

# Aboriginal Land Amendment Regulation (No. 2) 2015

Explanatory notes for SL 2015 No. 115

made under the

*Aboriginal Land Act 1991*

## General Outline

### Short title

*Aboriginal Land Amendment Regulation (No. 2) 2015*

### Authorising law

Section 10(1)(e) of the *Aboriginal Land Act 1991*

### Policy objectives and the reasons for them

The *Aboriginal Land Amendment Regulation (No. 2) 2015* amends the *Aboriginal Land Regulation 2011* to declare an area 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*.

On 25 June 2010 and 8 November 2011, the then Department of Environment and Resource Management received Indigenous expressions of interest applications in having particular land, being Lot 8 on SO83, made transferable land in accordance with Part 3 of the *Aboriginal Land Act 1991*.

Lot 8, now shown on SP262590, is situated approximately 2 kilometres south of the tip of the Cape York Peninsula and has an area of 1159 hectares.

Under Part 3 of the *Aboriginal Land Act 1991*, Aboriginal people may formally express an interest in having particular land made transferable land. Though the EOI was not duly made in accordance with the Act, that is, the subject land did not meet a specified category of land to which an expressions of interest could be applied for, a decision was still made for the Department of Natural Resources and Mines to evaluate the land in accordance with section 16 of the *Land Act 1994* to determine

its most appropriate use and tenure.

The Department of Natural Resources and Mines subsequently finalised a Land Evaluation Assessment for the subject land and it was determined that the most appropriate use and tenure for the subject land was as future Aboriginal freehold land to be transferred under the *Aboriginal Land Act 1991*.

## **Achievement of policy objectives**

The *Aboriginal Land Amendment Regulation (No. 2) 2015* 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 the Aboriginal people under the *Aboriginal Land Act 1991*.

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

The *Aboriginal Land Amendment Regulation (No. 2) 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. 2) 2015* is consistent with the policy objectives of other legislation. The *Aboriginal Land Amendment Regulation (No. 2) 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. 2) 2015* is that it will allow for the grant of land as Aboriginal land. Implementing the *Aboriginal Land Amendment Regulation (No. 2) 2015* will have negligible costs.

## **Consistency with fundamental legislative principles**

The *Aboriginal Land Amendment Regulation (No. 2) 2015* 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 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 State and Commonwealth government agencies, commercial businesses and the local authority.

Submissions made primarily supported or raised no issue to dealing with the land under the *Aboriginal Land Act 1991*. A number of submissions were in support of the dealing subject to access to certain resources and infrastructure on or associated with the land being available, or the exclusion of certain areas of the land from transfer, including the existing dedicated road network, quarry materials and tidal areas. A number of submissions sought an alternative use and/or tenure of the land.

All submissions were taken into consideration in evaluating the most appropriate use and tenure of the land.

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