

# SUBMISSION TO THE PARLIAMENT ON THE THE NATIONAL RECONSTRUCTION AND RESILIENCE AUTHORITY ACT

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**SUBMITTED ON BEHALF OF:**



**JAMAICA  
ENVIRONMENT  
TRUST**



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# 1. INTRODUCTION

Jamaicans for Justice (JFJ) and the Jamaica Environment Trust (JET) have carefully reviewed the National Reconstruction and Resilience Authority Act (NaRRA) tabled in Parliament by the Prime Minister, the Most Honourable Andrew Holness. While we fully support the urgent need for a dedicated institution to guide Jamaica’s post-disaster recovery and long-term resilience, we believe the Bill, in its current form, requires significant strengthening to ensure it is effective, credible, transparent, and fit for purpose.

Jamaica, like other Small Island Developing States, faces intensifying climate risks — more powerful hurricanes, erratic rainfall, prolonged droughts, and rising temperatures. Recovery legislation must therefore go beyond immediate reconstruction. It must embed long-term climate resilience, transparency, accountability, equity, and public participation from the outset.

We therefore recommend that the Bill be revised in the following key areas:

- **Purpose and Objects:** Establish a clear, forward-looking purpose clause that prioritises resilience and “build back better” principles, including explicit commitments to transparency, accountability, equity, and long-term sustainability.
- **Governance and Independence:** Reduce over-centralisation by limiting ministerial directions to high-level policy only. All directions should be published and tabled in Parliament. The appointment of the Chief Executive Officer should follow a more independent, merit-based process.
- **Oversight:** Formally recognise and integrate the Jamaica Reconstruction and Resilience Oversight Committee (JAMRROC) within the Act to ensure continuity and stronger accountability.
- **Transparency and Accountability:** Introduce stronger provisions for proactive public disclosure of information, publication of major decisions and directions, whistleblower protections, and narrowed secrecy clauses.
- **Public Participation:** Mandate structured, meaningful engagement with civil society, affected communities, and vulnerable groups throughout the planning and implementation process.
- **Environmental and Social Safeguards:** Require mandatory environmental and social impact assessments for all major projects, with opportunities for public comment.
- **Institutional Continuity:** Provide a clear pathway for transitioning to a permanent national resilience mechanism to preserve institutional knowledge and sustain resilience efforts beyond the life of the Authority.
- **Efficient Implementation:** Grant the Authority appropriate fast-track procurement powers, balanced with robust transparency and oversight safeguards.
- **Cross-Governmental Coordination:** Clearly define the Authority’s legal mandate to lead and coordinate reconstruction and resilience efforts across all ministries and agencies.

The detailed specific proposed amendments for consideration are noted in this submission. This overview draws on comparative experiences, particularly Dominica's Climate Resilience Execution Agency for Dominica (CREAD) established under the Climate Resilience Act 2018. Unlike NaRRA's narrow, temporary, and highly centralised approach, CREAD adopts a broader, values-driven resilience framework with stronger emphasis on transparency and inclusivity.

Other relevant lessons include:

- *New Zealand's CERA* – suffered from excessive centralisation, limited community input, and poor transition planning, leading to public distrust and loss of institutional knowledge.
- *Queensland Reconstruction Authority (Australia)* – demonstrated success through statutory primacy, “betterment” funding, and strong public transparency tools such as live dashboards.

We respectfully suggest that the government also examine the experiences of other countries that suffered from weak community engagement and insufficient accountability in centralised models.

We stand ready to engage constructively with the Government and Parliament to refine the Bill so that it delivers genuine, inclusive, and lasting resilience for Jamaica.

## 2. RECOMMENDATIONS FOR AMENDMENTS

### 2.1 Preamble

The National Reconstruction and Resilience Authority Act (Bill)'s preamble is narrow and administrative, framing the legislation as a response to a single event: “...to make provision for the management and implementation of the post-disaster reconstruction and resilience efforts consequent on the passage of Hurricane Melissa.” This is a missed opportunity. By contrast, the preamble to Dominica’s Climate Resilience Act situated that country’s recovery within a broader climate reality, noting that warming oceans meant hurricanes of increasing frequency and magnitude, making such events “uninsurable.” The Dominica Act committed to rebuilding as a climate-resilient nation with explicit commitments to transparency, financial management, accountability, gender-inclusiveness, and community engagement.

The Bill’s preamble is entirely silent on gender equality, the needs of vulnerable populations, the role of civil society, and the principles that should govern the expenditure of an estimated \$1.952 trillion in reconstruction funds. The Memorandum of Objects and Reasons, which contains more purposive language, is placed at the back of the Bill rather than integrated into the operative text.

#### Legislative Proposal – Amend Preamble

Place the Memorandum of Objects and Reasons to the front of the Bill and expand it with language modelled on the preamble to Dominica’s Climate Resilience Act, including explicit commitments to:

- Rebuilding Jamaica as a climate-resilient nation;
- Transparency, accountability, and good governance in the management of reconstruction funds;
- Gender equality and the needs of persons who are vulnerable on account of age, gender, or disability;
- Community engagement and participatory decision-making; and
- Recognition that climate change increases the frequency and severity of extreme weather events, necessitating long-term systemic resilience.

