



## Floodplain Management Australia

Supporting Wise Planning and Development

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5 September 2024

Mr Clayton Gordon Barr, MP  
Chair  
Joint Select Committee on the NSW Reconstruction Authority  
NSW Parliament House  
6 Macquarie Street  
SYDNEY NSW 2000

Dear Mr Barr

### **Statutory Review of the NSW Reconstruction Authority Act 2022 – Supplementary Questions**

Please see below responses to the Supplementary Questions for Floodplain Management Australia (FMA):

#### **1. What aspects of the roles and responsibilities of the Authority and local councils in floodplain management are unclear under the Act?**

##### *Part 2, Division 2, Functions of Authority*

As discussed in FMA's evidence to the hearing, our concerns with the roles and responsibilities of the NSW Reconstruction Authority (RA) under the Act are primarily around the apparent duplication with functions of other state agencies, specifically Department of Climate Change, Energy, the Environment and Water (DCCEEW) in relation to flood modelling and flood risk management, and Department of Planning, Housing and Infrastructure (DPHI) in relation to flood planning levels, land zoning and related policies (2.2.10(1)(o)).

The Act supports collaboration, coordination and information sharing with councils and agencies, which is appropriate to the RA's objectives under the Act. (2.2.10(1)(c)).

FMA supports the RA's role in coordinating, developing and implementing government policies (2.2.10(1)(d)) to ensure a consistent approach within and between agencies and councils, provided this is done in collaboration with those agencies and councils (as above) where relevant. FMA sees these whole-of-government policies as the appropriate vehicle to support and inform councils, rather than necessarily adding further to the Act. Over regulation through the Act may limit the ability of the RA to perform their duties with the agility and pragmatism required in the aftermath of a natural disaster in supporting councils and their communities.

#### **2. How could the Act better support the integration and implementation of Disaster Adaptation Plans with local flood management efforts?**

##### *Part 4, Division 2, Disaster Adaptation Plans*

##### *Part 4, Division 3, Implementation of State disaster mitigation plan and disaster adaptation plans*

While FMA member councils are only in the initial stages of consultation with the RA for Regional DAPs, specifically on the Northern Rivers, the general intent as FMA understands it is that DAPs will be prepared by the RA (at least initially) and they will be regionally focussed

rather than at the LGA level. Councils will perform a support role in the preparation of DAPs as subject matter experts, members on governance panels and committees, and as community leaders (Mayors and GMs/CEOs).

Subject to the outcomes and recommendations of their Regional DAP, each council will then be responsible for developing an implementation plan for actioning and reporting back to the RA. It is assumed that these implementation plans will be funded by the government (state / commonwealth), as administered by the RA. Should this occur, it is important that councils are not subject to multiple grant streams and related administrative processes, and that any new funding streams are consistent and potentially integrated with the DCCEEW Floodplain Management Program (as detailed below).

As discussed above, the Act should not be overly prescriptive on the processes involved in DAPs, instead relying on the Guidelines, which will likely evolve and be improved as the initial DAPs are gazetted (4.2.37). However the Act (4.2.36(a)) reflects a model that may have been initially proposed, whereby a DAP prepared by the RA includes “the specific projects, strategies or actions the Authority will undertake to prevent or minimise the impact of disasters”, and a plan prepared by a “relevant entity” (i.e. councils) would include the actions that relevant entity will undertake. This demarcation of responsibilities for DAP development and implementation under the Act does not seem consistent with the current direction of the Regional DAPs.

While it is explicit in the (draft) Guidelines, the Act does not refer to the utilisation of existing bodies of natural hazards work held by councils and other agencies, such as DCCEEW, NSW State Emergency Service (SES) or Bureau of Meteorology (BOM) to inform DAPs. It is recommended that 4.2.36(2) be expanded to ensure that all relevant existing data sets are considered in the preparation of a DAP, including studies, mapping, demographic, geographic and economic data that adds value to the process and informs the outcomes. With respect to flood risk management, this would include flood studies, floodplain risk management studies and plans, flood risk management frameworks and other outputs prescribed by the NSW Flood Risk Management Manual (2023, DCCEEW).

In NSW, local government councils have long sought funding and resourcing support for their ongoing flood risk management activities, including:

- a) Maintenance and renewal of aged flood mitigation structures
- b) Preparation of flood studies, risk management studies and plans
- c) Implementation of capital flood mitigation works
- d) Schemes for land use planning changes and modification of existing properties
- e) Increased infrastructure resilience built into flood repair and recovery efforts.

The primary funding and technical support afforded to councils is the State Floodplain Management Program (DCCEEW). Generally, this program is available only for components (b), (c) and (d) above. Funding levels for the program are limited and generally it is over-subscribed each year. By number, applications are heavily focussed on (b) – the investigation of flood risk and assessment of risk reduction options.

Due to the high costs usually involved in flood mitigation capital works (e.g. new or augmented town levee systems) and land use / property modification (e.g. residential buy-backs, house raising) and the complexities in implementing such schemes, the number of council applications and the state funding to support them are usually very limited. There are regrettably few high-profile examples of large-scale council-led projects with material reductions in flood risk for communities that have proceeded beyond investigation and design under the Floodplain Management Program in recent years.

It is FMA’s expectation that the SDMP / DAP process will lead to a strong business case for RA led intervention in the approvals for and capital delivery of more flood mitigation and/or property modification schemes, in cooperation with and informed by the technical expertise of DCCEEW, who remain the lead agency for flood risk management in NSW. While this may not

require amendment to the Act as such, it is, in our view, a critical relationship in building support for NSW councils in their flood risk management efforts.

Yours faithfully



Danny Rose  
**Deputy President**

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