

Aboriginal Land Amendment Regulation (No. 3) 2016

Explanatory notes for SL 2016 No. 130

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No.3) 2016.

Authorising law

Sections 10(1)(e) and 294(1) of the *Aboriginal Land Act 1991* (ALA).

Policy objectives and the reasons for them

The *Aboriginal Land Amendment Regulation (No.3) 2016* (Amendment Regulation) amends the *Aboriginal Land Regulation 2011* to declare an area of available State land as transferable land.

The subject land proposed for transfer as Aboriginal freehold land is described as Lot 3 on SP271424 and covers 10.81 hectares. Lot 3 is located approximately 120 kilometres north of Cooktown and adjoins Aboriginal freehold land held by Kalpowar Aboriginal Land Trust and the Cape Melville National Park (Cape York Peninsula Aboriginal Land) (CYPAL) held by the Cape Melville, Flinders and Howick Islands Aboriginal Corporation ICN 7847.

On 27 November 2013, the Cape Melville, Flinders and Howick Islands Aboriginal Corporation ICN 7847, Buubu Gujin Aboriginal Corporation ICN 7852 and the State of Queensland signed the Seven Parks Bama-Bi Bubu Indigenous Land Use Agreement (ILUA) which provided for the transfer of the Cape Melville National Park to Cape Melville National Park (CYPAL).

The ILUA also provided for the Mount Webb Wakooka Road, which traverses through the Cape Melville National Park, to be amended to the constructed alignment that would result in a balance area of unallocated State land being Lot 3 and granted to the adjoining owner—the Kalpowar Aboriginal Land Trust under the ALA.

Since the signing of the ILUA, the Kalpowar people established the Alka Bawar (Kalpowar) Aboriginal Corporation (ABAC) with the intention of it being the sole land owning body for Kalpowar lands. By resolution on 4 December 2015, the Kalpowar Land Trust members agreed to transfer all the ALA land held by the Land Trust to ABAC. The transfer of lands held by Kalpowar Land Trust and dissolution of the Land Trust is currently in progress.

Achievement of policy objectives

The Amendment 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 Aboriginal people under the ALA.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Act, which provides for the grant of land as Aboriginal land. The Amendment Regulation will enable subsequent transfer of the land under the ALA and the *Land Act 1994*.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

The benefit of the Amendment Regulation is that it will allow for the grant of land as Aboriginal land. Implementing the Amendment Regulation will have negligible costs.

Consistency with fundamental legislative principles

The Amendment 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 the Aboriginal people particularly concerned with the land, Cape York Land Council and Balkanu Cape York Development Corporation in relation to the regulation and the subsequent actions proposed under the Cape York Peninsula Tenure Resolution Program. Consultation has been undertaken with the Queensland Productivity Commission regarding the Regulatory Impact Statement system. The Government has also consulted other stakeholders including Cook Shire Council.

All parties consulted raised no objection to the dealing with the land under the ALA.