### 2.2 Objects and Purpose Clause

The Bill contains no dedicated objects clause within its operative provisions. While the Bill does include a Memorandum of Objects and Reasons, this is an explanatory note appended to the legislation rather than a binding statutory provision. The Bill’s purpose must therefore be inferred from the preamble and the functions listed in section 4, both of which are operational rather than aspirational. By contrast, section 3 of Dominica’s Climate Resilience Act set out four clear statutory objects embedded in the operative text: promoting swift and cost-effective recovery; ensuring infrastructure is rebuilt to a standard better than its pre-disaster state (the “build back better” principle); making the nation more

resilient to natural hazards; and equipping the public sector, private sector, and civil society to manage and recover from future disasters.

Without a binding objects clause in the operative text, there is no statutory anchor for interpreting the Bill's provisions. The Memorandum of Objects and Reasons, while useful context, does not carry the same interpretive weight as a dedicated objects section and cannot be relied upon by courts as a statement of legislative purpose. Resilience risks being treated as incidental to reconstruction rather than as a guiding national objective, and courts interpreting the legislation will have no stated purpose against which to measure the Authority's performance or the Minister's exercise of discretion.

#### **Legislative Proposal – Insert a new Section related to Objectives**

Insert a new section in Part I of the Bill (modelled on CREAD section 3) providing:

“The objects of this Act are —

- a) to promote the swift and cost-effective recovery of Jamaica from the disaster;
- b) to ensure that any physical and other infrastructure damaged or destroyed is reconstructed or restored to a state that is better than its state before the occurrence of the disaster;
- c) to ensure that Jamaica will be more resilient to natural hazards and better able to respond to climate-related disasters; and
- d) to assist the public and private sectors and civil society to be better equipped to manage and recover from climate-related disasters.”

### **2.3 Broaden Definitions and Interpretation**

Section 2 of the National Reconstruction and Resilience Authority Bill (the Bill) defines "disaster" as meaning exclusively "the catastrophic consequences to Jamaica resulting from the passage of Hurricane Melissa." This locks the entire statutory framework to a single event. If Jamaica were to face another catastrophic hurricane or climate-related disaster during the Authority's operational period, the Act would have no application, and fresh legislation would be required. The Climate Resilience Act of Dominica, which established the Climate Resilience Execution Agency for Dominica (CREAD), took a materially different approach. It defined "climate-related disaster" broadly to mean "a hurricane, tropical storm or any other extreme weather event or natural hazard" causing death or injury, loss of or damage to livelihood or property, or the serious disruption of the functioning of a community or society. This made the Dominica framework inherently forward-looking and capable of responding to future events without legislative amendment.

Additionally, the Bill's definition of "law enforcement authority" is limited to three bodies: the Financial Investigations Division, the Major Organised Crime and Anti-Corruption Agency (MOCA), and the Jamaica Constabulary Force. Notably absent is the Integrity Commission, the constitutionally recognised body responsible for investigating acts of corruption and impropriety in the public sector — an oversight that is difficult to justify in legislation governing the expenditure of an estimated \$1.952 trillion in reconstruction funds. The Auditor General is also excluded from this definition, despite being referenced elsewhere in the Bill in the context of auditing the Authority's operations (section 8(4)) and

conducting evaluations of project progress (section 22(3)). This inconsistency leaves the relationship between the Auditor General and the Authority's secrecy obligations under section 13 unclear. The Bill further permits the Minister to amend the definition of "works" by simple order without affirmative parliamentary resolution, bypassing legislative oversight on a definitional matter that could significantly expand or alter the scope of the Authority's activities.

#### Legislative Proposal

- Expand the definition of "disaster" to cover future climate-related events, modelled on CREAD's definition of "climate-related disaster."
- Insert definitions for "community engagement" and "climate-related disaster" (modelled on CREAD section 2).
- Broaden "law enforcement authority" to include the Integrity Commission, **or** create a separate definition of "oversight body" that includes the Integrity Commission and the Auditor General.
- Require affirmative parliamentary resolution for any ministerial order amending the definition of "works" or any other statutory definition.

## 2.4 Strengthen Duration and Dissolution Provisions

Part V of the Bill (sections 23–29) establishes dissolution and transitional arrangements. Section 23 dissolves the Authority outright. Section 26 provides that assets vest in the Commissioner of Lands (for real property) and the Accountant General (for all other property), while liabilities become liabilities of the Government. Section 25 directs all funds held in the Authority's bank accounts to the Consolidated Fund, and section 27 transfers official records — defined broadly to include all documents, correspondence, maps, plans, drawings, photographs, films, and sound recordings — to the Ministry responsible for reconstruction and resilience. Section 24 saves existing agreements and contracts by substituting the Government as party, and section 28 exempts any resulting property transfers from transfer tax, property tax, and stamp duty.

What is absent from these provisions is any forward-looking institutional arrangement. No successor body is named. No resilience unit is established to carry on the work of building and maintaining climate resilience after the Authority ceases to exist. There is no mechanism for preserving institutional knowledge, project data, or lessons learned, and no requirement that the personnel who developed expertise within the Authority be retained in any capacity. The dissolution provisions treat the end of the Authority as the end of the mandate, rather than as a transition from an extraordinary vehicle to an embedded, permanent function of government.

Dominica's Climate Resilience Act was similarly transitional, with section 25 providing for a four-year lifespan from the date of commencement, extendable by one year through a Prime Ministerial Order subject to negative resolution of the House. This was a simpler and more predictable sunset mechanism than the Bill's approach, which provides only that the Act continues in force "until the day after the day of dissolution" (section 29) — a date that is itself undefined and left entirely to ministerial discretion. When the Climate Resilience

Execution Agency for Dominica was dissolved in 2023, its functions were transferred to a designated resilience unit within government, ensuring continuity of capacity and institutional memory. The Bill's approach — dissolution at an unspecified future date, with all funds absorbed into general revenue and no successor institution — risks resilience financing, expertise, and strategic direction disappearing without safeguards at precisely the moment Jamaica transitions from reconstruction to the longer-term work of maintaining what has been rebuilt.

