

**Submission
No 45**

REVIEW OF THE NSW RECONSTRUCTION AUTHORITY ACT 2022

Organisation: Western Sydney Regional Organisation of Councils Ltd

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Submission to the Joint Select Committee on the NSW Reconstruction Authority

Dear Chair of the Committee,

Thank you for the opportunity to make a submission into the review of the Reconstruction Authority Act and the NSW Reconstruction Authority's operations.

This submission has been developed from based on WSROC's own engagement with the NSW Reconstruction Authority at a strategic level, as well as select perspectives from WSROC's membership and stakeholders. It should be noted that individual WSROC members will make their own submissions, and these should be considered alongside and in addition to WSROC's submission.

First, WSROC would like to note that the NSW Reconstruction Authority's legislative responsibility as described in the Act is to be commended. To date we have not had an NSW agency legislatively responsible for coordinating the state's approach to risk mitigation and management from a strategic perspective. This function is greatly needed in building resilience to all types of hazards and is a particular strength of the legislation as currently written.

However, there have been some challenges in relation to the way that the legislation is given effect including:

- **The NSW Reconstruction Authority's coordinating role as outlined in the Act is greatly needed, however there are improvements that could be made to support more effective operationalisation.**
- **There remains confusion regarding NSW Reconstruction Authority's role and relationship with the emergency management arrangements in NSW.**
- **There is a need to clarify how NSW Reconstruction Authority can better engage local government in disaster planning and emergency management processes.**
- **There are opportunities to ensure emergency management structures to better support the work of the NSW Reconstruction Authority.**

1. WSROC welcomes the overt inclusion of heatwave in an NSW Act of Parliament.

WSROC has been working on the issue of heat resilience since 2016, and the need for an agency with clear legislative responsibility for heat risk reduction has been articulated as a clear need by our members and stakeholders. As such, WSROC welcomed the NSW Reconstruction Authority Act 2022 as the first piece of NSW legislation to overtly mention heatwave and provide a clear pathway for leadership on this previously orphan hazard. NSW RA’s focus on community prevention and preparedness, and its broad coordinating role across key stakeholders like NSW Department of Housing Infrastructure and Planning, NSW Health and NSW Transport, makes the agency a good strategic fit with heatwave hazard which is characterised by its multi-sector and largely human-focused impacts.

Historically, lack of coordination on heatwave hazard has resulted in arrangements for heatwave being far less developed than for other hazards (Figure 1). WSROC has welcomed the opportunity to work with the NSW Reconstruction Authority on the Greater Sydney Heat Taskforce over the past 18 months, including many productive discussions around heatwave risk assessment, structural data collection and quantification of heat risk all of which will build a more resilient Greater Sydney.

Hazard	Bushfires (RFS)	Flood (SES)	Heatwave (none)
Prevent	Fire risk mapping Hazard reduction burns Evacuation routes Planning (buffer zones)	Flood risk mapping Flood levees/dams Evacuation routes Planning (1% AEP)	<i>First DCP controls introduced 2021</i>
Prepare	Public awareness campaigns Clean gutters, water	Public awareness campaigns Sandbagging, elevating valuables	
Respond	Public warnings Door knocking Evacuation centres Back burning/fire fighting	Public warnings Door knocking Evacuation centres	<i>Public warnings Ad hoc extension of opening hours swimming pools/libraries</i>
Recover	Support programs Infrastructure rebuilds	Support programs Infrastructure rebuilds	

Figure 1. Table comparing PPRR management of bushfire, flood and heatwave.

We believe there are opportunities to strengthen NSW RA's role in heatwave risk management, however at present, the organisation's strategic focus on disasters with high Average Annual Losses (AAL) as articulated in the State Disaster Mitigation Plan is a key barrier. This is not because heatwave does not produce economic impacts, but because heatwave impacts (e.g. health system costs, productivity loss and supply chain disruptions) have not historically been measured and are more challenging to quantify than direct infrastructure damage.

Recommendation:

- **That the NSW Reconstruction Authority's role in building resilience to heatwave be maintained and strengthened.**

2. The NSW Reconstruction Authority's coordinating role as outlined in the Act is greatly needed, however there are improvements that could be made to support more effective operationalisation.

