

Aboriginal Land Amendment Regulation (No. 1) 2014

Explanatory notes for SL 2014 No. 25

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No. 1) 2014.

Authorising law

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

Policy objectives and the reasons for them

The regulation amends the *Aboriginal Land Regulation 2011* to declare areas of available State land as transferable land.

The regulation of the available State land as transferable land will allow for the eventual grant of inalienable freehold title to Aboriginal people under the Act.

On 24 February 2009, the then Department of Natural Resources and Water received an Indigenous expression of interest in having particular land on Turtle Head Island made transferable land in accordance with Part 3 of the Act. The subject land was described as Lot 2 on SP145558.

The land, now described as Lots 2 and 3 on SP252525, is situated off northern Cape York Peninsula and has a total area of 1055.595 hectares.

Under Part 3 of the Act, Aboriginal people may formally express an interest in having particular land made transferable land. The chief executive of the department must consider

each expression of interest and may do so by evaluating the land to which it relates under section 16 of the Land Act to determine the lands most appropriate use and tenure.

The department carried out an evaluation of the land under section 16 of the Land Act which recommended that the land is available for declaration as transferable land under the Act.

The chief executive taking into consideration the recommendation on the most appropriate use and tenure, as it relates to the expression of interest, has approved that the land be made transferable land.

Achievement of policy objectives

The regulation will achieve its objectives by the declaration of the subject land as transferable land, which will allow for the grant of inalienable freehold title to the Aboriginal people under the Act.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the Act, which provide 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 the subsequent transfer of land as Aboriginal land under the Act and the Land Act.

Benefits and costs of implementation

The benefit of the regulation is 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 4(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 consulted extensively with stakeholders and other interested parties in evaluating the most appropriate use and tenure of the land, and for the proposed regulation and the subsequent actions. Parties included State and Commonwealth government agencies, an Indigenous corporation and the local authority.

Submissions primarily raised no issue to dealing with the land under the Act. One submission however raised concerns as to a business's access to part of the Turtle Head Island land. This submission was taken into consideration in evaluating the most appropriate use and tenure of the land, and a proposal for the business to use and access the land was advanced to the business for its consideration. The business elected not to pursue the proposed arrangements.