

City Renewal Authority and Suburban Land Agency (Agency Board Member) Appointment 2022 (No 2)

Disallowable instrument DI2022-74

made under the

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

EXPLANATORY STATEMENT

This explanatory statement relates to the *City Renewal Authority and Suburban Land Agency (Agency Board Member) Appointment 2022 (No 2)* 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.

Overview

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 of the establishing Act.

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 David Webster as an expert member of the agency board until 22 May 2025.

Mr Webster is currently the Chief Executive Officer, Infrastructure and Project Financing Authority, within the Commonwealth Treasury.

Mr Webster spent over 6 years as Deputy Secretary, Commercial Division of the Victorian Department of Treasury and Finance, providing high level and innovative commercial, financial and risk management advice to the Victorian Government. Prior to this, Mr Webster had various finance and infrastructure related roles in the private sector in both the United Kingdom and Australia, including at the Royal Bank of Scotland and Bank of America. Mr Gibson also served as director of Infrastructure Partnerships Australia and the State Electricity Commission of Victoria.

Considered against the terms of the Act, Mr Webster has knowledge of and experience in finance, auditing, public administration and governance.

Section 48 (4) of the Act provides that a member of the board must not be a public servant. Mr Webster is not a public servant, as defined by the *Legislation Act 2001*, which provides that **public servant** means a person employed in the ACT Public Service.

Division 19.3.3 of the Legislation Act applies as Mr Gibson is not an ACT 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, Transport and City Services 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 under section 34 of the Legislation Act. Further, a RIS is unnecessary, in accordance with section 36 (1) (b) of the Legislation Act, as the 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 the ACT Remuneration Tribunal under Determination 13 of 2021 (Part-time Public Office Holders) 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 of the Agency 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 a member to the Agency Board.