

Aboriginal Land Amendment Regulation (No. 3) 2014

Explanatory notes for SL 2014 No. 62

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No. 3) 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 *Aboriginal Land Amendment Regulation (No 3) 2014* 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.

The State is a party to the Wooroonooran Tenure Resolution Indigenous Land Use Agreement (the ILUA) which was registered with the National Native Title Tribunal on 23 August 2010 and provides for, amongst other things, the transfer of five lots of unallocated State land under the Act to the Dulabed Malanbarra and Yidinji Aboriginal Corporation RNTBC (the RNTBC) as Aboriginal freehold land.

The parcels of land are unallocated State land located at Goldsborough Valley approximately 40 kilometres south west of Cairns. The land is described as Lots 1 to 5 on SP252357 and covers a combined area of 6637.0748 hectares.

Prior to the ILUA negotiations, the State undertook a report of land evaluation as per section 16 of the *Land Act 1994* (the Land Act) to determine the most appropriate use and tenure of the land. The report recommended the most appropriate use for the subject land was to allow

for ‘access and use by the Traditional Owners’ (the Dulabed and Malanbarra Yidinji people) and that, in terms of tenure, should the final native title determination in respect of the land be that of exclusive possession, the land be transferred under the Act as Aboriginal freehold land.

Exclusive native title was determined to exist on 17 December 2009 over the land and the RNTBC became the registered native title body corporate (representing the Traditional Owners) for the determination area.

Achievement of policy objectives

The regulation will achieve its objective by the declaration of the subject land as transferable land, which will allow for the grant of inalienable freehold 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 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 the land as Aboriginal freehold 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 the 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

Throughout the ILUA negotiations and also in the preparation of the report of land evaluation in terms of section 16 of the Land Act, the Government consulted extensively with interested parties and stakeholders in evaluating the most appropriate use and tenure of the parcels, and for the proposed regulation and subsequent transfer of the land. Parties include Local and

State government agencies, the Native Title Parties and the RNTBC. All parties support the proposed actions.

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