

**Submission
No 60**

REVIEW OF THE NSW RECONSTRUCTION AUTHORITY ACT 2022

Organisation: Legal Aid NSW

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Mr Clayton Barr MP
Chair
Joint Select Committee on the NSW Reconstruction Authority
NSW Parliament House
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Sydney NSW 2000

By email: nswreconstructionauthority@parliament.nsw.gov.au

Dear Mr Barr

Review of the NSW Reconstruction Authority Act 2022

Thank you for inviting Legal Aid NSW to make a submission to the Joint Select Committee's Review of the NSW Reconstruction Authority Act 2022 (the Act). In making this submission, we draw on our direct experience working with the NSW Reconstruction Authority (NSWRA) and with communities impacted by the 2022 floods, and more recent disasters, in providing legal assistance services as part of disaster recovery efforts.

Disaster Response Legal Service (DRLS)

For well over a decade, Legal Aid NSW has provided legal assistance to communities impacted by disasters across NSW. The Disaster Response Legal Service (DRLS) is a specialist team in the Civil Law Division of Legal Aid NSW dedicated to supporting disaster-impacted communities by providing statewide end to end legal assistance, from legal advice to full representation. Legal Aid NSW is the lead government agency coordinating the legal response to disasters in NSW.

The DRLS helps individuals and communities navigate the complex legal issues that arise in the wake of disasters, ensuring they receive the support and guidance they need to rebuild their lives. The service specialises in legal issues that follow disasters such as insurance entitlements and disputes, housing and tenancy, access to disaster grants, social security, financial hardship, credit and debt, employment, fines and domestic and family violence.

The DRLS service model ensures a timely, targeted and trauma-informed service through a multi-channel approach:

- DRLS 1800 helpline operated by LawAccess NSW, 9 to 5 Monday to Friday
- Face to face legal assistance at recovery centres established by NSWRA
- Telephone legal advice service
- Community Legal Education (CLE) and information
- Referrals to other legal and non-legal agencies, including pro bono legal help

- Resources and self-help tools on our website:
<https://disasterhelp.legalaid.nsw.gov.au>
- Advocacy to address systemic issues with insurers, regulators and other stakeholders.

Access to legal assistance is a critical part of the support needed by disaster impacted individuals and communities to recover from disasters with dignity and resilience. The DRLS is committed to ensuring that legal barriers do not impede recovery and that people have access to the legal assistance they need.

Legal Aid NSW also coordinates statewide disaster legal help on behalf of the NSW legal assistance sector, working closely with Community Legal Centres NSW, Tenants Union NSW, Aboriginal Legal Service NSW/ACT, Justice Connect, NSW Bar Association, Law Society of NSW and the pro bono sector.

Given Legal Aid NSW's extensive experience in providing statewide legal services to communities affected by disasters in NSW, we welcome the opportunity to provide feedback for the review of the Act.

Terms of Reference: Whether a) the policy objectives of the Act remain valid, and b) the terms of the Act remain appropriate for securing the objectives.

The Act was enacted to establish the NSWRA to manage and coordinate reconstruction and recovery efforts following natural disasters and other significant events in NSW. The Act aims to streamline processes, enhance coordination between different levels of government, and ensure efficient allocation of resources.

It is our view that these policy objectives remain valid, reflecting the ongoing needs and challenges associated with disaster management in NSW. In evaluating this, we considered the following policy objectives and whether the terms of the Act remain appropriate for securing them:

- *Enhancing Disaster Preparedness and Resilience – to improve the state's preparedness for disasters and other emergencies by fostering resilience in communities and infrastructure.*

The increasing frequency and severity of disasters due to climate change underscore the ongoing need for improved disaster preparedness and resilience. Therefore, this objective remains critically valid. The focus on resilience aligns with global best practices in disaster management, emphasising not just response but also prevention and mitigation.

The Act outlines specific provisions for the development and implementation of resilience strategies, community education programs, and infrastructure improvements. These terms are appropriate as they directly address the objective of enhancing preparedness and resilience. Regular reviews and updates to these strategies, as mandated by the Act, ensure they remain relevant and effective in the face of evolving risks.

- *Efficient Recovery and Reconstruction – to streamline the processes for recovery and reconstruction after disasters, ensuring timely and effective responses.*

Given the substantial economic, social, and infrastructure impacts of recent disasters across NSW, the need for efficient recovery and reconstruction mechanisms is more critical than ever. This objective supports the sustainability of communities and the economy by reducing downtime and fostering quicker recovery.

The Act establishes guidelines and streamlined procedures for post-disaster recovery and reconstruction. This includes rapid assessment protocols, funding mechanisms, and support for affected communities. The establishment of the NSWRA with specific powers and responsibilities ensures that recovery efforts are coordinated, timely, and effective.

- *Coordination and Collaboration – to facilitate better coordination and collaboration among government agencies, non-government organisations, and the private sector in disaster management.*

Effective disaster management requires a collaborative approach involving various stakeholders. The importance of this objective is highlighted by the complex nature of disaster impacts that cut across different sectors and communities. Enhanced coordination ensures resource optimisation, reduces redundancy, and improves the overall efficacy of disaster management efforts.