### **Legislative Proposal**

- a) Add an automatic dissolution trigger (e.g., five years after commencement)
- b) Name a successor body—a “Climate and Disaster Resilience Unit”—within the Act, to which functions, data, and institutional knowledge shall transfer upon dissolution.
- c) Require earmarking of residual funds for resilience programming rather than absorption into the Consolidated Fund (modelled on CREAD’s 2023 transition).
- d) Mandate a final independent “Lessons Learned and Legacy Report” to be laid before Parliament prior to dissolution.

## **2.5 Reform Authority Governance**

### **2.5.1 Insert the Jamaica Reconstruction and Resilience Oversight Committee (JAMRROC) or such similar Board**

The Government of Jamaica has established the Jamaica Reconstruction and Resilience Oversight Committee (JAMRROC) as an administrative body to provide oversight of the reconstruction effort. However, JAMRROC is not named anywhere in the Bill. It has no statutory authority, no defined composition or functions, no enforceable mandate, and no guaranteed continuity beyond the will of the current administration. It exists entirely as an executive arrangement that can be altered, reconstituted, or dissolved by administrative decision at any time without parliamentary scrutiny.

This is a serious concern given the ‘Authority’, this moment is centred around the office of the chief executive officer, which is appointed by the Prime Minister/Minister. This is of further concern given the heavy involvement of the parliamentary executive by way of strong ministerial direction throughout the Bill (concerns mentioned in recommendations 2.6 and 2.12 below).

Dominica's Climate Resilience Act demonstrates the value of embedding oversight structures in legislation. The independent Supervisory Committee — comprising donor nominees, public financial officers, and a private-sector audit professional (section 19) — had defined statutory functions: overseeing assurance systems, appointing the external auditor, and ensuring effective financial management and institutional governance (section 20). An Audit and Risk Committee sat beneath it, conducting procurement audits and reviewing internal and external audit reports (section 21). These bodies existed because the Act required them to, not because of an administrative decision that could be reversed.

It is therefore recommended that JAMRROC be given statutory recognition in the Act, with its composition, oversight functions, and reporting obligations to Parliament defined in the legislation. This would ensure that the oversight architecture supporting the Authority has a legal foundation commensurate with the scale of the reconstruction mandate.

### **2.5.2 Review appointment of Chief Executive Officer**

The Bill contains an apparent ambiguity regarding the appointment of the Chief Executive Officer. Section 5(1) provides that, for the due administration of the Authority, there shall be appointed and employed "at such remuneration and on such terms and conditions as the Minister responsible for the public service thinks fit, a Chief Executive Officer." This suggests the Minister responsible for the public service determines the terms of appointment. However, Schedule section 1(1) provides that "the Chief Executive Officer of the Authority shall be appointed by the Prime Minister by instrument in writing." The relationship between these two provisions is unclear. It is not evident whether the Prime Minister appoints on terms set by the Minister responsible for the public service, whether both must act in concert, or whether one provision is intended to qualify the other. For the most senior operational appointment in a body managing \$1.952 trillion in reconstruction funds, this ambiguity should be resolved on the face of the legislation.

Beyond this drafting concern, the appointment process itself lacks safeguards. The CEO holds office for a maximum of three years and may be re-appointed for periods not exceeding one year at a time (Schedule, section 1(2)). The Prime Minister may revoke the appointment on broad grounds including conviction for moral turpitude, bankruptcy, permanent inability to perform functions, and failure to carry out functions conferred under the Act (Schedule, section 4). There is no requirement for a transparent or merit-based selection process, no role for any independent body in vetting candidates, and no parliamentary confirmation of the appointment.

Under Dominica's Climate Resilience Act, the Prime Minister also appointed the CEO, but did so after consultation with the independent Supervisory Committee (section 13(1)). This introduced external input into the selection process from a body comprising donor nominees, public financial officers, and a private-sector audit professional. The CEO was directly accountable to the Prime Minister for day-to-day management (section 13(4)) but was also required to report at least once every six months to a parliamentary oversight committee comprising the Attorney General and members of both government and opposition (section 13(5)–(6)). This dual accountability — to the executive and to Parliament — is absent from the Bill.

It is therefore recommended that the Bill resolve the ambiguity between section 5(1) and Schedule section 1(1) by clearly stating who appoints the CEO and on whose terms. Beyond this, the Bill should provide for a merit-based selection process incorporating independent assessment of candidates and parliamentary confirmation of the appointment, to ensure that the person entrusted with leading the reconstruction effort commands broad public confidence.

## 2.6 Limit Ministerial Direction

Section 12 of the Bill empowers the Minister to give binding directions to the Authority on any matter. These directions may extend to the implementation of specific reconstruction and resilience projects and may require the Authority "to take or refrain from taking certain actions or to refrain from adopting or pursuing a particular course of action" (section 12(2)(b)). The only qualifying threshold is that the directions must appear to the Minister to be desirable in the interest of effective performance or to ensure that projects are implemented in accordance with Cabinet's approval and in the public interest. The Authority is obliged to comply (section 12(3)), and while contravention does not invalidate transactions (section 12(4)), this offers little practical comfort — the provision effectively insulates politically directed decisions from legal challenge while requiring the Authority to carry them out. The breadth of this power creates a direct line of political interference into operational matters, including procurement decisions and project prioritisation, with no requirement that directions be published, tabled in Parliament, or subject to any independent review.

