



Western Australia

Wittenoom Closure Act 2022

As at 29 Mar 2022

No. 6 of 2022

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Wittenoom Closure Act 2022

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Defined terms



Western Australia

Wittenoom Closure Act 2022

No. 6 of 2022

An Act to facilitate the closure of the former townsite of Wittenoom by providing for the compulsory acquisition of land, and for related purposes.

[Assented to 29 March 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Wittenoom Closure Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

3. Terms used

In this Act —

date of taking has the meaning given in the LA Act section 151(1);

former principal proprietor, in relation to Wittenoom land taken under the authority of section 6(1), has the meaning given in section 12(1);

LA Act means the *Land Administration Act 1997*;

Minister has the meaning given in the LA Act section 3(1);

native title rights and interests has the meaning given in the LA Act section 151(1);

notice of intention has the meaning given in the LA Act section 151(1);

registered, in relation to a notice of intention, means registered under the LA Act section 170;

Wittenoom land means land comprised in any lot specified in Schedule 1.

4. Purpose of Act

- (1) The purpose of this Act is to facilitate the closure of the former townsite of Wittenoom.

- (2) The purpose is to be achieved by providing for land to be compulsorily acquired under the LA Act Part 9.

5. Act binds Crown

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

Part 2 — Compulsory acquisition of Wittenoom land

6. Wittenoom land may be taken under LA Act Pt. 9

- (1) Wittenoom land may be taken under the LA Act Part 9 for the purposes of this Act as if for a public work as defined in the LA Act section 151(1).
- (2) However, subsection (1) does not authorise the taking of the following interests in Wittenoom land under the LA Act Part 9 —
 - (a) native title rights and interests;
 - (b) rights referred to in the LA Act section 164(1)(a) to (c).

7. Application of LA Act Pt. 9

- (1) For the purposes of the LA Act Part 9, the Minister is taken to be the acquiring authority.
- (2) In applying the LA Act Part 9 to, or in relation to, the taking of Wittenoom land under the authority of section 6(1) —
 - (a) the LA Act sections 168(1)(b) and (2), 170, 171, 175, 176, 177(1)(b), 181, 186(3)(b) and 189 to 191 do not apply; and
 - (b) the LA Act section 169(1) is to be read as if “, or may provide for it to be assessed as if for compensation under Part 10” were deleted; and
 - (c) the LA Act section 177(5) is to be read as if —
 - (i) in paragraph (c) “together with forms for the claiming of compensation under Part 10 to be served on each proprietor and each occupier of the land and each holder of any mining, petroleum or geothermal energy rights in the land, or such of them as can with reasonable diligence be ascertained at the time of the making of the order,” were deleted and replaced

with “to be served on the principal proprietor of the land,”; and

- (ii) in paragraph (d) “persons mentioned in paragraph (c) of the procedures under Part 10 for compensation for interests taken, unless they have already been given that advice.” were deleted and replaced with “principal proprietor of the land of the entitlement under the *Wittenoom Closure Act 2022* Part 3 to compensation for the fee simple in the land.”;

and

- (d) the LA Act section 179(b) is to be read as if “such an interest has that holding converted into a claim for compensation under Part 10;” were deleted and replaced with “the interest in fee simple in the land has that holding converted into an entitlement to compensation under the *Wittenoom Closure Act 2022* Part 3;”; and
- (e) the LA Act Part 9 otherwise applies with any necessary changes.

8. Notice of intention in relation to Wittenoom land

For the purposes of the LA Act sections 177 and 184(1) and (2), a notice of intention is taken to be registered in relation to Wittenoom land.

9. Taking order in relation to Wittenoom land

A taking order in relation to Wittenoom land may be made under the LA Act section 177 as if it were consistent with a notice of intention registered in relation to the land.

10. Disclosure under *Contaminated Sites Act 2003* s. 68 not required

An owner of Wittenoom land is not required to comply with the *Contaminated Sites Act 2003* section 68(1) in relation to an agreement under the LA Act section 168(1)(a) to purchase the fee simple in the land.

