

Australian Capital Territory

Heritage (Council Member) Appointment 2023 (No 8)

Disallowable instrument DI2023-46

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 8)* 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 Mr Duncan Marshall AM as an expert member of the council until 30 April 2024. Mr Marshall's expertise is in architecture.

Mr Marshall is a leading Australian and international practitioner in heritage conservation. He is an architect with 40 years' experience in heritage conservation across government and the private sector, including with the Australian Heritage Commission, as General Secretary of the Australian Council of National Trusts and as a heritage consultant since 1993.

He has been responsible for multiple conservation planning projects of historic buildings and precincts in the ACT including Old Parliament House, Lanyon and Cuppacumbalong Homestead Precincts, CSIRO Black Mountain, and St John's Church, Reid.

Mr Marshall has held many boards and committee positions. He was a member of the council in 2011 and Chair in 2012-15. He was the former Vice President, Honorary Secretary, Treasurer and Executive Committee member of Australia ICOMOS. He was a member of the Community Advisory Committee of the Murray Darling Basin Commission. In 2020 Mr Marshall was made a Member of the Order of Australia for significant service to heritage conservation.

Mr Marshall is not a public servant.

Consultation

Division 19.3.3 of the *Legislation Act 2001* (the **Legislation Act**) applies as Mr Marshall 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 the member of the council.