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A handwritten signature in blue ink that reads "Sia Lagos".

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

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Defence

No. VID198 of 2026

Federal Court of Australia
District Registry: Victoria
Division: General

BANJIMA NATIVE TITLE ABORIGINAL CORPORATION RNTBC

Applicant

STATE OF WESTERN AUSTRALIA

Respondent

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In this Defence, unless otherwise defined below, the Respondent adopts the defined terms in the Statement of Claim dated 24 February 2026 (**Statement of Claim**), but does not admit any factual assertions contained in, or implied by, the Applicant's defined terms.

A. PARTIES

A.1 The Applicant and the Group Members

1. The Respondent admits paragraph 1 of the Statement of Claim.
2. As to paragraph 2 of the Statement of Claim, the Respondent:
 - (a) says that a decision by the Applicant to commence this proceeding would amount to a "native title decision";

Particulars

- (i) The Respondent relies upon the *Native Title (Prescribed Bodies Corporate) Regulations 1999* (Cth) for their full force and effect.
 - (b) does not know and therefore cannot admit that the Applicant has consulted with, and obtained the consent of, the Banjima People as defined in the **Determination** of native title made on 11 March 2014, to commence this proceeding;
 - (c) on the basis of sub-paragraphs (a) and (b) above, does not know and therefore cannot admit that the Applicant has commenced this proceeding in its capacity as trustee of Banjima People's native title rights and interests; and
 - (d) otherwise does not know and therefore cannot admit the allegations pleaded in that paragraph.
3. The Respondent does not plead to paragraph 3 of the Statement of Claim because it does not contain any allegation of material fact.

A.2 The Respondent

4. As to paragraph 4 of the Statement of Claim, the Respondent:
 - (a) denies sub-paragraph (a) and says that the Crown means the Crown in right of the Government of Western Australia; and

- (b) admits subparagraph (b) insofar as any causes of action accrued during the currency of the *Crown Suits Act 1947* (WA) and, as to any causes of action that accrued during the currency of the *Crown Suits Act 1898* (WA), repeats paragraph 153 of this Defence.

B. THE AFFECTED AREA

5. As to paragraph 5 of the Statement of Claim, the Respondent:
 - (a) repeats paragraphs 6 and 123 of this Defence; and
 - (b) otherwise does not know and therefore cannot admit that paragraph.
6. As to paragraph 6 of the Statement of Claim, the Respondent:
 - (a) as to sub-paragraphs (a) to (d):
 - (i) repeats and relies on paragraphs 16, 21, 40 and 46 of this Defence; and
 - (ii) otherwise does not know and therefore cannot admit those sub-paragraphs;
 - (b) as to sub-paragraph (e):
 - (i) says that **Wittenoom Asbestos Management Area** is a reference to the parcels of land set out in Schedule A to this Defence which have been classified as “Contamination – remediation required” under section 13 of the *Contaminated Sites Act 2003* (WA);
 - (ii) admits that sub-paragraph in respect of the area described in paragraph 115 of this Defence; and
 - (iii) otherwise does not know (with sufficient precision) where the Applicant alleges blue asbestos or material containing blue asbestos has already spread within the Wittenoom Asbestos Management Area and therefore cannot admit that sub-paragraph; and
 - (c) as to sub-paragraph (f), does not know (with sufficient precision) what is alleged to be the area pleaded in that sub-paragraph and therefore cannot admit that sub-paragraph.

C. NATIVE TITLE RIGHTS

7. The Respondent admits paragraph 7 of the Statement of Claim, and says further that:

- (a) the native title rights are group or communal rights and not individual rights;
 - (b) at all material times, the native title rights have been subject to the qualifications identified in clauses 5 and 6 of the Determination; and
 - (c) at all material times, rights created by and/or held under any other valid interest created or existing in, over or in relation to the Determination Area prevailed over the native title rights to the extent there was any inconsistency between those rights and the native title rights, including their exercise or enjoyment.
8. As to paragraph 8 of the Statement of Claim, the Respondent:
- (a) admits that on and from the Determination being made on 11 March 2014, by force of sections 47A and 47B of the *Native Title Act 1993* (Cth), the exclusive native title rights and interests are possessed by the Applicant as trustee of the Banjima People's native title rights and interests; and
 - (b) otherwise denies each and every allegation pleaded in that paragraph.
9. The Respondent admits paragraph 9 of the Statement of Claim.
10. The Respondent does not know and therefore cannot admit paragraph 10 of the Statement of Claim.
11. The Respondent denies paragraph 11 of the Statement of Claim.

D. ASBESTOS MINING

D.1 Wittenoom Mine and Mill and Eastern Gorge Tailings Dump

12. As to paragraph 12 of the Statement of Claim, the Respondent:
- (a) says that the mineral claims were granted by the responsible Minister of the Crown (**Mining Act Minister**) for the time being charged with the administration of the *Mining Act 1904* (WA) under regulation 55(7) of the *Mining Act 1904* (WA) *Regulations*;
 - (b) does not know and therefore cannot admit that ABA operated the Wittenoom Mine pursuant to, or in conformity with, those mineral claims and the rights conferred thereunder;
 - (c) repeats sub-paragraphs 18(b) to (c) and 23(b) to (c) of this Defence; and
 - (d) otherwise admits that paragraph.

