

City Renewal Authority and Suburban Land Agency (Suburban Land Agency Chair) Appointment 2017

Disallowable instrument DI2017–120

made under the

City Renewal Authority and Suburban Land Agency Act 2017, s45 (Establishment of governing board for agency) (see also Financial Management Act 1996, s78 and s79)

EXPLANATORY STATEMENT

This explanatory statement relates to the *City Renewal Authority and Suburban Land Agency (Suburban Land Agency Chair) Appointment 2017* as made by the Chief Minister and presented to the Legislative Assembly. It has been prepared in order to assist the reader of the instrument and to help inform debate on it. It does not form part of the instrument and has not been endorsed by the Legislative Assembly.

Overview

Section 37 of the *City Renewal Authority and Suburban Land Agency Act 2017* (the Act) establishes the Suburban Land Agency (SLA). Section 45 of the Act establishes the governing board for the SLA. For the purposes of the *Financial Management Act 1996* (FMA) the SLA is a territory authority, and therefore Parts 8 and 9 of that Act apply. Subsection 78(7)(b) of the FMA provides that an appointment of a member to a governing board of a territory authority is an appointment under the provision of the establishing Act that establishes the governing board. In this case, s45 of the Act is the relevant provision of the establishing Act.

Sections 78 and 79 of the FMA provide for the appointment of authority boards generally as well as the appointment of a Chair and a Deputy Chair. The Minister with responsibility for a territory authority may appoint the chair of the authority (s79 of the FMA). The Minister must apply the criteria in s78 of the FMA and must, as far as practicable, ensure that each discipline and area of expertise mentioned in s48(2) of the Act is represented among the appointed members. A member must have knowledge of and experience in at least one of the disciplines and areas of expertise prescribed in s48(2) of the Act.

This instrument appoints Mr John Fitzgerald as Chair of the SLA Board for a period of three (3) years. Mr Fitzgerald has extensive public and private sector experience in governance, strategy development and infrastructure delivery. His key skills and experience include:

- Chair of the Canberra Light Rail Project Board
- Provision of strategic commercial, financial and risk management advice to the Victorian Government
- Major infrastructure projects in Victoria
- Urban renewal, including experience as the Chair of the Sydney International Convention, Exhibition and Entertainment Centre Project Board
- Director Barangaroo Delivery Authority
- Director Victorian Funds Management Corporation.

Considered against the terms of the Act, Mr Fitzgerald has knowledge or experience across the following disciplines:

- Civil engineering and civil works
- Property development
- Law, public administration, and governance.

Division 19.3.3 of the *Legislation Act 2001* (Legislation Act) applies as Mr Fitzgerald is not a public servant, is appointed for longer than six (6) months and will have functions beyond advising the Minister. In accordance with s228 of the Legislation Act, the Chief Minister consulted the Standing Committee on Planning and Urban Renewal by letter dated 26 May 2017 and requested the Standing Committee make a recommendation about the proposed appointment. On 6 June 2017, the Chief Minister received a request from the Standing Committee for additional information. The Chief Minister provided the additional information on 7 June 2017. The Standing Committee responded on 19 June 2017 advising that it had no recommendations to make in relation to the proposed appointment. The appointment is a disallowable instrument by operation of s229 of the Legislation Act.

The instrument is not likely to impose appreciable costs on the community, or part of the community and therefore a regulatory impact statement (RIS) is not required (Legislation Act, s34). Remuneration for the SLA Board is set by Determination 14 of 2017 of the ACT Remuneration Tribunal and is met by the SLA budget. Further, a RIS is unnecessary, in accordance with the Legislation Act (s36(1)(b)), as the disallowable instrument does not operate to the disadvantage of anyone by adversely affecting the person's rights, or imposing liabilities on the person.

The instrument is consistent with the Legislative Assembly's Scrutiny of Bills Committee Terms of Reference. In particular, the instrument:

1. Is made under a ministerial power found in the Act. See s45 of the Act and ss 78 and 79 of the FMA.
2. Is in accordance with the general objects of the Act under which it is made. The appointment of a Chair to the Board of the SLA is integral to its operation and achieving the objects of the Act.
3. Does not unduly trespass on rights previously established by law.
4. Does not make rights, liberties and/or obligations unduly depended upon non-reviewable decisions. The instrument enables formal appointment of the Chair of the SLA Board.

Outline of provisions

Section 1 – Name of instrument

This section names the instrument.

Section 2 – Commencement

This section provides for the instrument's commencement.

Section 3 – Appointment

By this section, the Minister appoints Mr John Fitzgerald as the Chair of the SLA Board for a period of three (3) years, which is consistent with s78(7) of the FMA.

Section 4 – Application of subsection 81(6) of the *Legislation Act 2001*

This section declares that subsection 81(6) of the Legislation Act applies meaning that the appointment may take effect prior to the commencement of the Act.