

# Aboriginal Land Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 26

made under the

*Aboriginal Land Act 1991*

## General Outline

### Short title

*Aboriginal Land Amendment Regulation (No. 1) 2015.*

### 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.

Section 27(1) of the *Aboriginal Land Act 1991* provides for tidal land to be declared by regulation as available State land.

### Policy objectives and the reasons for them

The *Aboriginal Land Amendment Regulation (No. 1) 2015* amends the *Aboriginal Land Regulation 2011* to declare an area of tidal land as available State land and areas of available State land to be 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 *Aboriginal Land Act 1991*.

In December 1994, the Eastern Kuku Yalanji people lodged a native title claim over State controlled lands between Mossman and Black Mountain National Park near Cooktown in north Queensland. The claimants proposed to the State the use of an Indigenous Land Use Agreement over a wider area to resolve native title and land tenure issues in the region.

In December 2007, the Eastern Yalanji, Queensland and the WTMA (Freehold Grants) Indigenous Land Use Agreement Q12006/007 was registered as an “Area Agreement” in accordance with the *Native Title Act 1993*.

To date, approximately 63 000 hectares have been transferred to the Jabalbina Yalanji Land Trust. The State is now in a position to transfer the remaining 24 parcels of land negotiated in the Eastern Yalanji, Queensland and the WTMA (Freehold Grants) Indigenous Land Use Agreement Q12006/007.

The subject parcels are located approximately 50 to 100 kilometres south of Cooktown and contain a total area of 97.1944 hectares.

The Department of Natural Resources and Mines carried out an evaluation of the land under section 16 of the *Land Act 1994* to determine the land’s most appropriate use and tenure. The evaluation recommended that the land’s most appropriate use is for transfer under the Aboriginal Land Act 1991.

One of the parcels, Lot 88 on SP252494, contains tidal land and must be declared to be available State land prior to being declared transferable land.

Telstra will enter into leases with the Jabalbina Yalanji Land Trust for telecommunication towers located on the three parcels near Rossville and Bloomfield.

## **Achievement of policy objectives**

The *Aboriginal Land Amendment Regulation (No. 1) 2015* 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 Aboriginal people under the *Aboriginal Land Act 1991*.

## **Consistency with policy objectives of authorising law**

The *Aboriginal Land Amendment Regulation (No. 1) 2015* is consistent with the policy objectives of the *Aboriginal Land Act 1991*, which provide for the grant of land as Aboriginal land.

## **Inconsistency with policy objectives of other legislation**

The *Aboriginal Land Amendment Regulation (No. 1) 2015* is consistent with the policy objectives of other legislation. The *Aboriginal Land Amendment Regulation (No. 1) 2015* will enable the subsequent transfer of land as Aboriginal land under the *Aboriginal Land Act 1991* and the *Land Act 1994*.

## **Benefits and costs of implementation**

The benefit of the *Aboriginal Land Amendment Regulation (No. 1) 2015* is that it will allow for the grant of land as Aboriginal land. Implementing the *Aboriginal Land Amendment Regulation (No. 1) 2015* 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;
- (b) is consistent with the policy objectives of the authorising law;
- (c) contains only matters appropriate to subordinate legislation; and
- (d) amends statutory instruments only.

## Consultation

The Department of Natural Resources and Mines consulted extensively with stakeholders and other interested parties in evaluating the most appropriate use and tenure for the subject land and for the proposed regulation and the subsequent actions. Parties included the Wet Tropics Management Authority, the former Department of Primary Industries, the Department of Premier and Cabinet, the former Environmental Protection Agency, the Cairns Regional Council, the former Douglas and Cook Shire Councils, Telstra, Ergon and the Eastern Kuku Yalanji people.

Submissions primarily supported or raised no objection to dealing with the land under the *Aboriginal Land Act 1991*.