A) A person may not be nominated as a member of the Advisory Board if the person—
- (a) is a property developer within the meaning of the *Electoral Funding Act 2018*, section 53, or
  - (b) has other commercial interests that would create a real or perceived conflict of interest with holding the office of a member.

No. 12 **Climate change impacts—State disaster mitigation plan**

Page 14, clause 31(2). Insert after line 16—

- (a1) an assessment, and consideration, of the impacts of climate change on disasters,

No. 13 **State disaster mitigation plan**

Page 14, clause 31(2). Insert after line 17—

- (b1) a requirement that—
- (i) all steps are taken to ensure the potential strategies and actions mentioned in paragraph (a) do not have significant impacts on the environment or significantly worsen the impacts of climate change, and
  - (ii) all reasonable steps are taken to maintain the current structure of affected communities,

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- No. 14      **Climate change impacts—disaster adaptation plans**  
Page 15, clause 36(2)(b). Insert after line 32—  
    (iia) an assessment, and consideration, of the impacts of climate change on disasters,
- No. 15      **Climate change impacts—disaster adaptation plans**  
Page 15, clause 36(2)(b). Insert after line 35—  
    (va) a requirement that—  
        (A) all steps are taken to ensure the potential strategies and actions mentioned in subparagraph (ii) do not have significant impacts on the environment or significantly worsen the impacts of climate change, and  
        (B) all reasonable steps are taken to maintain the current structure of affected communities,
- No. 16      **Declared projects**  
Page 17, clause 39(2)(c)(iii), line 15. Omit “community.” Insert instead—  
    community, and  
    (d) the Minister is satisfied—  
        (i) the project will not be carried out—  
            (A) on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, or  
            (B) on land that is Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or  
            (C) on land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or  
            (D) on land owned or claimed under the *Aboriginal Land Rights Act 1983*, or  
            (E) on land that is a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or  
            (F) in a flora reserve or special management zone under the *Forestry Act 2012*, or  
            (G) in an aquatic reserve under the *Fisheries Management Act 1994*, or  
            (H) in a marine park under the *Marine Estate Management Act 2014*, or  
        (ii) the project will not involve clearing any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—  
            (A) the habitat of threatened species,  
            (B) an endangered ecological community,  
            (C) an area of outstanding biodiversity value.
- No. 17      **Reconstruction areas**  
Page 17, clause 40(2)(c)(iii), line 32. Omit “community.” Insert instead—  
    community, and  
    (d) the Minister is satisfied—  
        (i) the declaration will not result in development being carried out—  
            (A) on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, or  
            (B) on land that is Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or
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- (C) on land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or
- (D) on land owned or claimed under the *Aboriginal Land Rights Act 1983*, or
- (E) on land that is a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or
- (F) in a flora reserve or special management zone under the *Forestry Act 2012*, or
- (G) in an aquatic reserve under the *Fisheries Management Act 1994*, or
- (H) in a marine park under the *Marine Estate Management Act 2014*, or
- (ii) the declaration will not result in development that involves clearing any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—
  - (A) the habitat of threatened species,
  - (B) an endangered ecological community,
  - (C) an area of outstanding biodiversity value.

No. 18 **Disaster prevention areas**

Page 18, clause 41(2)(c), line 2. Omit “community.” Insert instead—

community, and

(d) the Minister is satisfied—

- (i) the declaration will not result in development being carried out—
  - (A) on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, or
  - (B) on land that is Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or
  - (C) on land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or
  - (D) on land owned or claimed under the *Aboriginal Land Rights Act 1983*, or
  - (E) on land that is a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or
  - (F) in a flora reserve or special management zone under the *Forestry Act 2012*, or
  - (G) in an aquatic reserve under the *Fisheries Management Act 1994*, or
  - (H) in a marine park under the *Marine Estate Management Act 2014*, or
- (ii) the declaration will not result in development that involves clearing any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—
  - (A) the habitat of threatened species,
  - (B) an endangered ecological community,
  - (C) an area of outstanding biodiversity value.

No. 19 **Concurrence from Minister for Environment—projects**

Page 26, clause 65(5), line 22. Omit “consult with.” Insert instead “have the concurrence of”.

No. 20 **Concurrence from Minister responsible for SOC etc—projects**

Page 26, clause 65(6), line 26. Omit “consult with.” Insert instead “have the concurrence of”.

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No. 21 **Consultation with Minister administering Biodiversity Conservation Act**

Page 26, clause 65(5), lines 22 and 23. Omit “*National Parks and Wildlife Act 1974*”. Insert instead “*Biodiversity Conservation Act 2016*”.

No. 22 **Ministerial authorisations**

Page 28, clause 68(3), line 9. Omit “disaster”. Insert instead—

disaster, and

(d) the Minister is satisfied—

(i) the authorisation will not result in development being carried out—

(A) on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, or

(B) on land that is Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or

(C) on land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or

(D) on land owned or claimed under the *Aboriginal Land Rights Act 1983*, or

(E) on land that is a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or

(G) a flora reserve or special management zone under the *Forestry Act 2012*, or

(F) in an aquatic reserve under the *Fisheries Management Act 1994*, or

(H) in a marine park under the *Marine Estate Management Act 2014*, or

(ii) the authorisation will not result in development that involves clearing any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—

(A) the habitat of threatened species,

(B) an endangered ecological community,

(C) an area of outstanding biodiversity value.

No. 23 **Ministerial authorisations**

Page 28, clause 68(4), line 16. Omit “circumstances.”. Insert instead—

circumstances, and

(d) the Minister is satisfied—

(i) the authorisation will not result in development being carried out—

(A) on land that is part of the national park estate under the *National Parks and Wildlife Act 1974*, or

(B) on land that is Crown land subject to a native title claim under the *Native Title Act 1993* of the Commonwealth, or

(C) on land subject to exclusive native title possession under the *Native Title Act 1993* of the Commonwealth, or

(D) on land owned or claimed under the *Aboriginal Land Rights Act 1983*, or

(E) on land that is a travelling stock reserve within the meaning of the *Local Land Services Act 2013*, or

(F) in a flora reserve or special management zone under the *Forestry Act 2012*, or

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- (G) in an aquatic reserve under the *Fisheries Management Act 1994*, or
  - (H) in a marine park under the *Marine Estate Management Act 2014*, or
  - (ii) the authorisation will not result in development that involves clearing any of the following, within the meaning of the *Biodiversity Conservation Act 2016*—
    - (A) the habitat of threatened species,
    - (B) an endangered ecological community,
    - (C) an area of outstanding biodiversity value.

No. 24     **Definition of event**

Page 45, proposed Schedule 4. Insert after line 19—  
*event*—see section 6A.