

NOLLAMARA LAND VESTING.

6° Elizabeth II., No. XII.

No. 12 of 1957.

AN ACT to Facilitate Resubdivision of certain Land at Nollamara; and to enable Completion of an Arrangement for Financial Assistance from the Commonwealth; for Housing Development by the State to be effected.

[Assented to 10th September, 1957.]

BE it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Nollamara Land Vesting Act, 1957.* Short title and citation.

2. This Act shall come into operation on a day to be recommended by the Registrar of Titles and to be fixed by proclamation. Commencement.

Interpre-
tation.

3. In this Act—

“arrangement” means an arrangement finalised on the fourteenth day of February, one thousand nine hundred and fifty-seven for financial assistance from the Commonwealth for housing and development by the State at Nollamara; and

“Commission” means The State Housing Commission constituted under the State Housing Act, 1946.

Objects of
this Act.

4. The objects of this Act are

- (a) to facilitate resubdivision of certain land at Nollamara; and
- (b) to enable completion of the arrangement to be effected.

Closure of
roads and
rights of way,
and cancel-
lation of
drain reserve;
and vesting.

5. (1) For the purpose of giving effect to paragraph (a) of section four of this Act,

- (a) (i) the roads and rights of way, and portions of roads and rights of way which are in the Perth Road District, and which are delineated and shown as coloured blue on a plan registered in the Department of Lands and Surveys as Miscellaneous Plan Number 198 are hereby closed and extinguished and all rights of way over them are hereby abolished; and
- (ii) the estate in fee simple in the land which comprised those roads and rights of way and portions so closed, is hereby vested in the Commission;
- (b) (i) the private drain reserve through the section of lots comprising lots 1172 to 1193 inclusive on Land Titles Office Plan No. 5745 is hereby cancelled and all rights of drainage over it are hereby abolished; and

- (ii) the estate in fee simple in the land comprised in the drain reserve so cancelled, is hereby vested in the respective owners for the time being of those lots contiguous to it, but so that where the lots on opposite sides of any portion of that land which comprised the drain reserve so cancelled are owned by different owners, the estate in fee simple in the contiguous half of that portion extending to a longitudinal line along the middle thereof is hereby vested in the owner or owners of the lot or lots contiguous to it.

(2) On application being made to him to do so, and on payment of the necessary fee, by the Commission the Registrar of Titles shall cancel the Certificates of Title to land affected by vesting effected by subparagraph (ii) of paragraph (a) of subsection (1) of this section, and issue in place of those Certificates, appropriate new Certificates of Title evidencing that vesting.

(3) On application being made to him to do so, and on payment of the required fee, by the owner for the time being of land contiguous to the part of the drain reserve so vested in the owner by subparagraph (ii) of paragraph (b) of subsection (1) of this section, the Registrar of Titles shall cancel the Certificates of Title to the land affected by the vesting, and issue a new Certificate of Title evidencing that vesting.

(4) Where land so vested, whether by subparagraph (ii) of paragraph (a), or subparagraph (ii) of paragraph (b) of subsection (1) of this section, is subject to an encumbrance, whether by way of mortgage or otherwise, as regards any estate or interest in the land, the land so vested, if the nature of the encumbrance so admits, on the issue of the new Certificate of Title evidencing the vesting, becomes subject to that encumbrance as if it had been originally included in the encumbrance by the owner for the time being of that estate or interest.

Special provision for adjusting boundaries of lots 23 and 24 on L.T.O. Plan 5396.

6. (1) In this section—

“adjustment” means an adjustment of the boundaries of the specified lots which was made in a resubdivision of a tract of land at Nollamara to give effect to the arrangement, and which resulted in an increase in the total area of those lots from one rood seven and four-tenths perches to one rood thirteen and three-tenths perches;

“caveat” means caveat number 1328/1956;

“caveators” means the persons who, by the caveat, claim an interest in the specified lots;

“existing plan” means Land Titles Office Plan which is numbered 5396 and which shows the specified lots as lots 23 and 24;

“mortgage” means mortgage number 4516/1956;

“mortgagee” means the mortgagee under the mortgage;

“proposed new plan” means a plan which has been prepared to show the adjustment, which shows the specified lots as adjusted by the adjustment and redesignated as lots 86 and 87, and which is proposed to be approved as Land Titles Office Plan numbered 7007 immediately after the coming into operation of this Act;

“specified lots” means the land comprised in Certificate of Title Volume 1060, Folio 866 being portion of Perthshire Location Au, and being lots 23 and 24 on the existing plan and being subject to the mortgage and to the caveat.

(2) As soon after the coming into operation of this Act as is practicable, but for the purpose only of recording the effect of the adjustment in the registers and records kept under the Transfer of Land Act, 1893, and subject to subsection (4) of this section,

- (a) the Registrar of Titles shall, by authority of this Act, and notwithstanding that the caveators have not given their consents,
- (i) register a transfer to the Commission as registered proprietor of an estate in fee simple in the specified lots, subject to the mortgage if not discharged, and subject to the caveat if not withdrawn;
 - (ii) cancel Certificate of Title Volume 1060, Folio 866; and immediately the proposed plan is approved as Land Titles Office Plan No. 7007 issue in the name of the Commission a new Certificate of Title for the land the subject of that Plan including the specified lots as adjusted by the adjustment and redesignated on that Plan as lots 86 and 87 subject to the Mortgage if not discharged, and to the Caveat if not withdrawn; and register a transfer from the Commission of the redesignated lots 86 and 87 subject to the Mortgage if not discharged, and to the Caveat if not withdrawn, to the person who was entitled to registration as registered proprietor of an estate in fee simple in the specified lots immediately before registration of the transfer mentioned in subparagraph (i) of this paragraph or, as the case may be, to any person deriving entitlement to registration as registered proprietor of an estate in fee simple in the lots through that person;
- (b) the proposed new plan shall be approved under section eighteen of the Licensed Surveyors Act, 1909, as Land Titles Office Plan No. 7007 showing the specified lots as adjusted by the adjustment and redesignated as lots 86 and 87; and

- (c) the Commission shall pay all prescribed fees, costs, and expenses, of and incidental to the giving of effect to the provisions of this subsection.

(3) Except to the extent of the adjustment, and to that extent only, nothing contained in, or done in pursuance of, this section affects the estate or interest in, or rights in respect of, the specified lots,

- (a) of the person entitled to registration as registered proprietor of an estate in fee simple in the specified lots immediately before registration of the transfer mentioned in subparagraph (i) of paragraph (a) of subsection (2) of this section, or, as the case may be, of any person deriving entitlement to registration as registered proprietor of an estate in fee simple, or to any other estate or interest, in the lots, through that person;
- (b) of the mortgagee; or
- (c) of the caveators or either of them.

(4) The registered proprietor of the estate in fee simple in the specified lots, and the mortgagee, having agreed to the adjustment, and the caveators having refused to agree to, or negotiate in respect of, the adjustment, it is hereby enacted in order to protect rights to compensation, if any, which the caveators may have in respect of the adjustment, that if within one year after the coming into operation of this Act, the caveators claim or either of them claims, by notice in writing served on the Commission, to be entitled to compensation because of the adjustment, the claim shall be deemed to be a claim for compensation made under the Public Works Act, 1902, the relevant provisions of which shall apply in respect of the claim for and assessment of compensation as if repeated *mutatis mutandis* in this subsection, and as if any estate or interest of the claimant taken for the purpose of the adjustment were taken pursuant to that Act on the coming into operation of this Act.