



New South Wales

# NSW Reconstruction Authority Regulation 2023

under the

NSW Reconstruction Authority Act 2022

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *NSW Reconstruction Authority Act 2022*.

ANTHONY ROBERTS, MP  
Minister for Planning

## Explanatory note

The objects of this Regulation are as follows—

- (a) to prescribe actions in relation to which the NSW Reconstruction Authority may direct relevant entities,
- (b) to require relevant entities and the NSW Reconstruction Authority to have regard to the State disaster mitigation plan and any relevant disaster adaptation plan in exercising prescribed functions,
- (c) to prescribe exceptional circumstances in which the Minister may authorise the undertaking of development without—
  - (i) approvals or assessments under the *Environmental Planning and Assessment Act 1979*, or
  - (ii) consent,
- (d) to provide for the determination and payment of fees under the *NSW Reconstruction Authority Act 2022*.

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## NSW Reconstruction Authority Regulation 2023

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NSW Reconstruction Authority Act 2022

### 1 Name of Regulation

This Regulation is the *NSW Reconstruction Authority Regulation 2023*.

### 2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

### 3 Definitions

In this Regulation—

**essential service** means an essential service, within the meaning of the *Essential Services Act 1988*, other than a service declared to be an essential service under that Act, section 4(2).

**the Act** means the *NSW Reconstruction Authority Act 2022*.

**Note**— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

### 4 Authority may direct certain planning authorities—the Act, s 13

(1) For the Act, section 13(1)(c), for a planning authority other than the Minister administering the *Environmental Planning and Assessment Act 1979*, the action of exercising the planning authority's relevant planning functions is prescribed.

(2) In this section—

**relevant planning functions** has the same meaning as in the *Environmental Planning and Assessment Act 1979*, section 2.21(2).

### 5 Authority may direct other relevant entities—the Act, s 13

For the Act, section 13(1)(d), the following actions by the relevant entity are prescribed—

- (a) providing an essential service,
- (b) carrying out development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

### 6 Implementation of State disaster mitigation plan and disaster adaptation plans by relevant entities—the Act, s 38

For the Act, section 38(1), the following functions of a relevant entity are prescribed—

- (a) applying for development consent under the *Environmental Planning and Assessment Act 1979*,

- (b) applying for State significant infrastructure approval under the *Environmental Planning and Assessment Act 1979*, Division 5.2,
- (c) carrying out development under *State Environmental Planning Policy (Transport and Infrastructure) 2021*,
- (d) providing an essential service,
- (e) reviewing the State Emergency Management Plan and recommending alterations to it under the *State Emergency and Rescue Management Act 1989*, section 15(d).

**7 Implementation of State disaster mitigation plan and disaster adaptation plans by Authority—the Act, s 38**

For the Act, section 38(2), the Authority's functions under the Act are prescribed.

**8 Ministerial authorisations in exceptional circumstances—the Act, s 68**

For the Act, section 68(7), definition of *exceptional circumstances*, the prescribed circumstances are as follows—

- (a) a disaster that has resulted in significant and widespread harm to life or damage to property or the environment has occurred,
- (b) a disaster may occur that is likely to result in significant and widespread harm to life or damage to property or the environment.

**9 Fees—the Act, s 84**

- (1) For the Act, section 84(2)(b), the Minister or the chief executive officer may determine, either generally or in a particular case, the fee for the relevant service or action.
- (2) In determining the fee, the Minister or the chief executive officer must consider the cost of the relevant service or action to the following persons—
  - (a) the Minister,
  - (b) the Authority,
  - (c) the chief executive officer,
  - (d) a person who provides the relevant service or action on behalf of the Minister, the Authority or the chief executive officer.
- (3) A fee determination by the Minister prevails over a fee determination by the chief executive officer to the extent of an inconsistency.
- (4) The maximum fee that may be imposed under the Act, section 84(2)(b) is 120% of the total cost of the relevant service or action to the persons specified in subsection (2)(a)–(d).
- (5) For the Act, section 84(3), the Minister or the chief executive officer may require the payment of a deposit for, or full or partial prepayment of, a fee charged under the Act, section 84(2)(b).