

**2018**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**CITY RENEWAL AUTHORITY AND SUBURBAN LAND AGENCY  
AMENDMENT BILL 2018**

**EXPLANATORY STATEMENT**

**Circulated by authority of  
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Minister for Housing and Suburban Development**

## EXPLANATORY STATEMENT

### Introduction

This explanatory statement relates to the City Renewal Authority and Suburban Land Agency Amendment Bill 2018 (the bill). It has been prepared in order to assist the reader of the bill. It does not form part of the bill and has not been endorsed by the Legislative Assembly.

This statement must be read in conjunction with the bill. It is not, and is not meant to be, a comprehensive description of the bill. What is said about a provision is not taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

### Background

The *City Renewal Authority and Suburban Land Agency Act 2017* (the Act) established the City Renewal Authority (Authority) and the Suburban Land Agency (Agency) on 1 July 2017. The Authority and Agency were established to operate in place of the Land Development Agency (LDA).

The majority of the assets, contracts and liabilities of the former LDA were transferred to the Authority or the Agency via the following instruments under Division 9.6 of the *Financial Management Act 1996* (FMA):

- *Financial Management (Land Development Agency Transfer to City Renewal Authority) Declaration 2017* (NI2017-342); and
- *Financial Management (Land Development Agency Transfer to Suburban Land Agency) Declaration 2017* (NI2017-343)

However, former LDA assets, contracts and liabilities not listed in these instruments automatically transferred to the Territory (represented by the Environment, Planning and Sustainable Development Directorate (the Directorate)) under Division 9.7 of the FMA.

Following the transfers to the new entities, a number of assets, contracts and liabilities have been identified that automatically transferred to the Territory. In addition, the Territory is legally responsible for liabilities under contracts settled by the LDA, for example land sales and civil works, where the statutory period of limitation has not expired. This presents an unknown and unquantifiable liability for the Territory.

The Directorate worked with the ACT Government Solicitor and the Parliamentary Counsel's Office on options to resolve this issue. An interim solution was adopted whereby the Directorate transferred management (not legal) responsibility of key contracts transferred under division 9.7 of the FMA to the Authority or Agency, to enable the projects to be progressed.

A transitional regulation was then drafted; however, advice was received that any such regulation would have the effect of extensively modifying existing Territory laws, beyond the scope of the transitional powers in the Act, and as such it was preferable to resolve this through amendment legislation.

The proposal to rectify this through amendment legislation is recommended as the most comprehensive and transparent solution. The proposed legislation will provide certainty to land entities, stakeholders, Government and the wider community by in effect deeming all relevant assets, contracts and liabilities (including any matters that have not yet manifested or being discovered) to have been transferred as intended on 30 June 2017.

## **Overview**

The purpose of this bill is to correctly transfer former LDA assets, contracts and liabilities to the Authority or Agency as appropriate.

The provisions have the effect that all assets, contracts and liabilities of the former LDA, which transferred automatically under division 9.7 of the FMA to the Territory and that should have been included in the original transfer instruments, are retransferred from the Territory to the Authority or Agency as appropriate.

The bill sets out general criteria for determining whether the asset, contract or liability transfers to the Authority or the Agency, by reference to the city renewal precinct.

The bill applies from 1 July 2017. Although it is retrospective, it does not have a prejudicial operation and does not cause detriment to any party, but rather clarifies the responsible entity for individuals and organisations conducting business with the Authority and Agency. The bill does not operate adverse to the rights of individuals or impose additional liabilities on individuals.

The bill has no financial impact as it merely substitutes parties to a contract, it does not change the contractual obligations. To provide further clarification, the bill states that the transfers are made 'without a conveyance, transfer or assignment.' It also has no taxation implications.

## **Human Rights**

The Scrutiny of Bills Committee's terms of reference requires consideration of human rights, among other matters. In this case, no human rights are impacted.

## **Outline of Provisions**

### **Clause 1 Name of Act**

This clause names the Act.

### **Clause 2 Commencement**

This clause provides for the commencement of the bill.

### **Clause 3 Legislation amended**

This clause provides for legislation that is to be amended.

### **Clause 4 New part 12**

This clause inserts new sections into the *City Renewal Authority and Suburban Land Agency Act 2017*. The new sections are discussed below.

### **Section 210 Definitions—pt 12**

This section defines *city renewal precinct*, *connected to the city renewal precinct* and *land development agency* for the purposes of the new sections of the Act.

### **Section 211 Transfer of assets—authority**

This section retransfers assets connected to the city renewal precinct, which automatically transferred to the Territory under division 9.7 of the FMA, to the Authority as at midnight on 30 June 2017.

### **Section 212 Transfer of contractual rights and liabilities—authority**

This section retransfers contractual rights and liabilities connected to the city renewal precinct, which automatically transferred to the Territory under division 9.7 of the FMA, to the Authority as at midnight on 30 June 2017.

### **Section 213 Transfer of liabilities—authority**

This section re-transfers liabilities connected to the city renewal precinct, which automatically transferred to the Territory under Division 9.7 of the FMA, to the Authority as at midnight on 30 June 2017.

### **Section 214 Transfer of assets—agency**

This section re-transfers assets not connected to the city renewal precinct, which automatically transferred to the Territory under division 9.7 of the FMA, to the Agency as at midnight on 30 June 2017.

**Section 215 Transfer of contractual rights and liabilities—agency**

This section retransfers contractual rights and liabilities not connected to the city renewal precinct, which automatically transferred to the Territory under division 9.7 of the FMA, to the Agency as at midnight on 30 June 2017.

**Section 216 Transfer of liabilities—agency**

This section re-transfers liabilities not connected to the city renewal precinct, which automatically transferred to the Territory under division 9.7 of the FMA, to the Agency as at midnight on 30 June 2017.

**Section 217 Expiry—pt 12**

This clause states that the bill expires on the day it commences.

**Clause 5 New schedule 2**

This clause lists items that will stay with the Directorate and will not be subject to the operation of this Act. This items mainly relate to Asset Recycling Initiative assets that are currently managed by the Directorate.