

# Aboriginal Land (Thayanaku) Amendment Regulation 2017

Explanatory notes for SL 2017 No. 188

made under the

*Aboriginal Land Act 1991*

## General Outline

### Short title

*Aboriginal Land (Thayanaku) Amendment Regulation 2017.*

### Authorising law

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

### Policy objectives and the reasons for them

The *Aboriginal Land (Thayanaku) Amendment Regulation 2017* (Amendment Regulation) amends the *Aboriginal Land Regulation 2011* to declare an area of State land as transferable land.

The subject lands proposed for transfer as Aboriginal freehold land are shown in the table below and referred to as the Thayanaku land dealing. The Thayanaku dealing consists of two National Parks (Jardine River National Park and Denham Group National Park) and two Resources Reserves (Jardine River Resources Reserve and Heathlands Resources Reserve). The land is situated about 180 kilometres north east of Weipa and has a total dealing area of approximately 384,000 hectares.

The agreed proposed tenure outcome requires areas to be revoked from the Jardine River National Park, Jardine River Resources Reserve and Heathlands Resources Reserve.

The Cape York Peninsula Tenure Resolution Program (CYPTRP) which is delivered by the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) returns ownership and management of land to Aboriginal people, thus supporting Aboriginal economic development, while ensuring that outstanding environmental and cultural values are protected in jointly managed national parks and nature refuges.

The proposed outcomes is for approximately 343,145 hectares to become national park (Cape York Peninsula Aboriginal land), about 18 hectares to be resources reserve for gravel purposes and about 40,500 hectares will become Aboriginal freehold land (with approximately 5,950 hectares of that land being dedicated as two new nature refuges).

The table below shows the areas to be regulated as transferable and the proposed final tenure.

Lot/Plan Description	Area (about)	Previous Tenure	Proposed Final tenure	Local Name
Lot 3 AP22755	33.1 ha	USL	ALA	
Lot 1 AP22757	16.4 ha	USL	ALA	
Lot 2 AP23099	27.5 ha	USL	ALA	
Lot 4 AP23099	0.849 ha	USL	NP (CYPAL)	
Lot 9 AP22756	5.16 ha	USL	ALA	Heathlands RR
Lot 11 AP22758	2.03 ha	USL	ALA	Heathlands RR
Lot 7 AP23098	43.2 ha	USL	ALA	Heathlands RR
Lot 1 AP23102	3,210 ha	USL	ALA	Heathlands RR
Lot 2 AP23102	6,800 ha	USL	ALA	Heathlands RR
Lot 3 AP23102	752 ha	USL	ALA	Heathlands RR
Lot 4 AP23102	25.7ha	USL	ALA	Heathlands RR
Lot 6 AP23102	58.1ha	USL	ALA	Heathlands RR
Lot 7 AP23104	15,400 ha	USL	ALA	Heathlands RR
Lot 1 AP23105	3,200 ha	USL	ALA	Heathlands RR
Lot 2 AP23105	4,260 ha	USL	ALA	Heathlands RR
Lot 3 AP23105	9.16 ha	USL	ALA	Heathlands RR
Lot 1 AP23106	6,750 ha	USL	ALA	Jardine River RR
Lot 1 SP269694	5.12 ha	USL	NP (CYPAL)	Jardine River NP
Lot 2 SP269694	9.48 ha	USL	NP (CYPAL)	Jardine River NP
Lot 3 SP269694	1.84 ha	USL	NP (CYPAL)	Jardine River NP
Lot 4 SP269694	2.59 ha	USL	NP (CYPAL)	Jardine River NP
Lot 5 SP269694	2.33 ha	USL	NP (CYPAL)	Jardine River NP
Lot 4 SP292288	4.24 ha	USL	ALA	Jardine River NP
Lot 1 AP15618	4.9 ha	USL	NP (CYPAL)	Heathlands RR
Lot 1 on plan SO806056 (other than lots 1 and 2 on AP23106)	14,439.4 ha	RR and USL	ALA and NP (CYPAL)	Jardine River RR
Lot 3 on JD8 (other than lots 9 and 10 on AP22756, lot 11 on AP22758, lot 7 on AP23098, lot 8 on AP23100, lot 6 on AP23101, lots 1 to 6 on AP23102, lot 7 on AP23104, lots 1 to 3 on AP23105 and lots 1 and 2 on AP23107), Lot 1 SP288875, Lot 2 SP288876, Lots 3 to 5 SP296927	91,647.565 ha	RR and USL	ALA, NP (CYPAL) and RR	Heathlands RR

## **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 Act.

## **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 Act 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; and
- (e) allows the sub delegation of a power delegated by an Act only—
  - (i) in appropriate cases and to appropriate persons; and
  - (ii) if authorised by an Act.

## **Consultation**

The State has been negotiating with Thayanaku Traditional Owners Negotiating Committee (TONC) since October 2014.

A TONC meeting was held on the 27 July 2017 and the following proposed land holding entities were endorsed:

- Ipima Ikaya Aboriginal Corporation RNTBC ICN 8114
- Gudang/Yadhaykenu Aboriginal Corporation ICN 4158
- Atambaya Aboriginal Corporation
- Wuthathi Transitional Landowning Aboriginal Corporation.

The Cape York Land Council is working with the Office of the Registrar of Indigenous Corporations to register the Atambaya Aboriginal Corporation and the Wuthathi Transitional Landowning Aboriginal Corporation.

The Government consulted extensively with the Aboriginal people particularly concerned with the land, Cape York Land Council Aboriginal Corporation and Balkanu Cape York Development Corporation in relation to the regulation and the subsequent actions proposed under the Cape York Peninsula Tenure Resolution Program. The Government also consulted other stakeholders including Cook Shire Council and Telstra Corporation Limited. The parties consulted raised no objection to the dealing with the land under the Act.

Under the Queensland Guide to Better Regulation, DATSIP has assessed that the amendment to the regulation as a regulatory proposal that make consequential amendments (category g, criteria 'regulatory proposals that are of a machinery nature') does not require further regulatory impact analysis.