

Aboriginal Land Amendment Regulation (No. 2) 2016

Explanatory notes for SL 2016 No. 102

made under the

Aboriginal Land Act 1991

General Outline

Short title

Aboriginal Land Amendment Regulation (No. 2) 2016.

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 Amendment Regulation (No. 2) 2016* 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 28 November 2013 the Department of Natural Resources and Mines received an Indigenous expression of interest in having particular land, being Lot 7957 on MPH20866, made transferable land in accordance with Part 3 of the *Aboriginal Land Act 1991*.

Lot 7957, now shown on SP271425, is situated at Charters Towers and has an area of 0.4041 hectares.

Under part 3 of the *Aboriginal Land Act 1991*, Aboriginal people may formally express an interest in having particular land made transferable land. The chief executive of the Department of Natural Resources and Mines must consider each expression of interest and may do so by evaluating the land to which it relates under

section 16 of the *Land Act 1994* to determine the land's most appropriate use and tenure.

The Department of Natural Resources and Mines carried out an evaluation of the land under section 16 of the *Land Act 1994* which recommended that the subject land is available for declaration as transferable land under the *Aboriginal Land Act 1991*.

The chief executive taking into consideration the recommendations on the most appropriate use and tenure, as it relates to the expression of interest, has approved that the land be made transferable land.

Achievement of policy objectives

The *Aboriginal Land Amendment Regulation (No. 2) 2016* 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) 2016* 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) 2016* is consistent with the policy objectives of other legislation. The *Aboriginal Land Amendment Regulation (No. 2) 2016* 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) 2016* is that it will allow for the grant of land as Aboriginal land. Implementing the *Aboriginal Land Amendment Regulation (No. 2) 2016* will have negligible costs.

Consistency with fundamental legislative principles

The *Aboriginal Land Amendment Regulation (No. 2) 2016* 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 with stakeholders in evaluating the most appropriate use and tenure for the subject land, and for the proposed regulation and the subsequent actions. Parties included the local authority.

A submission identified the aspiration of an alternative use for the land. All stakeholder comments were taken into consideration in the evaluation of the subject land under section 16 of the *Land Act 1994*.