Under Dominica's Climate Resilience Act, directions to the Climate Resilience Execution Agency flowed through the independent Climate Resilience Policy Board rather than directly from a single minister (section 10). The Board could give written directions concerning policy after consultation with the Chief Executive Officer, and the agency was required to give effect to them. This structure provided a critical buffer between political priorities and operational execution: directions were filtered through a multi-member body that included persons with relevant expertise, reducing the risk of procurement manipulation or politically motivated project sequencing. The Bill contains no equivalent safeguard.

### Legislative Proposal

- (a) Limit ministerial directions to high-level policy matters only, excluding operational decisions, procurement, and individual project implementation.
- (b) Require all ministerial directions to be published in the Gazette and tabled in Parliament within seven sitting days of issue.
- (c) Consider naming the appropriate parliamentary sessional committee in the Act with oversight responsibility for reviewing ministerial directions.

## 2.7 Clarify Scope of the Authority and Establish Statutory Primacy

The Authority's functions under section 4 of the Bill are concentrated on reconstruction projects, procurement, and reporting. The Authority is to consolidate and prioritise projects, establish performance indicators and tracking systems, procure goods, works and services, issue directives and operational guidelines, and maintain a register of approved projects.

Resilience appears in section 4(1)(f), which requires programmes and plans to include standards and specifications "for the achievement of climate resilience by works to

eliminate or mitigate the adverse effects of catastrophic climate events," but this is framed as a technical requirement for construction standards rather than a cross-cutting national objective. The Bill does not clarify whether the Authority's mandate extends to mainstreaming resilience across sectors, advising the Government on resilience policy, embedding resilience in national planning, or building the capacity of other public bodies to respond to future climate-related disasters. Without this clarity, **the Authority's role risks being understood as purely reactive** — focused on rebuilding what Hurricane Melissa destroyed — rather than encompassing the systemic transformation and long-term national preparedness that the Memorandum of Objects and Reasons contemplates.

This concern is compounded by the limited nature of the Authority's coordination powers. Section 4(4) provides that the Authority "shall, if lawful and practicable, utilize existing capacity, resources, facilities and systems in Government, which may be appropriately co-opted for the purposes of this Act." The language is permissive rather than directive — it expresses a preference for using existing government capacity but imposes no obligation on other public bodies to cooperate, comply with the Authority's requests, or prioritise reconstruction work. No Ministry, agency, or local authority is required to make its resources available, respond within any timeframe, or treat the Authority's needs as taking precedence over its own operational priorities. Without clear legal authority over other public bodies, the Authority risks jurisdictional conflicts, duplication of effort, and delays — precisely the coordination failures that post-disaster reconstruction agencies are designed to overcome.

The Climate Resilience Act of Dominica provides a useful point of reference. The functions assigned to the Climate Resilience Execution Agency for Dominica under section 9 made explicit what the Bill leaves uncertain. That agency was mandated not only to coordinate recovery action and execute projects, but also to ensure the climate-resilience of all physical and other infrastructure (section 9(a)); to identify, develop, and recommend climate-resilient systems (section 9(c)); to promote national resilience through public information and other means (section 9(d)); to support Government Ministries in implementing climate-resilient policies (section 9(m)); to provide surge capacity and legal expertise to build the capacity of Ministries and other agencies (sections 9(n)–(o)); and to establish assurance systems protecting against fraud and corruption and setting the highest standards of transparency (section 9(p)). On coordination, section 9(b) mandated the agency to coordinate recovery action including prioritising and accelerating projects, ensuring proper sequencing, avoiding duplication, maximising economies of scale, identifying critical funding gaps, and expediting the granting of approvals, permits, and licences. Section 11(1) required it to "coordinate recovery action in relation to all relevant sectors, especially the prescribed key target areas." These provisions removed any ambiguity about the agency's role and established it as the lead coordinating body with a mandate extending into policy advice, institutional capacity building, and national preparedness.

It is therefore recommended that section 4 be amended to clarify the Authority's functions and coordination role. Specifically: (a) insert a primacy clause confirming that, for the purposes of reconstruction and resilience, the Authority is the lead agency, and that all public bodies shall cooperate with and give effect to its directions and coordination requirements; (b) clarify that the Authority's functions include establishing assurance

systems that protect against fraud and corruption and set the highest standards of transparency; and (c) confirm that the Authority's mandate includes advising the Government on resilience policy, including national standards for climate-resilient infrastructure.

## **2.8 Guarantee Transparency and Accountability**

The Bill includes basic reporting and audit requirements. Section 10 requires annual reports with audited financial statements submitted to the Minister within four months of each financial year end, to be laid before both Houses of Parliament. Section 8 requires proper accounts audited annually, and the Auditor General is entitled at all times to examine the Authority's accounts and records (section 8(4)).

These accountability mechanisms are substantially undermined by section 13, which imposes broad secrecy obligations on every person having an official duty or employed in the administration of the Act. All documents obtained in the course of duties must be treated as "secret and confidential" (section 13(1)). The exceptions permitting disclosure are narrowly drawn and limited to specified recipients: other Authority employees; parties in civil proceedings involving the Authority; senior officials including the Cabinet Secretary, the Prime Minister, the Minister responsible for finance, and the Director of Public Prosecutions; law enforcement officers authorised for criminal investigations; and the Commissioner General of Tax Administration Jamaica. Disclosure may also occur pursuant to a court order or where the Minister directs it through a parliamentary process (section 13(2)). Unauthorised disclosure carries a fine of up to one million dollars or imprisonment for up to one year (section 13(3)).

