

**2017**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**City Renewal Authority and Suburban Land Agency Bill 2017**

**SUPPLEMENTARY EXPLANATORY STATEMENT**

**Presented by  
Mr Andrew Barr MLA  
Chief Minister**

## **SUPPLEMENTARY EXPLANATORY STATEMENT**

### **Introduction**

This supplementary explanatory statement relates to Government amendments (the Amendment Bill) to the City Renewal Authority and Suburban Land Agency Bill 2017 (Bill) as presented to the Legislative Assembly. The Amendment Bill makes minor Government amendments to the City Renewal Authority and Suburban Land Agency Bill 2017 (the Bill) which was presented to the ACT Legislative Assembly on 30 March 2017. The supplementary explanatory statement has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Legislative Assembly.

The supplementary explanatory statement must be read in conjunction with the Amendment Bill. It is not, and is meant to be, a comprehensive description of the Amendment Bill.

The Amendment Bill includes minor Government amendments to clarify provisions of the original Bill and to insert provisions which further promote the intent of the Bill.

### **Overview of the Amendment Bill**

The Objects of the Act at clause 5 of the Bill include promoting development that is environmentally sustainable. The Amendment Bill makes minor amendments to ensure that the Objects of the Act are reflected expressly in the functions of the City Renewal Authority (CRA) and the Suburban Land Agency (SLA).

Amendments 2, 6, 11, 12, 13 and 18 of the Amendment Bill amend sections 9, 20, 37, 38 and 44 of the Bill to directly link the functions of the CRA and SLA and their boards to the Objects of the Act by including references to sustainable urban renewal and environmentally sustainable development.

For greater clarity, the Amendment Bill inserts examples into clause 16 of the Bill of the requirements and priorities the minister may include in the CRA's Statement of Expectations.

The Amendment Bill amends clauses 20 and 44 of the Bill relating to the size and composition of the CRA and SLA Boards. Amendments 4 and 15 increase the size of the CRA and SLA boards and specifies that they may have at least three but not more than five members in addition to the Chairs and the Deputy Chairs. This will assist in ensuring good governance of the entities through an appropriate breadth of board membership and experience, and further ensure their continued functioning where a member removes themselves from deliberations on a particular issue or is otherwise unable to participate in a particular discussion or Board meeting.

Amendments 8 and 19 of the Amendment Bill introduce new provisions to clauses 20 and 44 of the Bill clarifying the existing intention in relation to the CRA and SLA Board membership by explicitly requiring the Minister to, as far as practicable,

ensure a mix of discipline and expertise from the prescribed areas exists among the board members.

Affordable housing is a key challenge for governments across Australia, including in the ACT. The Bill includes encouraging and promoting suburban development that supports affordable housing as one of the SLA's objects. Similarly, one of the functions of the SLA is to increase the supply of affordable and community housing. The Amendment Bill inserts 'affordable housing, community housing and public housing' as one of the areas of expertise for members of both the CRA and SLA Boards.

The Amendment Bill amends clause 20(2)(e) of the Bill to rephrase one of the disciplines and areas of expertise that board members must have to 'environmentally sustainable development' rather than 'environmental sustainability'.

The Amendment Bill clarifies that board members of both the CRA and SLA must not be public servants. This amendment is as a consequence of increasing the size of the CRA and SLA Boards to between five and seven members. The *Financial Management Act 1996* provides that if a territory authority board has a maximum size of more than six members then up to two public servants may be appointed. To maintain the independence of both the CRA and SLA Boards, the Amendment Bill expressly prohibits public servants from being appointed to the boards. This mirrors the approach already contained in the bill in relation to the chief executive officers of the CRA and SLA who are not members of the respective boards.

A key element of the Bill is robust governance arrangements applying to the boards and their members. Clause 19 of the Bill provides a duty of good conduct for CRA Board members exercising their functions. The Amendment Bill inserts a provisions mirroring that section and explicitly stating the duty of good conduct applies to SLA Board members. This provision, as clause 19 of the Bill does, operates to supplement the duties of territory authority board members set out in the *Financial Management Act 1996*.

Consequential amendment 1.9 of the Bill amends section 229(4)(c) of the *Planning and Development Act 2007* to remove the reference to a Land Development Agency and restricting the class of people who may be appointed to an environmental impact statement (EIS) inquiry panel. However, the CRA and SLA were not then inserted into section 229(4). Amendment 21 of the Amendment Bill, in effect, continues the current practice by inserting 'a member of the City Renewal Authority's staff' and 'a member of the Suburban Land Agency's staff' into section 229(4) meaning that the staff of those entities are unable to be appointed to an EIS inquiry panel.

## Provisions in Detail

1

### **Clause 7 proposed new note**

#### **Page 4, line 12-**

The amendment inserts a new note at clause 7 of the Bill referring to relevant sections of the *Financial Management Act 1996* to clarify that if the CRA is prescribed by the financial management guidelines it will be a territory authority for the purposes of the *Financial Management Act 1996*.

