



Queensland

Aboriginal Land Amendment Regulation (No. 3) 2012

Explanatory Notes for SL 2012 No. 173

made under the

Aboriginal Land Act 1991

General outline

Short title

Aboriginal Land Amendment Regulation (No. 3) 2012.

Authorising law

The Aboriginal Land Amendment Regulation amends the *Aboriginal Land Regulation 2011* to declare an area of available State land as transferable land.

Section 10(1)(e) of the *Aboriginal Land Act 1991* (Act) provides for available State land to be declared by regulation to be transferable land.

Policy objectives and the reasons for them

The Aboriginal Land Amendment Regulation amends the *Aboriginal Land Regulation 2011* to declare an area of available State land as transferable land.

The Cape York Peninsula (CYP) Tenure Resolution Program is a planned, bioregional approach to returning ownership and management of land on Cape York Peninsula to local Aboriginal people, while ensuring that

outstanding environmental values are protected in national parks and nature refuges. The Department of Aboriginal and Torres Strait Islander and Multicultural Affairs implements the program.

Under this program, the State converts the tenure of identified State lands to Aboriginal freehold land and creates jointly managed national parks (Cape York Peninsula Aboriginal land) over part of the Aboriginal freehold land.

The subject lands are known as Batavia Downs and are located approximately 160 kilometres north of Coen. They are proposed to be granted as Aboriginal freehold land. Three of the areas are proposed to be dedicated as national parks (Cape York Peninsula Aboriginal land).

The following table shows the areas to be regulated as transferable and the proposed final tenure.

Lot on Plan description	Area (about)	Previous tenure	Current tenure	Proposed final tenure	Local name
Lot 22 SP241405	41 410 ha	Reserve	USL	NP(CYPAL)	Batavia
Lot 4 SP241405	9563 ha	Reserve	USL	NP(CYPAL)	Batavia
Lot 5 SP241405	5064 ha	Reserve	USL	NP(CYPAL)	Batavia
Lot 2 SP241405	185600 ha	Reserve	USL	ALA Freehold	Batavia

Achievement of policy objectives

The Subordinate legislation will achieve its objective by the regulation of the subject land as transferable land to allow for the grant of freehold title to Aboriginal people under the Act.

The subject land has significant cultural heritage values for Aboriginal people particularly concerned with the land and their ancestors and descendants. Following appropriate consultation the Minister administering the *Aboriginal Land Act 1991* (the Act) has given approval for the land to be made available to Aboriginal people in terms of the Act.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the *Aboriginal Land Act 1991*, which provides for the grant of land as Aboriginal land.

Inconsistency with policy objectives of other legislation

The regulation is consistent with the policy objectives of other legislation. The regulation will enable subsequent transfer of Aboriginal freehold land under the *Aboriginal Land Act 1991* and the *Land Act 1994*, as well as creation of national park (Cape York Peninsula Aboriginal land), and nature refuges under the *Nature Conservation Act 1992*.

Benefits and costs of implementation

The benefits of the regulation are that it will allow for the grant of land as Aboriginal land.

Implementing the regulation will have negligible costs.

Consistency with fundamental legislative principles

The regulation is consistent with fundamental legislative principles. It complies with relevant requirements of section 5(5) of the *Legislative Standards Act 1992*, namely it:

- (a) is within the power that, under an Act or subordinate legislation (the authorising law), allows the subordinate legislation to be made; and
- (b) is consistent with the policy objectives of the authorising law; and
- (c) contains only matter appropriate to subordinate legislation; and
- (d) amends statutory instruments only.

Consultation

The Government has consulted extensively with the relevant Aboriginal people, the Cape York Land Council and Balkanu Cape York Development Corporation in relation to the regulation and the subsequent actions under the Cape York Peninsula Tenure Resolution Program. Consultation has also been undertaken with the local council, Cook Shire Council, and with conservation organisations. The parties consulted have no objection to the regulation of the land as transferable.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Natural Resources and Mines.

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