Critically, the Bill makes no reference to the Protected Disclosures Act and includes no express savings clause preserving the rights of persons who make disclosures under that legislation. While the Protected Disclosures Act exists as a general framework, the severity of the criminal sanctions in section 13 and the breadth of the secrecy obligation may discourage employees from reporting waste, fraud, or corruption — particularly where it is unclear whether a disclosure about Authority operations to a body not listed in section 13(2), such as the Integrity Commission, would be treated as a criminal offence under this Act notwithstanding the protections available under the Protected Disclosures Act. In a statute governing \$1.952 trillion in reconstruction funds, the relationship between these two regimes should not be left to implication. The Bill should expressly affirm that nothing in section 13 limits the right of any person to make a protected disclosure, and should ensure that the Integrity Commission is added to the list of bodies to which disclosure is permitted.

Dominica's Climate Resilience Act took a markedly different approach. Its preamble committed the Climate Resilience Execution Agency for Dominica to operating to the highest standards of transparency, accountability, and community engagement — commitments operationalised through mandatory public consultations, twice-yearly stakeholder forums, publicly accessible web-based project monitoring (section 11), and assurance systems protecting against fraud and corruption (section 9(p)).

### Legislative Proposal

- a) Narrow the secrecy provisions to genuinely sensitive commercial and security information only.
- b) Delete or substantially reduce the criminal sanctions for disclosure, replacing them with disciplinary consequences for bad-faith breaches.
- c) Insert whistleblower protections and a public-interest disclosure defence for good-faith disclosures of waste, fraud, corruption, or mismanagement.
- d) Mandate proactive disclosure of non-sensitive documents, including all procurement decisions, contract awards, and project progress reports.
- e) Require the Authority to maintain a publicly accessible web-based monitoring system for all projects (modelled on CREAD section 11(4)).

## 2.9 Narrow Indemnity Provisions

As noted in our recommendation 2.8, there are serious concerns around lack of transparency and accountability in the Bill. A review of Sections 15 and 16 of the Bill establish a two-layered indemnity regime, which strengthens our concerns.

Section 15 gives the Authority a discretionary power to indemnify the Chief Executive Officer or any employee against all costs, charges, and expenses — including amounts paid to settle an action or satisfy a judgment — reasonably incurred in respect of any civil, criminal, or administrative proceeding to which the person is made a party by reason of their role, provided they acted "honestly and in good faith with a view to the best interests of the Authority" and, in criminal or administrative matters, "had reasonable grounds for believing that his conduct was lawful" (section 15(2)). Section 16 goes further, creating a right to indemnity — not merely a discretion — for all costs, charges, and expenses reasonably incurred in connection with the defence of any civil, criminal, or administrative proceeding, provided the person was substantially successful on the merits, met the good-faith standard in section 15, and "is fairly and reasonably entitled to indemnity."

The extension of indemnification to criminal proceedings warrants careful scrutiny. Under sections 15 and 16 as drafted, the Authority could fund the defence of officers facing criminal charges arising from the exercise of reconstruction powers, including allegations of procurement fraud or corruption. The "reasonable grounds for believing conduct was lawful" qualifier is a subjective standard assessed at the time of the conduct, not with the benefit of hindsight. Section 16's automatic right to indemnity means the Authority cannot refuse to cover defence costs for an officer who meets the statutory criteria, even where it may be in the public interest to distance itself from that officer's conduct. In the context of a body managing procurement on the scale contemplated by this Bill, this raises legitimate concerns about whether the indemnity provisions adequately preserve the deterrent effect of Jamaica's anti-corruption and public accountability framework.

Dominica's Climate Resilience Act contained no equivalent indemnity provision. It addressed officer misconduct through a different mechanism: section 12(10) prohibited members of the Executive Management Committee from having any direct interest in contracts made or proposed by the agency, section 12(11) required disclosure of indirect interests with mandatory recusal from related discussions, and section 12(12) imposed

criminal penalties of up to twenty-five thousand dollars or three years' imprisonment for knowing contravention. This approach maintained personal accountability rather than shielding officers from the consequences of their conduct in office.

#### **Legislative Proposal – Further Insert in New Section 33A**

- a) Narrow the indemnity in sections 15 and 16 to civil proceedings only. Exclude criminal and administrative matters entirely.
- b) Convert section 16's automatic right to indemnity into a discretionary power, requiring board approval before any indemnity payment is made.
- c) Require all indemnity payments to be reported in the Authority's annual report to Parliament.
- d) Insert conflict-of-interest provisions with criminal penalties for direct interests in Authority contracts (modelled on CREAD section 12(10)–(12)).

## **2.10 Mandate Public Participation and Equity**

The NaRRA Bill contains no provisions for civil society participation, vulnerable groups, gender equality, or community engagement. It refers to consultation with “relevant persons” (e.g., section 18(1)(a), section 19(1)(a)), but this language is vague and discretionary. There is no requirement for public consultations before major infrastructure projects, no stakeholder forums, and no mechanism for affected communities to provide input or feedback.