Since the release of the *National Disaster Risk Reduction Framework*, NSW emergency management has sought to move towards a more holistic, resilience based PRR approach to hazard management. Nevertheless, there has remained a tendency to focus around 97% of resourcing on emergency response and recovery and just 3% prevention and preparedness (State Disaster Mitigation Plan, 2024).

The establishment of the NSW Reconstruction Authority (NSW RA), as outlined in the Act, has created the first clear legislative responsibility for a holistic approach to managing risks that sits between the everyday workings of communities, councils, state agencies, and the execution of the emergency management arrangements. This focus on 'everything outside response' creates potential for NSW RA to focus more closely on coordination of holistic resilience building, as well as new emerging hazards that fall outside the strict definitions and well-established hazard response structures.

However, WSROC stakeholders have observed that there remain operational limitations and uncertainties regarding NSW RA acting on disasters that are not clearly specified in the Act

(see Figure 1). For example, during the 2024 Surry Hills fire, NSW RA was unable to support recovery centres due to uncertainty around what constitutes “other emergencies” under section 6(d) of the Act. It is likely that similar uncertainty may delay or prevent appropriate operationalisation during emergencies not clearly specified in the Act. This may be particularly true for non-natural hazards like cyber-attack or infrastructure collapse. Notably, where such arrangements are unable to provide clarity, the burden of providing respite and recovery most often falls to councils who may not have the resources or scope to support communities appropriately.

In this Act, disaster includes the following—

- (a) natural disasters, including, for example, bushfires, coastal hazards, cyclones, earthquakes, floods, heatwaves, landslides, severe thunderstorms, tornadoes and tsunamis,*
- (b) hazards caused by natural disasters including air pollution, water and soil contamination and water insecurity,*
- (c) other emergencies in relation to which the Minister has requested assistance from the Authority,*
- (d) other emergencies in relation to which—*
 - (i) a public authority, including a Minister other than the Minister administering this Act, has requested assistance from the Authority, and*
 - (ii) the Authority has agreed to provide assistance,*
- (e) events, incidents or matters, or classes of events, incidents or matters, prescribed by the regulations.*

Figure 2. Excerpt from the NSW Reconstruction Authority Act 2022; 6. Meaning of “disaster”.

Recommendations:

- **That the NSW Reconstruction Authority’s critical role as coordinating agency between various stakeholders including government, combat agencies, councils and community be maintained and strengthened.**
- **That the definition of ‘disaster’ be reviewed, clarified and potentially expanded beyond those caused by natural hazards.**

3. There is a lack of clarity regarding NSW Reconstruction Authority’s role and relationship with the emergency management arrangements.

Noting that the NSW RA represents a different approach to managing hazards than its predecessors (Resilience NSW and Office of Emergency Management) WSROC has observed confusion regarding roles and responsibilities of the agency and its relationship to existing emergency management governance arrangements. This becomes material when considering stakeholder and community expectations of the agency, and how they interact with it. Figure 2 shows the different and overlapping responsibilities between actors in this sector.

Local government is now far more active than they have been in the past in contributing to all phases of the emergency management continuum especially in the prevention, preparedness and some aspects of recovery. On the other hand, while Emergency Management Committees are technically tasked with the full PPRR spectrum, many of these Committees tend towards an emergency response or ‘incident’ focus. These overlapping roles and responsibilities (both formal and informal) need to be clarified in relation to the legislated role of NSW RA.

Actors working across the PPRR spectrum				
Actor	Prevention	Preparedness	Response	Recovery
EMCs				
EOCs				
NSW RA				
Councils				

Figure 3. Roles and responsibilities across the PPRR spectrum

Example: Disaster Adaptation Plans

The lack of clarity in roles and responsibilities has produced confusion around the focus and purpose of Disaster Adaptation Plans (DAPs). While it is noted that the Guidelines for DAP development are not yet released, consultation on these documents has interchangeably referred to councils, Local Emergency Management Committees (LEMC) and other organisations being owners of this process. At the same time, the State Disaster Mitigation Plan does not mention LEMCs but states “Disaster Adaptation Plans (DAPs). DAPs will be developed by the RA, councils, Aboriginal landowners and other

organisations.” (p.9). Noting that LEMCs are not council committees, and that most LEMC plans are not able to be accessed by council staff delivering prevention and preparedness work, this is an important clarification. Ownership of these documents has important implications for operationalisation of the DAPs in practice.

