

**Submission
No 27**

REVIEW OF THE NSW RECONSTRUCTION AUTHORITY ACT 2022

Organisation: Byron Shire Council

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17 May 2024

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Committee Manager
Joint Select Committee on the NSW Reconstruction Authority
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Dear Joint Select Committee,

SUBMISSION TO REVIEW OF THE NSW RECONSTRUCTION AUTHORITY ACT (2022)

Byron Shire Council welcomes the opportunity to make a submission to the Joint Select Committee on the NSW Reconstruction Authority as part of the current review of the NSW Reconstruction Authority Act 2022 (the Act).

Firstly, the Terms of Reference note the intention to review the Act to determine whether the policy objectives of the Act remain valid.

It is noted that the primary objective of the Act is:

“to promote community resilience to the impact of disasters in New South Wales through:

- a) disaster prevention, preparedness and adaptation, and*
- b) recovery and reconstruction following disasters.”*

In light of the prevalence of ongoing climate impacts across the state, including in the Byron Shire, this objective remains relevant.

Secondly, the Terms of Reference note the intention to review the Act to determine whether the terms of the act remain appropriate for securing the objectives. Within the Act, the terms through which the objectives are to be achieved include:

“a) establishing the NSW Reconstruction Authority to facilitate community resilience to the impact of disasters in NSW through prevention, preparedness and adaptation, and

b) providing for the functions and powers of the NSW Reconstruction Authority, including functions and powers to

- i. facilitate the protection, recovery and reconstruction of affected communities, and*
- ii. mitigate against the impact of potential disasters on communities, and*



iii. improve the resilience and adaptability of affected communities in relation to potential disasters, including for example, by the betterment of affected communities, and

c) providing for the exercise of functions by the chief executive officer of the NSW Reconstruction Authority, subject to the Minister's control and direction, including ensuring the Authority exercises its functions effectively and efficiently."

Council wishes to provide the following feedback, which is based on its experience working alongside the NSW Reconstruction Authority (RA) across a range of activities, including funded programs/projects.

Operational program/project delivery

Funding and grants

- Timely access to funding and grants for local government to undertake disaster resilience activities in local communities is welcomed.
- RA has played a valuable role in offering assistance with approval progress from other state departments.
- In some instances, such as the Northern Rivers Recovery and Resilience Program (NRRRP), RA staff have demonstrated a collaborative and flexible approach to program delivery, which enables local work and capitalises on a shared approach.
- However, for funded activities more broadly, the funding administration and claims process has been exceptionally complex and protracted. This places a heavy administrative burden on Council staff and also forces Councils to carry additional financial risk, due to the retrospective reimbursement approach to funding.
- The claims process involves ongoing 'push back' from RA about scope, cost of works, project activities and relatively low risk expenditure.
- Example – RA is now involved in claims for road infrastructure (Transport for NSW, TfNSW) and clean up (Public Works), which contributes to drawn out claims timeframes.
- Example – Essential Public Asset Restoration Works (EPARs): relevant geotechnical work and estimates have been undertaken using contractors that TfNSW have recommended, but when RA is assessing claims, there is pushback about use of the same contractors.
- Example – Community Recovery Officer program: RA staff have issued a requirement to Council staff that any expenditure above \$2,000 requires discussion and 'sign-off' prior to commitment. This financial micro-management generates additional administrative burden and operational delays and is inconsistent with any other funded program of Council.
- Tripartite arrangements between RA, TfNSW and Council that provide advance funding for infrastructure recovery are far more effective than retrospective claims processes, however cumulative retention of up to 25% for auditing purposes becomes a high financial risk to

Council. It is noted that there may be changes to this requirement but Council understands that has not yet occurred.

- Changing the disaster recovery body (from Resilience NSW to RA) within twelve months of the ARGN1012 led to uncertainty and delays across funded programs.
- It is clear that longer timeframes (greater than 2 years) are often needed to deliver projects after a disaster event, particularly in light of contractor/supplies availability and blown out supplier delays/price escalation.
- Understandably, program delivery to date has been focused on recovery and reconstruction. It is not yet clear how the legislation will enable RA to *improve the resilience and adaptability of affected communities in relation to potential disasters*. Council strongly urges government to support local initiatives through the funding of dedicated permanent positions within Council, to deliver programs suited to and informed by the local context.

Staffing

- Council's access to qualified, appropriate staff to deliver funded programs was extremely limited in the first 12 months following the disaster, this has now improved.
- Program guidelines that prohibit redeployment of existing Council staff to RA funded, time-sensitive activities are highly problematic. These prohibitive guidelines create a barrier to capitalising on a preexisting talent pool in a highly volatile and constrained post-disaster labour market.

Community Recovery Officer program

- The Community Recovery Officer (CRO) funded program has been a valuable opportunity to undertake local community recovery activities and acknowledges the capacity for Councils to work in close partnership with communities.
- However, as stated above, RA's operational micromanagement diverts resources away from their best use in delivering local outcomes.
- Further, program guidelines prohibit any work streams that may be perceived as disaster prevention, preparedness or adaptation activities. This is highly problematic and contravenes national and international good practice in disaster recovery. Good practice acknowledges the necessary overlap/intersection between recovery, prevention and preparedness activities. In particular, social recovery in traumatised local communities includes undertaking preparedness activities that demonstrate increased capacity to respond to disasters. Social recovery also overlaps with preparedness activities that contribute to social capital, which underpins community recovery.

Development functions and powers

- While Part 2, Division 2, Section 12 of the Act outlines the relationship between RA and the Environmental Planning and Assessment Act 1979 (and related instruments), it is vital to ensure that any RA development actions occur with appropriate levels of planning rigour.
- It is suggested that RA develop guidelines similar to Clause 171(2) of the EPA regulations 2021 – Review of Environmental Factors, which include a number of heads of consideration or matters to take into account.
- In relation to the temporary housing (pod) villages within the Byron Shire, Council staff have had to respond to ongoing social and environmental impacts on neighbouring residents/organisations with minimal assistance from RA.
- Additionally, cultural heritage and Native Title matters must be considered, as appropriate.
- Example: Pod village establishment in Brunswick Heads has generated potential cultural heritage impacts and potential impacts on Native Title holders' rights. Greater planning rigour, with relevant stakeholder engagement, is appropriate.

Disaster mitigation plan and disaster adaptation plans

- The Act's requirement of RA to have a State disaster mitigation plan and prepare disaster adaptation plans is noted.
- In order to be relevant and useful, disaster adaptation plans must be informed by local community priorities and enabling of local activities.
- Similarly, implementation must be localised, flexible and well-resourced.

Relationship with local government

- It is suggested that the functions and powers within the Act be reviewed in relation to local Councils. Local Councils are key stakeholders and trusted partners in disaster resilience activities across communities throughout NSW.
- More specifically, it is suggested that the functions and powers enunciated in the Act move away from a risk/control paradigm and towards an enabling paradigm that harnesses the potential of state and local government partnership.
- Local Councils bring existing capacity, capability and compliance to disaster resilience and an enabling paradigm would optimise local disaster resilience outcomes in communities.

Should you wish to reach out to us in relation to this submission, please email Deb Stafford, Manager Social and Cultural Planning [REDACTED] or phone [REDACTED]

Your sincerely



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