CREAD's Act was explicit on these matters. Its preamble committed to gender equality with a full definition. Section 2 defined “community engagement” as including discussions with Indigenous Peoples, NGOs, women, persons with disabilities, and the elderly. Section 11(3) required community engagement in design, implementation, and evaluation of all projects; public consultations for communities affected by large-scale infrastructure; and stakeholder forums at least twice a year.

#### **Legislative Proposal**

- a) Insert mandatory public consultation requirements for all major reconstruction and resilience projects.
- b) Add statutory protections for gender equality and the needs of vulnerable groups (children, the elderly, persons with disabilities) in the design, implementation, and evaluation of projects.
- c) Require the Authority to hold stakeholder forums at least twice per year to engage civil society, the private sector, and affected communities (modelled on CREAD section 11(3)(c)).
  - NaRRA shall ensure that –
    - there is community engagement in the design, implementation and evaluation of all projects managed by it;
    - public consultations are held for communities affected by large scale infrastructure projects; and

- it holds stakeholders' forum meetings at least twice a year to engage in dialogue with, and receive feedback from, civil society, the private sector, and other interested individuals on its work and proposed work plan.
- d) Define “community engagement” in section 2 to include civil society organisations, women’s groups, disability organisations, and community-based organisations.

## 2.11 Require Environmental and Social Impact Assessments

The Bill contains no explicit requirement for environmental or social impact assessments before project approval. Under section 17, Cabinet issues the official list of approved reconstruction and resilience projects, and the Authority develops programmes and detailed plans for their implementation. Section 19(3) requires that programmes and plans prioritise the needs of specially vulnerable areas, the achievement of climate resilience, and solutions informed by historical and current environmental processes. However, these are planning considerations, not mandatory assessment obligations. No provision requires a systematic evaluation of a project's environmental or social impacts before approval is granted, no public comment period is mandated, and no performance indicators are prescribed against which project outcomes can be measured.

This omission is significant. Post-disaster rebuilding at the scale contemplated by this Bill inevitably involves major earthworks, changes to drainage and water flow, and the siting of infrastructure in areas that may be ecologically sensitive or prone to future climate hazards. Without mandatory environmental and social impact assessments, there is no statutory mechanism to identify projects that may cause environmental harm, displace communities, or undermine the very resilience the legislation is intended to build. Reconstruction that restores infrastructure without assessing its environmental and social context risks repeating or entrenching the vulnerabilities that made Jamaica so susceptible to Hurricane Melissa.

Dominica's Climate Resilience Act took a different approach. The Climate Resilience Execution Agency for Dominica was mandated to identify and recommend climate-resilient systems (section 9(c)), review government policies for consistency with the national Climate Resilience and Recovery Plan (section 9(l)), and operate within a framework that treated resilience and environmental sustainability as inseparable. The Bill would benefit from a similar approach — one that requires assessment before approval, not merely consideration during planning.

### Legislative Proposal

- a) Insert a statutory requirement for environmental impact assessments and social impact assessments for every major reconstruction and resilience project, to be completed before Cabinet approval.
- b) Require a public comment period for all EIAs and SIAs.
- c) Mandate clear performance indicators against which project outcomes can be measured.

## 2.12 Reform Project Approval Processes

Section 17(1) of the Bill provides that Cabinet shall cause to be issued to the Authority an official list of approved reconstruction and resilience projects. The Authority's role is confined to implementation: developing programmes and detailed plans for the projects on that list, and executing them subject to Cabinet's prior approval (sections 17(2)–(3)). The Authority has no statutory power to prepare, propose, or submit its own prioritised list of projects. It cannot initiate; it can only execute what Cabinet has approved.

This creates two concerns. First, it establishes a significant approval bottleneck. The Authority — which will have the technical expertise and on-the-ground knowledge to assess reconstruction needs — must wait for Cabinet to determine what proceeds and in what order. Second, the Bill prescribes no criteria governing how Cabinet determines the official list. There is no requirement that projects be selected on the basis of technical need, vulnerability data, or resilience impact, and no obligation to publish the criteria used or explain why certain projects were prioritised over others. The absence of transparent selection criteria leaves project selection vulnerable to political considerations rather than evidence of need.

Under Dominica's Climate Resilience Act, the Climate Resilience Execution Agency for Dominica was empowered to prepare the national Climate Resilience and Recovery Plan (section 9(f)) and was accountable to the Policy Board for delivering targets within it (section 9(g)). The Board developed and approved the Plan in consultation with the agency and other experts (section 5(b)), giving the operational body a meaningful role in shaping priorities based on technical assessment while the Board retained strategic oversight. The Bill would benefit from a similar division — empowering the Authority to prepare and submit a prioritized project list based on published criteria, with Cabinet endorsing rather than originating the list.

## 2.13 Create Fast Track Procurement Pathways

Despite being a statute born out of a national disaster requiring urgent reconstruction, the Bill contains no provision for fast-track, expedited, or emergency procurement. Section 4(1)(c) provides only a general power to "procure goods, works and services for the implementation of projects, programmes and plans." No distinction is drawn between routine procurement and urgent post-disaster acquisition.

