

Australian Capital Territory

Heritage (Council Member) Appointment 2023 (No 9)

Disallowable instrument DI2023-47

made under the

Heritage Act 2004, section 17 (Members of council)

EXPLANATORY STATEMENT

This explanatory statement relates to the *Heritage (Council Member) Appointment 2023 (No 9)* as made by the Minister for Heritage and presented to the Legislative Assembly. It has been prepared 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 16 of the *Heritage Act 2004* (the *Act*) establishes the ACT Heritage Council (the *council*). Members of the council, including the Chairperson and Deputy Chairperson, are appointed by the Minister under section 17 of the Act. Section 17 (4) of the Act specifies that:

- Three (3) members may be appointed as public representatives representing either the Aboriginal community, the community, or the property ownership, management, and development sector, and
- Six (6) members may be appointed as experts with knowledge and experience in at least one of the disciplines of architecture, archaeology, history, landscape architecture, Aboriginal history, Aboriginal culture, engineering, town planning, urban design, nature conservation, and object conservation.

The Chair and Deputy Chair are also to be appointed by the Minister from the appointed membership (section 17 (2)).

Appointment

This instrument appoints Ms Rachael O'Neill as a member of the council until 30 April 2024. She is appointed as the public representative representing the property ownership, management and development sector.

Ms O'Neill offers over 26 years' experience as a town planner with local councils, including working on projects that require consideration and protection of indigenous artefacts. These projects required her to work closely with cultural heritage consultants.

Ms O’Neill has run her own consultancy firm, O’Neill Consulting, since May 2014. Her firm has prepared planning reports for residential, mixed-use, commercial, education and heritage applications, plans and submissions. She has worked on projects that require consideration and protection of indigenous artefacts and worked closely with cultural heritage consultants.

She has experience as a member of planning and building boards, including as a current member of Planning Panels Victoria where she is also the Deputy Chair of the Panel and Advisory Committee, and Victoria’s Building Appeals Board. Ms O’Neill has a Bachelor of Applied Science (Planning).

Ms O’Neill is not a public servant.

Consultation

Division 19.3.3 of the *Legislation Act 2001* (the **Legislation Act**) applies as Ms O’Neill 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 Environment, Climate Change and Biodiversity has been consulted and noted the appointment. The appointment is a disallowable instrument by operation of section 229 of the Legislation Act.

Regulatory impact statement

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

Remuneration for the council is set by the *ACT Remuneration Tribunal under Determination 13 of 2022 (Part-time Public Office Holders)* and is met by Environment, Planning and Sustainable Development Directorate’s budget.

Scrutiny Committee terms of reference

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 17 of the Act).
2. Is in accordance with the general objects of the Act under which it is made.
The appointment of a member to the council is integral to the operation of the council 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 council.