The Disaster Adaptation Plan Guidelines and Framework should also provide clarity on what these documents should cover. For example, will they be local, regional or ‘catchment based’? Should they be single or multi-hazard? Further, while NSW RA has shown a preference towards a flexible, place-based approach to hazard planning and management. WSROC recommends that DAP guidelines should provide an indicative template for each “hazard type” or “groupings of hazards” either at local or regional level that could then be “shaped” to cater for place-based nuance. Where there is no precedent for a new state-prescribed plan (as was the case with Local Strategic Planning Statements) this can create additional work and challenges for local authorities engaging in plan development; guidance and templates with the potential to adapt where necessary can facilitate more efficient and focused plan development.

Recommendation:

- **That the strategic and operational relationship between NSW RA and other agencies be further clarified.**
- **That DAP Guidelines clearly articulate the role of various stakeholders in DAP development and delivery, as well as the DAP’s relationship to existing plans.**

4. There is a need to clarify how NSW Reconstruction Authority can better engage local government in disaster planning and emergency management processes.

A key function of the NSW Reconstruction Authority as described in the Act is as a conduit between different types of agencies from the long-term strategic planners to incident response teams. Specifically, the act describes NSW RA supporting **collaboration and coordination** between established structures and the and communities they serve, support councils, and in particular, provide support to councils by **increasing information flows** from the ground up (Division 2, Functions of the Authority). Further, it is noted in the NSW Disaster Mitigation Plan that the NSW RA:

“..... provides a mechanism to consider emergency and recovery arrangements in strategic land use and infrastructure planning. This Plan, and DAPs as they are developed, provide a mechanism for emergency management constraints to be considered in land use decision-making under the Environmental Planning and Assessment Act 1979 (the EP&A Act), for example evacuation capacity.”¹

Despite these articulated roles, there remain limited pathways for formal engagement of councils in hazard and emergency management processes. This has been a significant and ongoing issue for local government who does much heavy lifting in local emergency management but whose ability to influence and support planning arrangements receives limited acknowledgement.

An example of this is that the State EM Plan has “Detailed roles and responsibilities”² for those agencies and organisations that make up the emergency management arrangements in NSW. Local Government is not included and yet it is constantly referenced as being expected to do things beyond anything captured in plans. Take for example the activity ‘assessment of impacts from emergencies’ – it has no mention of local government, yet it is Local Government that undertakes impact assessment on community facilities, local roads and bridges, local businesses, and the natural environment. The issue of councils being underrepresented in emergency management planning is far larger than the NSW Reconstruction Authority, however the NSW RA has a key role to play.

In place-based liaison, RA has demonstrated strong understanding of council’s role in hazard management, however we have not yet seen this understanding reflected in structural plans and policies from the agency. In the *State Disaster Mitigation Plan*, local government did not get a single mention in the ‘Responsibility’ column of the “Priority actions identified to foster risk reduction”³ even though there were indirect references to the role local government plays in land use decision making. While it is acknowledged that this Plan is focused on articulating the role of NSW Government agencies, there were opportunities to engage councils in directions via the Office of Local Government, however the only actions directed to OLG relate to council capacity building, not the contribution

¹ State Disaster Mitigation Plan 2024 – 2026 page 10

² Annexure 12, page 94

³ State Disaster Mitigation Plan 2024-2026 page 10

councils could make to risk reduction. It is clear that most of the tools listed in the table “*Priority actions identified to foster risk reduction*” would benefit from having councils as stakeholders in planning and execution, if only they were properly resourced and appropriately tasked.