Jamaica's existing legal framework does provide for emergency procurement. Paragraph 1(u) of the First Schedule to the Public Procurement Act exempts goods, works, and services required during situations of emergency or extreme urgency from standard procurement methods. Following Hurricane Melissa, the Office of Public Procurement Policy issued Guidance Note 2/2025 on 12 November 2025 setting out detailed emergency procurement procedures — including permissible methods such as single-source procurement, framework agreements, and restricted bidding — along with publication, reporting, and fiscal responsibility requirements. However, the Bill is entirely silent on the relationship between the Authority and this framework. It does not state whether the

Authority is a "procuring entity" within the meaning of the Public Procurement Act, whether it will operate under the emergency provisions of the First Schedule and the Guidance Note, or whether some other procurement regime is intended. It does not address whether the transition from emergency to normal procurement — a key feature of the Guidance Note — applies to the Authority, or whether the Authority's mandate constitutes an ongoing emergency for the duration of its existence.

Dominica's Climate Resilience Act addressed this directly. Section 14(4) authorised the Climate Resilience Execution Agency for Dominica to procure under the emergency provisions of Dominica's Public Procurement and Contract Administration Act, and section 14(5) deemed the emergency conditions satisfied for the full duration of the Act's operation. This gave the agency an unambiguous legal basis for expedited procurement without case-by-case determinations. The Bill should similarly clarify the Authority's procurement framework — whether by expressly incorporating the emergency provisions of the Public Procurement Act or by establishing a bespoke regime with equivalent accountability safeguards.

### **RECOMMENDATION**

It is therefore recommended that the Bill be amended to clarify the Authority's procurement framework and to establish express provision for fast-track procurement pathways for urgent reconstruction and resilience projects.

At minimum, the Bill should confirm the Authority's status as a procuring entity under the Public Procurement Act and its ability to operate under the emergency provisions of the First Schedule.

Beyond this, consideration should be given to inserting a new provision in section 4 to do the following:

- empowering the Authority to utilise fast-track procurement methods — including pre-positioned framework agreements, limited competitive tendering, and direct contracting where exigent circumstances exist — subject to robust accountability safeguards.
- These should include a requirement that every use of a fast-track method is justified in writing with reference to the specific urgency;
- that all fast-track contracts are published in the public register under section 20 within seven days of award;
- that independent post-audit by the Auditor General is mandatory for every contract above a prescribed threshold;
- that a real-time online dashboard of all procurement decisions is maintained; and
- that statutory anti-fraud and whistleblower protections apply to all procurement activities of the Authority.

## **2.14 Protect Resilience Funds After Dissolution**

Section 25 of the Bill provides that upon dissolution, any moneys held in any bank account in the name of or standing to the credit of the Authority shall be credited to the Consolidated Fund, and all monies which became payable to the Authority shall likewise be paid to the

Consolidated Fund. This means that any unspent reconstruction or resilience funds — whether from Government appropriations, donor contributions, or other sources — will be absorbed into general revenue with no obligation that they continue to be applied to resilience programming. There is no earmarking mechanism, no continuation fund, and no requirement that the Ministry responsible for reconstruction and resilience receive any dedicated allocation from the transferred funds. Section 26 similarly provides that all assets and rights of the Authority vest in the Commissioner of Lands (for real property) and the Accountant General (for other property), but again without any requirement that these assets be deployed in service of ongoing resilience objectives.

This is a significant gap. Reconstruction on the scale contemplated by this Bill will not conclude neatly on the day of dissolution. Projects may be partially completed, maintenance obligations will continue, and the longer-term work of building and sustaining climate resilience will extend well beyond the Authority's lifespan. If residual funds are simply absorbed into general revenue, there is no guarantee that they will be applied to these continuing needs rather than redirected to unrelated government expenditure.

When the Climate Resilience Execution Agency for Dominica was dissolved in 2023, its functions and resources transitioned into a designated resilience unit within government, ensuring continuity of both capacity and financing for the resilience agenda. Dominica's Climate Resilience Act also addressed the position of donor funds specifically: section 16(3) provided that any funds vested in the agency immediately before the Act's expiration were to be returned to the contributing donor or international organisation, unless the Government had entered into a written agreement for residual funds to be otherwise utilised. This protected donor intent and maintained accountability for externally sourced resilience financing — a safeguard entirely absent from the Bill.

#### **Legislative Proposal – Amend Section 4**

- a) Name a permanent successor “Climate and Disaster Resilience Unit” in the Act.
- b) Require earmarking of residual funds for resilience programming upon dissolution, rather than absorption into the Consolidated Fund.
- c) Model the transition on CREAD’s 2023 dissolution, which ensured continuity of resilience functions and financing.

## **2.15 Modernize Project Register**

Section 20 of the Bill requires the Authority to keep a register of approved reconstruction and resilience projects, recording the name and description of each approved project, the applicable approved programmes and plans, and any other particulars as may be prescribed. The register is to be open to inspection by any member of the public (section 20(2)), and the Authority must cause a copy to be published in the Gazette at such times and in such manner as may be prescribed (section 20(3)). However, the register is limited to projects that have already been approved by Cabinet. It does not capture pipeline projects under consideration, projects awaiting approval, or projects that were considered and rejected. There is no requirement that the register show how projects are sequenced,

what criteria were used to prioritise them, what stage of implementation each project has reached, or what funds have been expended against each. And while Gazette publication is required, there is no obligation to maintain a live, publicly accessible online register — a notable omission for a reconstruction programme of this scale in 2026.

The Climate Resilience Execution Agency for Dominica operated under a more comprehensive transparency framework. Section 11(4) of the Climate Resilience Act required the agency to provide "publicly accessible web-based and other monitoring of the progress of projects." This went well beyond a static register of approved projects — it required real-time public visibility into how reconstruction and resilience work was progressing. The agency's planning framework, built around the national Climate Resilience and Recovery Plan, incorporated pipeline projects, sequencing, and prioritisation criteria, giving the public and oversight bodies a comprehensive view not only of what had been approved but of what was coming, in what order, and why. The Bill's register provision, while a useful starting point, falls short of this standard and should be strengthened to require an online, regularly updated register showing project status, sequencing, prioritisation rationale, contract awards, and expenditure against each project.