The Act facilitates inter-agency and cross-sector collaboration through the creation of advisory committees and partnerships. These structures are essential for fostering a unified approach to disaster management. Provisions for data sharing, joint training exercises, and integrated planning enhance the capacity for coordinated responses to disasters.

- *Sustainability and Long-Term Planning – To integrate sustainability and long-term planning into reconstruction efforts.*

Integrating sustainability and long-term planning into disaster management ensures that reconstruction efforts do not merely restore the status quo but also mitigate future risks. This objective is increasingly important in the context of ongoing environmental changes.

The Act establishes the need to plan for future disasters by requiring state disaster mitigation plans and disaster adaptation plans. This approach necessitates both levels of government to plan and prepare for future disasters by considering the impacts of climate change, strategies and actions for mitigating the impact of disasters and prioritising areas for projects to mitigate the impact of disasters.

Recommendations for the enhancement of the Act

While the Act has laid a solid foundation for enhancing disaster resilience, recovery, and coordination in NSW, continuous improvement is essential to adapt to evolving challenges and ensure the Act remains effective.

The following recommendations are based on our observations from working on the frontline delivering legal assistance to disaster impacted communities. We have worked in collaboration with the NSWRA in assisting individuals with their applications for the Disaster Relief Grant (DRG) following various disasters as well as for the Resilient Home Program (RHP) in the Northern Rivers and in relation to residing in Pod Villages set up by NSWRA. This also includes regular meetings with the NSWRA regarding the

implementation of the DRG, RHP and Pod villages and the issues we are seeing on the ground with clients' circumstances.

Financial Assistance Programs

NSWRA functions are set out under section 10 of the Act. It sets out in general terms that the functions of the NSWRA includes reconstruction and recovery following disasters and other emergencies including to implement funding schemes for the financial support of disaster prevention, recovery, and reconstruction. This is relevant in relation to the DRG, RHP, and Pod Villages. The Act, however, lacks detail in relation to the administration and implementation of these recovery programs which could be addressed by way of establishing guidelines setting out the principles for all financial assistance programs.

Establishing guidelines or supplementary documents are essential to ensure clarity, consistency, and effective implementation. They can help bridge gaps between the law's intent and its application, offering stakeholders clear directives and reducing ambiguities. Furthermore, establishing guidelines ensures that all parties have a unified understanding of their roles and responsibilities, promoting compliance and minimising misinterpretation. This approach not only enhances the legislative framework's robustness but also facilitates better governance outcomes.

We recommend the following principles be included in any guidelines that may be developed regarding any financial assistance program that is established:

- *Specify eligibility criteria*

The establishment of any financial assistance program should include the provision of specific, detailed eligibility criteria that are both publicly available and easily accessible. It should specify the types of disasters covered, the types of damages eligible for relief, and the financial thresholds applicants must meet. It should also set out any special circumstances to be considered, such as low-income households, individuals with disabilities, and those in remote areas.

- *Establish clear timelines*

Any financial assistance program should specify timelines for processing applications, disbursing funds, or resolving appeals. It should set clear timelines for each stage of the process. For example, applications should be acknowledged within 5 business days, reviewed within 30 days, and funds disbursed within 15 days of approval. It should also specify timelines for the appeal process, such as the maximum time for reviewing appeals and issuing decisions.

- *Ensure transparency*

Any financial assistance program should require regular public reporting on the number of applications received, approved, and denied, as well as the amounts disbursed. This information should be accessible on the NSWRA's website. It should also establish independent audits and oversight mechanisms to ensure the programs are administered fairly and efficiently.

- *Provide comprehensive appeal options*

Any financial assistance program should have comprehensive appeal options and provide clearly defined procedures for how applicants can appeal decisions. This should include the grounds for appeal, required documentation, how to submit an appeal and timeframes for the appeals process. Independent appeals panel should be created to review and decide on appeals. These panels should include experts in disaster relief and community representatives. Support services, such as legal advice and advocacy, are also crucial to applicants to help them navigate the appeal process.

In our experience, the RHP exemplifies a financial assistance program that offers comprehensive appeal options, complete with clear guidelines on how applicants can appeal decisions, the grounds for appeal and the necessary documentation. This structured approach has proven to be highly effective for our clients, in contrast to other programs like the DRG, which do not provide such appeal options.

- *Community education campaigns*

We recommend community education and awareness campaigns are considered to ensure that potential applicants are fully informed about their rights, eligibility, and the application process. This would also assist other stakeholders, such as legal assistance services and other community support services to be able to advise applicants.

- *Feedback opportunities*

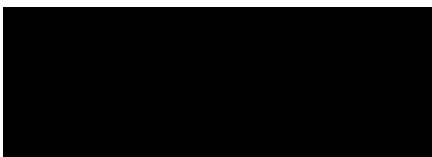
Feedback mechanisms are essential for the continuous improvement of any financial assistance programs. The process and ability to provide any feedback should be made clear to all applicants and stakeholders alike.

- *Emergency provisions*

With any program in the disaster context, we recommend that emergency provisions should be included that allow for rapid adjustments to the programs in response to emerging needs during major disasters.

Thank you again for the opportunity to provide a submission. If you have any questions or would like to discuss our response, please contact [REDACTED] Disaster Recovery and Insurance, Legal Aid NSW Disaster Response Legal Service at [REDACTED] or on [REDACTED]

Yours sincerely



Meredith Osborne
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