Example: NSW Heatwave Subplan

A good example of local governments’ limited engagement in formal risk reduction and emergency management processes is *NSW Heatwave Subplan*. It is noted that the *State Emergency Management Plan (EMPLAN)* has “detailed roles and responsibilities”⁴ for agencies and organisations that make up the emergency management arrangements in NSW. No roles and responsibilities are articulated for local government across the PPRR spectrum, yet councils are constantly expected to act on an ad hoc basis. In the case of heatwave, councils are expected to lead on heat risk prevention (urban heat island mitigation), preparedness (community engagement and heatwave planning) and response (activation of cool spaces and community outreach). Not only do these activities go beyond the resourcing and expertise of councils (gathering high-risk individuals into cool spaces creates significant risks relating to duty of care), but there are currently no guidelines from state government on how to conduct these activities effectively and safely.

In June 2023, the State Emergency Management Committee published a revised version of the NSW Heatwave Subplan at the urging of many Western Sydney stakeholders including WSROC and its member councils. This review attracted much criticism because it was developed without local government representation. The current version of the Subplan ignores the impacts upon local government in dealing with the challenges of extreme heat and heatwaves, and the role councils currently play by default. It also made incorrect assumptions about how local government currently responds to the hazard, and the capabilities of councils in doing so. In response to WSROC representations, the Minister for Emergency Services announced another review of the Heatwave Subplan that is planned for June 2024.

This example highlights that local government has long been ignored as a valued policy development partner in the emergency management space. If evidence of this fact is required just review the 80 recommendations of a Royal Commission⁵, the 21 findings of The Response to major flooding across

⁴ Annexure 12, page 94

⁵ Royal Commission into National Natural Disaster arrangements 2020

NSW⁶, and the 28 recommendations of the 2022 Flood Inquiry⁷ in 2022. Local government received very little attention, mostly negative at the time and despite the criticism there was almost nothing mentioned about improving local government capabilities especially at the collective level.

The transition from a 'response and recovery' focused agenda to one that is substantially moving towards 'prevention and preparedness' will require far more engagement with place-based government (councils) than ever before. Given NSW RA legislative focus on prevention and preparedness, we hope they can increasingly provide a conduit for engaging local government in the broader emergency management processes.

Recommendation:

- **Explore opportunities for NSW RA to build structural conduits that ensure place-based knowledge of councils and communities is inputted into formal emergency management processes.**

5. Explore opportunities for emergency management structures to better support the work of the NSW Reconstruction Authority

Across the emergency management spectrum there remains an operational focus on about emergency response capabilities despite a stated strategic focus on resilience. This raises questions about who is accountable for steering policy and capability development in preparation for those times of the utmost challenge to our community. High value emergency management resources⁸ will continue to be wasted if focus is not transitioned to 'front-end' prevention and preparedness.

There is a need to ensure that NSW RA is able to harness Emergency Management Committees (EMCs) expertise to explore broader prevention and preparedness planning, and bring the focus to a more strategic level than incident response (e.g. hazmat or other incidents on our road network). There is scope for NSW RA to reconsider the purpose and the scope of LEMC and REMC to ensure the new priorities of prevention and preparation will be successful.

⁶ NSW Parliament Select Committee on the Response to Major Flooding across NSW Aug 2022

⁷ 2022 Flood Inquiry (Fuller and O'Kane) Jul 2022

⁸ LEMC and REMC

Recommendation:

- **Explore opportunities for NSWRA to better harness EMCs for the purpose of disaster prevention and preparedness.**

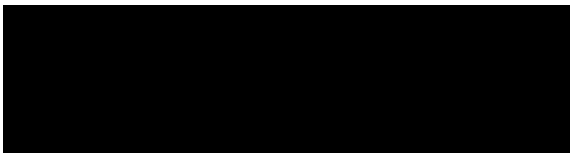
6. Conclusion

The above submission has outlined a range of opportunities and challenges relating to the legislation and operational realities surrounding the NSW Reconstruction Authority.

WSROC welcomes the more holistic approach to disaster risk that the NSW RA's mandate promises. NSW RA's stated role in coordinating between day-to-day operations and management arrangements provides a much-needed structural conduit between strategic planning and incident response. Further their broad 'all-hazards' mandate offers potential flexibility to explore new and emerging hazards, however in both instances more work is needed to clarify and strengthen their role.

The RA has a job to do, it must be supported, it is on the right path.

This is also an opportunity to address a number of structural defects that have been unaddressed for too long, let's not waste it.



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