It is therefore recommended that section 20 be amended to require the Authority to establish and maintain a live, publicly accessible online register — in addition to the Gazette publication already required — showing not only approved projects but also pipeline projects under consideration, the criteria used to prioritise and sequence projects, contract awards and the names of contractors, key project milestones and delivery timelines, current implementation status, and expenditure against each project. This would bring the Bill into line with the standard set by section 11(4) of Dominica's Climate Resilience Act, which required publicly accessible web-based monitoring of project progress, and would reflect reasonable public expectations of transparency for a reconstruction programme of this scale and national significance.

## **2.16 Remove Redundant Provisions**

Section 9 of the Bill provides that the Authority shall furnish the Minister with such returns, accounts, and other information as the Minister may require with respect to the activities of the Authority, and shall afford the Minister facilities for verifying such information in such manner and at such times as the Minister may reasonably require. Section 14 provides that the Authority shall furnish the Minister with such returns, accounts, and other information as the Minister may require with respect to the property and activities of the Authority, and shall afford him facilities for verifying such information at such times and in such manner as the Minister may require. The only substantive difference between the two provisions is that section 14 adds the word "property" alongside "activities." This near-verbatim duplication creates unnecessary confusion in the operative text. It is unclear whether the two sections are intended to serve different purposes, whether they impose separate obligations, or whether non-compliance with one but not the other would carry different consequences. If the intention is to ensure that the Minister's power to require information extends to both the Authority's property and its activities, the simpler course is to amend section 9 to include that reference and delete section 14 entirely.

It is therefore recommended that section 14 be deleted and section 9 be amended to read:

***"The Authority shall furnish the Minister with such returns, accounts and other information as the Minister may require with respect to the property and activities of the Authority, and shall afford the Minister facilities for verifying such information in such manner and at such times as the Minister may reasonably require."***

## 2.17 Review Mechanism

Section 22 of the Bill establishes two review mechanisms on different timelines. Section 22(1) provides for a parliamentary committee review no later than five years after commencement, while section 22(3) requires the Auditor General to conduct an audit and evaluation of operations and project progress no later than four years after the appointed day. The two exercises are not linked in the text — there is no requirement that the Auditor General's findings be made available to the parliamentary committee or inform its review.

More fundamentally, the timeline is poorly suited to a temporary statute. Section 29 provides that the Act continues in force only until the day after dissolution, and the dissolution date is set by ministerial notice. If the Minister appoints a dissolution date before the five-year mark, the parliamentary review would never take place. Even if the Authority operates for its full intended period, a review at five years leaves very little time for recommendations to be acted upon before dissolution. Dominica's Climate Resilience Act took a simpler approach — a fixed four-year lifespan with a one-year extension by Order subject to negative resolution of the House — providing a predictable sunset that could be debated in Parliament.

It is therefore recommended that the review timeline be aligned with the dissolution trigger, ensuring that both the Auditor General's audit and the parliamentary committee review occur sufficiently in advance of dissolution for their findings to inform the transition. The Auditor General's report should be expressly required to be laid before Parliament and made available to the review committee. A final "Lessons Learned and Legacy Report" should be mandatory before dissolution, incorporating the audit findings and recommendations for the successor body.

### 3 Summary of Recommendations

1. Expand the preamble with commitments to climate resilience, transparency, gender equality, vulnerable populations, and community engagement.
2. Add binding statutory objects in Part I, including the "build back better" principle and systemic resilience.
3. Expand "disaster" beyond Hurricane Melissa, include the Integrity Commission, and require parliamentary approval for definitional changes.
4. Name a successor resilience unit, earmark residual funds, and mandate a "Lessons Learned" report before dissolution.
5. Establish a multi-stakeholder Resilience Policy Board, merit-based CEO selection, and statutory recognition for JAMRROC.
6. Restrict ministerial directions to high-level policy, require Gazette publication, and mandate parliamentary tabling within seven sitting days.
7. Add anti-fraud assurance systems, a resilience policy advisory mandate, and coordination authority over other ministries.
8. Insert a primacy clause designating the Authority as lead agency with mandatory cooperation from all public bodies.
9. Narrow secrecy provisions, preserve Protected Disclosures Act rights, add the Integrity Commission to permitted disclosure recipients, and require web-based project monitoring.
10. Require public consultations, twice-yearly stakeholder forums, and statutory protections for gender equality and vulnerable groups.
11. Limit indemnification to civil proceedings only and insert conflict-of-interest provisions with criminal penalties.
12. Mandate environmental and social impact assessments with public comment periods before Cabinet approval of major projects.
13. Empower the Authority to prepare and submit its own prioritised project list for Cabinet endorsement.
14. Clarify the Authority's status under the Public Procurement Act and establish expedited procurement with robust accountability safeguards.
15. Earmark residual funds for resilience programming upon dissolution rather than absorption into the Consolidated Fund.

16. Convert the project register to a live, publicly accessible online register showing project status, sequencing, contract awards, and expenditure.
17. Delete section 14 and consolidate its content into section 9.
18. Align the parliamentary review and Auditor General audit timelines with the dissolution trigger and mandate a final legacy report.