2

### **Clause 9(1)(g)**

#### **Page 5, line 25-**

This amendment inserts 'sustainable' into the functions of the CRA so that it may 'support high quality design, planning and delivery of *sustainable* urban renewal.'

3

### **Clause 16, (1) proposed new examples**

#### **Page 9, line 24-**

This amendment inserts a list of non-exhaustive examples of the requirements or priorities that the minister may include in the CRA's Statement of Expectations.

4

### **Clause 20(1)(c)**

#### **Page 12, line 1-**

This amendment provides that, in addition to the chair and deputy chair of the CRA, the board is to comprise at least 3, but not more than 5 expert members.

5

### **Clause 20(2)**

#### **Page 12, line 6-**

This amendment introduces minor clarification to the wording of the provision to reference the 'disciplines and areas of expertise' prescribed in relation to membership of the CRA board.

6

### **Clause 20(2)(e)**

#### **Page 12, line 11-**

This amendment rephrases the disciplines and areas of expertise of members of the CRA Board, changing 'environmental sustainability' to 'environmentally sustainable development'.

7

### **Proposed new clause 20(2)(i)**

#### **Page 12, line 14-**

This amendment inserts a new area of expertise for members of the CRA Board to include affordable housing, community housing and public housing.

**8**

**Proposed new clause 20(2A)**

**Page 12, line 14-**

This amendment rephrases the consideration the minister must give to the composition of the CRA Board by requiring the minister to ensure, as far as practicable, that each discipline and area of expertise mentioned in s 20(2) is represented among the appointment members.

**9**

**Proposed new clause 20(2B)**

**Page 12, line 14-**

The *Financial Management Act 1996* provides that if a territory authority board has six or more members then public servants may be appointed to the board. As a consequence of increasing the size of the CRA Board through amendment 4 this amendment 8 expressly provides that a board member of the CRA must not be a public servant. This ensures the continuing independence of the board and mirrors the approach taken in the Bill under which the chief executive officer is not a member of the board.

**10**

**Clause 36 proposed new note**

**Page 21, line 5-**

The amendment inserts a new note at clause 36 of the Bill referring to relevant sections of the *Financial Management Act 1996* to clarify that if the SLA is prescribed by the financial management guidelines it will be a territory authority for the purposes of the *Financial Management Act 1996*.

**11**

**Proposed new clause 37(a)(ii)(E)**

**Page 21, line 15-**

This amendment clarifies the objects of the SLA and inserts a new provision to expressly reference to suburban development that supports environmental sustainability.

**12**

**Proposed new clause 37(a)(v)**

**Page 21, line 19-**

This amendment clarifies the objects of the SLA and inserts a new provision to expressly reference the role of the SLA in encouraging and promoting social and environmental sustainability.

**13**

**Clause 38(1)(d)**

**Page 22, line 8-**

This amendment clarifies one of the functions of the SLA is to carry out the development of land in a manner that is environmentally sustainable.

**14**

**Proposed new clause 43A**

**Page 24, line 27-**

This amendment inserts a duty of good conduct of the members of the SLA Board. Individual board members will owe a duty to the minister when acting as a board member to act in good faith, not to pursue personal interests at the expense of the agency's interests, not to use board membership to gain personal advantage, and not to cause detriment to the agency or undermine the reputation of the agency. This provision, as s19 of the Bill does, operates to supplement the duties of territory authority board members set out in the *Financial Management Act 1996*.

**15**

**Clause 44(1)(c)**

**Page 25, line 5-**

This amendment provides, that in addition to the chair and deputy chair of the SLA, the board is to comprise at least 3, but not more than 5 expert members.

**16**

**Clause 44(2)**

**Page 25, line 9-**

This amendment introduces minor clarification to the wording of the provision to reference the 'disciplines and areas of expertise' prescribed in relation to membership of the SLA board.

**17**

**Proposed new clause 44(2)(g)**

**Page 25, line 15-**

This amendment inserts a new area of expertise for members of the SLA Board to include affordable housing, community housing and public housing.

**18**

**Proposed new clause 44(2)(h)**

**Page 25, line 15-**

The amendment inserts a new area of expertise for members of the SLA Board to include environmentally sustainable development.

**19**

**Proposed new clause 44(3)**

**Page 25, line 15-**

This amendment rephrases the consideration the minister must give to the composition of the SLA Board by requiring the minister to ensure, as far as practicable, that each discipline and area of expertise mentioned in s 44(2) is represented among the appointment members.

**20**

**Proposed new clause 44(4)**

**Page 25, line 15-**

The *Financial Management Act 1996* provides that if a territory authority board has six or more members then public servants may be appointed to the board. As a consequence of increasing the size of the SLA Board (through amendment 15) this amendment expressly provides that a board member of the SLA must not be a public servant. This ensures the continuing independence of the board and mirrors the approach taken in the Bill under which the chief executive officer is not a member of the board.

**21**

**Schedule 1, part 1.4**

**Amendment [1.9]**

**Page 37, line 1-**

This amendment inserts a member of the CRA and SLA staff into section 229(4) of the *Planning and Development Act 2007* prohibiting staff of either entity from being appointed to an environmental impact statement inquiry panel.