

Australian Capital Territory

# City Renewal Authority and Suburban Land Agency (Agency Board Chair) Appointment 2020

Disallowable instrument DI2020–164

made under the

**City Renewal Authority and Suburban Land Agency Act 2017, s 45 (Establishment of governing board for agency)**

## EXPLANATORY STATEMENT

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This explanatory statement relates to the *City Renewal Authority and Suburban Land Agency (Agency Board Chair) Appointment 2020* as made by the Minister for Housing and Suburban Development 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.

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

Section 78 of the FMA provides for the appointment of governing boards generally. The Minister with responsibility for a territory authority may appoint members of the authority. The Minister must apply the criteria in section 78 of the FMA and must, as far as practicable, ensure that each discipline and area of expertise mentioned in section 48 (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 area of expertise prescribed in section 48 (2) of the Act.

This instrument appoints Mr John Fitzgerald to be the chair of the board for the period 23 June 2020 to 22 June 2022.

Mr Fitzgerald has extensive experience in infrastructure policy and delivery, public transport and urban renewal. He has a strong background in governance, finance and

commercial negotiations. Until recently he was a Specialist Adviser to KPMG and CEO of Infrastructure Australia, leading the organisation through the production of the Australian Infrastructure Audit.

Mr Fitzgerald's previous positions include chair of the NSW Government's Sydney International Convention, Exhibition and Entertainment Precinct project, Director Port of Melbourne Corporation and Infrastructure Partnerships Australia.

Until 2011, Mr Fitzgerald held the position of Deputy Secretary of the Victorian Department of Treasury and Finance, before which he had an investment banking background.

Mr Fitzgerald holds a Master of Public Infrastructure (Research) from the University of Melbourne and is a Fellow of the Australian Institute of Company Directors and the Institute of Public Administration Australia (Victoria).

Section 48 (4) of the Act provides that a member of the board must not be a public servant. Mr Fitzgerald is not a public servant.

Division 19.3.3 of the *Legislation Act 2001* applies as Mr Fitzgerald is not a public servant, is appointed for longer than 6 months and will have functions beyond advising the Minister. In accordance with section 228 of the Legislation Act, the Standing Committee on Planning and Urban Renewal has been consulted and noted the appointment. The appointment is a disallowable instrument by operation of section 229 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 (a **RIS**) is not required (Legislation Act, section 34), Further, a RIS is unnecessary, in accordance with the Legislation Act (section 36 (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.

Remuneration for the board is set by determination 13 of 2019 of the ACT Remuneration Tribunal and is met by the agency budget.

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 section 45 of the Act and section 78 of the FMA).
2. Is in accordance with the general objects of the Act under which it is made. The appointment of members to the board 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 dependent on non-reviewable decisions. The instrument enables formal appointment of a member of the board.