Part 3 — Compensation

11. No compensation except as provided in this Part

- (1) The LA Act Part 10 does not apply to, or in relation to, the taking of Wittenoom land under the authority of section 6(1).
- (2) Except as provided in this Part, a person who has an interest in Wittenoom land taken under the authority of section 6(1) is not entitled to any compensation for the interest.

12. Compensation for fee simple in Wittenoom land

- (1) If Wittenoom land is taken under the authority of section 6(1), the holder of the fee simple in the land immediately before it is taken (the *former principal proprietor*) is entitled to compensation for the fee simple from the Minister.
- (2) The amount of compensation payable to a former principal proprietor of Wittenoom land for the fee simple in the land is —
 - (a) if the land is comprised in the lot specified in Schedule 1 item 1 —
 - (i) \$325 000; and
 - (ii) to compensate for the taking of the fee simple without agreement and the former principal proprietor's removal expenses — \$50 000;
 - or
 - (b) if the land is comprised in the lot specified in Schedule 1 item 2, 3, 4, 5, 6, 7, 8 or 9 — \$65 000; or
 - (c) if the land is comprised in a lot specified in Schedule 1 item 10 or 11 — \$30 000.

13. Apportionment of rates and taxes

- (1) If Wittenoom land taken under the authority of section 6(1) is not occupied by, on behalf of or through the former principal proprietor of the land on the date of taking, all rates and taxes

s. 14

that, under the provisions of any Act, are a charge on the land and are payable or paid by the former principal proprietor must be apportioned between the former principal proprietor and the Minister as at that date.

- (2) If the Wittenoom land is occupied by, on behalf of or through the former principal proprietor of the land on the date of taking, the rates and taxes referred to in subsection (1) must be apportioned between the former principal proprietor and the Minister as at the date when —
 - (a) possession is given up by the former principal proprietor to the Minister; or
 - (b) by agreement with the Minister, the former principal proprietor ceases to be responsible for the payment of rates and taxes.
- (3) On the apportionment of rates and taxes under subsection (1) —
 - (a) the aggregate amount, if any, due by the former principal proprietor as rates and taxes at the date as at which the rates and taxes are required to be apportioned, if not paid by the former principal proprietor, must be deducted from the amount of the compensation payable to the former principal proprietor under this Part; and
 - (b) the aggregate amount, if any, paid by the former principal proprietor as rates and taxes in respect of any period subsequent to the date as at which the rates and taxes are required to be apportioned, must be added to the amount of compensation payable to the former principal proprietor under this Part.

14. Payment of compensation

- (1) The Minister must pay a person who is entitled to compensation the amount of compensation payable to the person under this Part.

- (2) Despite subsection (1), the Minister is not required to pay compensation to a person (other than compensation payable under section 12(2)(a)(ii)) if the person has not given up possession of all Wittenoom land in respect of which the person is entitled to compensation.

Schedule 1 — Wittenoom land

[s. 3]

1. Lot 193 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 2011 Folio 615
2. Lot 195 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1632 Folio 81
3. Lot 201 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1331 Folio 974
4. Lot 208 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 530 Folio 198A
5. Lot 220 on Deposited Plan 206101 being the part of the land comprised in certificate of title Volume 1672 Folio 443
6. Lot 270 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1322 Folio 674
7. Lot 271 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1776 Folio 29
8. Lot 272 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1776 Folio 30
9. Lot 274 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 1353 Folio 253
10. Lots 196 and 197 on Deposited Plan 206101 being the whole of the land comprised in certificate of title Volume 2011 Folio 616
11. Lots 217, 218 and 219 on Deposited Plan 206101 being part of the land comprised in certificate of title Volume 1672 Folio 443

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Defined terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined term	Provision(s)
date of taking	3
former principal proprietor	3, 12(1)
LA Act	3
Minister	3
native title rights and interests	3
notice of intention	3
registered.....	3
Wittenoom land.....	3

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