

Aboriginal Land (Olkola) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 57

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land (Olkola) Amendment Regulation 2018.

Authorising law

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

Policy objectives and the reasons for them

The *Aboriginal Land (Olkola) Amendment Regulation 2018* (Amendment Regulation) amends the *Aboriginal Land Regulation 2011* to declare a resources reserve as transferable land.

The subject land proposed for transfer as Aboriginal freehold land is described as lot 20 on SP241432 referred to as the Olkola (Kurrumbila) Resources Reserve 1. The land is located on Cape York Peninsula, approximately 500 kilometres north-west by road from Cairns and has a total area of 103,600 hectares.

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.

Negotiations with the Olkola Traditional Owner Negotiating Committee, in relation to the future tenure and management of the lands known as the Olkola 5 (five properties), were finalised by the CYPTRP on behalf of the State in 2014. At this time, the State and Native Title parties entered into an Indigenous Land Use Agreement (ILUA) QI2014/085 under the *Native Title Act 1993* (Cth) which set out the future tenure arrangements for these properties. The ILUA was registered on 5 May 2015. The ILUA provided for the dedication of a resources reserve over lot 20 on SP241432 to accommodate existing mining interests. The ILUA also made provisions for the resources reserves to become national park (Cape York Peninsula Aboriginal land) (CYPAL) when lot 20 is no longer required for mining purposes.

Mining lease interests are now no longer in force and the Department of Natural Resources, Mines and Energy (DNRME) has advised that the land is now available for dedication as national park (CYPAL). Mining Lease interests have now been either relinquished or excluded from lot 20 on SP241432 allowing the regulation, transfer and subsequent dedication of national park (Cape York Peninsula Aboriginal land).

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 title 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 negotiated with the Olkola Traditional Owners Negotiating Committee.

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 CYPTRP. The Government also consulted other stakeholders, including the Cook Shire Council. 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 makes consequential amendments (category g criteria 'regulatory proposals that are of a machinery nature'), does not require further regulatory impact analysis.