

Aboriginal Land Amendment Regulation (No. 8) 2014

Explanatory notes for SL 2014 No. 288

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No. 8) 2014.

Authorising law

Section 10(1)(e) of the *Aboriginal Land Act 1991* 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 under the *Aboriginal Land Act 1991* to Aboriginal people.

On 24 November 2009, the State entered into an Indigenous Land Use Agreement with Abraham Muriata on his own behalf and on behalf of the Girramay people, the Girramay People Aboriginal Corporation Registered Native Title Body Corporate and the Cassowary Coast Regional Council.

The Indigenous Land Use Agreement provides, amongst other things, for the transfer of certain land under the *Aboriginal Land Act 1991* to the traditional owners, being the Girramay people. In January 2014, an initial transfer occurred of two parcels containing 2.1371 hectares to the Girramay Land Holding Aboriginal Corporation. Two more parcels are now ready for transfer to the Girramay Land Holding Aboriginal Corporation.

The parcels of land are unallocated State land located in Murray Upper approximately 160 kilometres south of Cairns. The land is described as Lot 193 on SP218277 and Lot 151 on SP218280 and covers a combined area of 74.5919 hectares.

During the Indigenous Land Use Agreement negotiations, the State undertook a land

evaluation as per section 16 of the *Land Act 1994* to determine the most appropriate use and tenure of the land. The report recommended that the land was suitable for transfer under the *Aboriginal Land Act 1991*.

An easement agreement over Lot 193 on SP218277 providing access to the adjoining State Forest is proposed to be executed by the Girramay Land Holding Aboriginal Corporation upon the freehold title being handed over.

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 title to Aboriginal people under the *Aboriginal Land Act 1991*.

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 to Aboriginal freehold land under the *Aboriginal Land Act 1991* and the *Land Act 1994*.

Benefits and costs of implementation

The benefit of the regulation is that it will allow for the grant of the land as Aboriginal freehold 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

Through the Indigenous Land Use Agreement negotiations and also in the preparation of the report of land evaluation, the Government consulted extensively with interested parties and stakeholders in evaluating the most appropriate use and tenure for the land, and for the proposed regulation and subsequent transfer of the land. Parties included the Department of Environment and Heritage Protection, Cassowary Coast Regional Council, Ergon Energy, the Native Title Parties and the Girramay Land Holding Aboriginal Corporation. All parties support the proposed actions.