

Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 35

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017.

Authorising law

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

Policy objectives and the reasons for them

The *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* 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 *Aboriginal Land Act 1991*.

Birriah Unallocated State Land

On 27 September 2016, an Indigenous Land Use Agreement to which the State is a party, was registered by the National Native Title Tribunal. The Indigenous Land Use Agreement provides for, amongst other things, that parcels of unallocated State land be transferred as inalienable freehold under the *Aboriginal Land Act 1991*.

The parcels, described as Lot 7 on MRY27, Lot 3 on DK3, Lot 3 on DK12 and Lot 49 on SP157921, are located in the greater vicinity of Collinsville and Ravenswood, and have a total area of 305.587 hectares.

Duyfken Point Unallocated State Land

On 24 August 2001, an Indigenous Land Use Agreement, to which the State is a party, was registered with the National Native Title Tribunal. The Indigenous Land Use Agreement provides for, amongst other things, the surrender of certain parcels (when they are no longer required for mining) from Mining Lease 7024, and their transfer as inalienable freehold title to Aboriginal people under the *Aboriginal Land Act 1991*.

Lot 602 on SP266616, referred to as Duyfken Point USL, is one such parcel. It is located approximately 30 kilometres north-west of Weipa and has an area of 4041 hectares.

Achievement of policy objectives

The *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* 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 *Aboriginal Land Act 1991*.

Consistency with policy objectives of authorising law

The *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* 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 (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* is consistent with the policy objectives of other legislation. The *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* 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 (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* is that it will allow for the grant of land as Aboriginal land. Implementing *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* will have negligible costs.

Consistency with fundamental legislative principles

The *Aboriginal Land (Birriah USL and Duyfken Point USL) Amendment Regulation 2017* 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

In respect to the identification of parcels proposed for regulation as transferable land and the Indigenous Land Use Agreements, the Department of Natural Resources and Mines consulted extensively with stakeholders, including traditional owners, Indigenous Corporations, a non-Indigenous Corporation and State agencies. This was in relation to, amongst other matters, the most appropriate use and tenure for parcels of land that might be made transferable land and transferred to Aboriginal people under the *Aboriginal Land Act 1991* as part of the Indigenous Land Use Agreements negotiations; which parcels, taking into consideration their most appropriate use and tenure, are appropriate for making transferable land; the proposed regulation process that is required to make those parcels transferable land; and the subsequent actions and approvals required for the Department of Natural Resources and Mines and the Minister to effect the transfer of the parcels should they be declared transferable land.

In determining the parcels proposed for regulation as transferable land, any submissions received by the Department of Natural Resources and Mines were considered as part of a land evaluation process undertaken by the Department of Natural Resources and Mines to determine a parcels most appropriate use and tenure. Submissions made by parties to Indigenous Land Use Agreements negotiations regarding the availability of specific parcels proposed for declaration as transferable land took into account the recommendation made on their most appropriate use and tenure. All parties to the Indigenous Land Use Agreements accept the legislated processes required to declare the parcels transferable land and to transfer that land under the *Aboriginal Land Act 1991*.

In accordance with the Queensland Government Guide to Better Regulation, the Office of Best Practice Regulation was not consulted in relation to the regulatory proposal. The Department of Natural Resources and Mines applied a self-assessable exclusion from undertaking further regulatory impact analysis (Category 6 - Regulatory proposals that are of a machinery nature).