

Written opening statement from Local Government NSW

Review of the NSW Reconstruction Authority Act 2022

Thank you Chair and Committee Members for the opportunity to appear before this inquiry. Local Government NSW is the peak body representing all 128 councils across the State as well as related entities.

All councils in NSW play a key role in all aspects of disaster and emergency management at the local and regional level. In addition to statutory or regulatory responsibilities, and despite limited means, councils also play a major role in providing support to their communities, volunteers and charities.

This inquiry into the objects and terms of the NSW Reconstruction Authority Act provides an opportunity to reflect on what is needed to ensure that the intent of the Act is achieved.

Operationalising the Act requires not just the framework outlined in this Act but a more detailed operating structure, collaboration and funds. While we are seeing some of this detail emerge, such as through the State Disaster Mitigation Plan and the exhibition of the draft Disaster Adaptation Guidelines, councils would like to see more details around collaboration, support and resourcing for implementation.

Local Government NSW welcomes increased engagement with councils and cooperation with the Reconstruction Authority which appears to be functioning well under its establishing Act. The focus on developing place-based policies and responses plus building community wellbeing through resilience measures is at the heart of what local governments do. Community resilience and adaptation to disasters will require cooperation and collaboration across governments and between agencies. The social infrastructure in communities will also need fostering to build social cohesion, trust and cooperation.

However, Local Government NSW is concerned that the Act has overreach into local government operations that will not be recognised at the Advisory Board level due to the lack of a local government representative on the Board. December 2023 amendments to the Act do now require at least one of the NSW Government's appointees to the Board to have considerable experience in a senior role with a local council. While this is an improvement, this position remains nominated and appointed by the NSW Government and is thus not truly a representative of the local government sector.



There is also the risk of overreach by the Minister as the Act allows for 'ministerial authorisation' to undertake development without the need for approval or assessment under the Environmental Planning and Assessment Act.

As key stakeholders, councils would also like clarification on the role and responsibility of the Reconstruction Authority in placing constraints on development, including in the setting of flood planning levels.

Further, the Act provides the Reconstruction Authority and the Minister powers to carry out or take over projects and direct or 'step in' to the role of a council in exercising legislative functions – 'provided that it is related to disaster relief and prevention'.

We recognise that in some situations, this might assist communities' recovery, however there are insufficient checks and balances for this arrangement. Similar to The Law Society of NSW's submission, we would ask that this broad reaching power be limited to ensure transparency, accountability and engagement as appropriate. The situation would be improved if there were some contextual boundaries and clarification of terms provided to what is an otherwise very extensive power.

Role delineation between levels of government is also unclear, as the Act includes some of local government's role as functions of the Reconstruction Authority. While councils welcome the assistance and support from the Reconstruction Authority, further clarity on how local government would be consulted, engaged, funded or otherwise supported in working with the Reconstruction Authority would be helpful.

One of the key challenges for local government in ensuring the objectives of the NSW Reconstruction Authority Act are met will be funding. This is recognised in the Act by identifying one of the Reconstruction Authority's roles is to implement funding schemes to provide financial support in relation to disaster prevention, recovery and reconstruction.

Councils are eager to see streamlining of disaster recovery funding, with a reduction in inefficient red tape and seemingly unnecessary administrative requirements. The introduction of new Tripartite Agreements for roads recovery (between Transport for NSW, NSW Reconstruction Authority and councils) mean that councils receive reconstruction funding in advance of each stage of construction, improving council cash flow, certainty and speed of reconstruction. This also facilitates better procurement practices as the councils have commitments of funds available prior to tender/contract finalisation. This is a welcome development. LGNSW is hopeful this model will lead to greater efficiencies for all stakeholders.

In general terms however, councils are currently absorbing \$1.36 billion per year in cost shifting and are unable to raise sufficient revenue due to rate pegging and funding



arrangements that are no longer fit for purpose. Increasing community needs and expectations of councils cannot be met within the available funding. Councils do not have access to sufficient funding to invest in more resilient infrastructure and to build back better after disasters. Nor do they have reliable funding to work with their residents to build community resilience.

One of the actions of the State Disaster Mitigation Plan is for the Reconstruction Authority to work with the Office of Local Government to: *'Investigate options to support resourcing and capability-building in local councils.'*¹ We await further information on how this will be delivered. The draft guidelines for developing Disaster Adaptation Plans note that council actions will be implemented through the Integrated Planning and Reporting framework, which if not directly funded through the Reconstruction Authority, will compete with other community priority actions in constrained budgets.

State (and federal) government funding and assistance for local government is entirely consistent with recommendation 11.1 of the Royal Commission into National Natural Disaster Arrangements, and sensibly reflects the significantly constrained resourcing and emergency management capacity of local government.

So much is riding on adapting and becoming more resilient to the more frequent and intense natural disasters fuelled by a changing climate. Economic prosperity, social cohesion and community wellbeing depends on implementing the intent of the Act. However, local government is still not clear on how it will be funded and supported.

LGNSW would also like to thank and recognise the extraordinary effort made by communities, and staff from all levels of government across NSW who responded to disasters in recent years and the personal toll that has been experienced through loss, fatigue and mental health impacts. We would encourage them to keep up that effort and that willingness to confront challenges and solve problems appropriately and expediently as communities continue with deep and extended recovery and rebuilding efforts.

In closing, I note that Local Government NSW is calling on the NSW Government to ensure integrity and transparency by:

1. Strengthening the Act to ensure a truly whole-of-government and intergovernmental approach to recovery by requiring one member of the Advisory Board to be nominated by local government.

¹ Action 25, State Disaster Mitigation Plan, page 15. Available online at: <https://www.nsw.gov.au/departments-and-agencies/nsw-reconstruction-authority/reducing-risk/state-disaster-mitigation-plan>



2. Defining terms used in the Act; in particular in relation to planning and associated powers, such as 'declared project', 'reconstruction area', 'disaster prevention area', to reduce overreach and increase transparency.
3. Clarifying and defining the scope and safeguards of powers invested in the Reconstruction Authority with respect to disaster management and recovery and community betterment.

Implementation of the Act, could be improved by:

4. Include in the Act, a requirement that NSW Government funding schemes for local government are to be adequate and commensurate with need.
5. Collaborate with the Australian Government to streamline and align policies and processes to deliver effective funding and support to local government for disaster prevention, preparedness, recovery, reconstruction and adaptation.

Thank you.



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President