13. The Respondent admits paragraph 13 of the Statement of Claim.
14. The Respondent admits paragraph 14 of the Statement of Claim.
15. The Respondent admits paragraph 15 of the Statement of Claim.
16. As to paragraph 16 of the Statement of Claim, the Respondent:
 - (a) admits that the extraction and/or processing of ore by ABA released blue asbestos at the location where the extraction and processing occurred; and
 - (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.
17. As to paragraph 17 of the Statement of Claim, the Respondent:
 - (a) says that in 1996 DMT Construction Company undertook works to seal mine openings at the former Wittenoom Mine;
 - (b) says that the purpose of the works referred to in sub-paragraph (a) above was to prevent persons from entering the former Wittenoom Mine and being exposed to hazards;
 - (c) says that the Western Australian Building Management Authority engaged DMT Construction Company to undertake those works;
 - (d) says that on an unknown date or dates after 1996 an unknown person or persons re-opened one or more of the mine openings; and
 - (e) otherwise admits that paragraph.
18. As to paragraph 18 of the Statement of Claim, the Respondent:
 - (a) admits that the areas where the former Wittenoom Mine and Wittenoom Mill were located are part of the Determination Area;
 - (b) says that there is no single or fixed meaning of the term "Crown land";
 - (c) admits that the land on which the former Wittenoom Mine and Wittenoom Mill were located:
 - (i) was Crown land as defined in the *Mining Act 1904* (WA) and the *Land Act 1933* (WA) while those Acts were in force;

- (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA); and
 - (iii) is and remains Crown land as defined in the *Land Administration Act 1997* (WA);
 - (d) further to sub-paragraph (c)(iii) above, says that the land is and remains unallocated Crown land as defined in the *Land Administration Act 1997* (WA); and
 - (e) otherwise does not know and therefore cannot admit the allegations in that paragraph.
19. The Respondent admits paragraph 19 of the Statement of Claim.
20. The Respondent admits paragraph 20 of the Statement of Claim.
21. As to paragraph 21 of the Statement of Claim, the Respondent:
- (a) admits that the deposit of tailings at the Eastern Gorge Tailings Dump released blue asbestos at that location; and
 - (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.
22. As to paragraph 22 of the Statement of Claim, the Respondent:
- (a) admits that the asbestos tailings deposited at the Eastern Gorge Tailings Dump were not and never have been covered, contained, sealed or otherwise remediated insofar as those tailings have remained in situ; and
 - (b) does not know and therefore cannot admit the allegations in that paragraph insofar as they concern any tailings that were removed by ABA or any other person after being deposited at the Eastern Gorge Tailings Dump.
23. As to paragraph 23 of the Statement of Claim, the Respondent:
- (a) admits that the area covered by the Eastern Gorge Tailings Dump is located on part of the Determination Area;
 - (b) says that there is no single or fixed meaning of the term "Crown land";
 - (c) admits that the land on which the Eastern Gorge Tailings Dump is located:

- (i) was Crown land as defined in the *Mining Act 1904* (WA) and the *Land Act 1933* (WA) while those Acts were in force;
 - (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA); and
 - (iii) is and remains Crown land as defined in the *Land Administration Act 1997* (WA);
 - (d) further to sub-paragraph (c)(iii) above, says that the land is and remains unallocated Crown land as defined in the *Land Administration Act 1997* (WA); and
 - (e) otherwise does not know and therefore cannot admit that paragraph.
24. The Respondent admits paragraph 24 of the Statement of Claim save as to say that the application for the tailings lease was approved by the Governor under section 76(1) of the *Mining Act 1904* (WA) on 12 October 1960.
25. The Respondent admits paragraph 25 of the Statement of Claim save as to say that mineral claim MC4700314 was granted by the Mining Act Minister under regulation 55(7) of the *Mining Act 1904* (WA) *Regulations*.
26. The Respondent admits paragraph 26 of the Statement of Claim.
27. The Respondent admits paragraph 27 of the Statement of Claim.
28. The Respondent admits paragraph 28 of the Statement of Claim.
29. As to paragraph 29 of the Statement of Claim, the Respondent:
- (a) repeats and relies on paragraphs 16, 21 and 35 of this Defence and admits that paragraph to that extent; and
 - (b) otherwise does not know and therefore cannot admit that paragraph.
30. As to paragraph 30 of the Statement of Claim, the Respondent:
- (a) says, insofar as that paragraph contains allegations about the release and continued presence of blue asbestos released in the areas of and surrounding Wittenoom Mine and Wittenoom Mill, the Respondent repeats and relies on 16 of this Defence;
 - (b) says that since the surrender of mineral claims MC4700025 and MC 4700054, land that was subject to the Wittenoom Mining Tenements has been subject to the

following tenements or other forms of tenure under the *Mining Act 1904* (WA) or the *Mining Act 1978* (WA):

- (i) general purpose lease G 47/5;
 - (ii) general purpose lease P 47/117;
 - (iii) prospecting licence P 47/129;
 - (iv) prospecting licence P 47/130; and
 - (v) temporary reserve TR 70/5616; and
- (c) otherwise does not know and therefore cannot admit that paragraph.

31. As to paragraph 31 of the Statement of Claim, the Respondent:

- (a) says that ABA was not at any material time during the period 1946 to 1958 the holder of a mining lease, mining tenement or authorised holding under the *Mining Act 1904* (WA) which authorised the deposition of tailings at the Eastern Gorge Tailings Dump;
- (b) says that mineral claim MC4700314 and Tailings Lease 1 were granted after ABA had already deposited the tailings at the Eastern Gorge Tailings Dump;
- (c) does not know and therefore cannot admit that the Eastern Gorge Tailings Dump was wholly covered by Tailings Lease 1; and
- (d) otherwise admits that paragraph.

32. As to paragraph 32 of the Statement of Claim, the Respondent:

- (a) says that since the surrender of mineral claims MC 4700314 and the forfeiture of Tailings Lease 1, the Eastern Gorge Tailings Dump has been subject to the following tenure granted under the *Mining Act 1904* (WA):
 - (i) temporary reserve TR 70/5616; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

33. The Respondent denies each and every allegation pleaded in paragraph 33 of the Statement of Claim and says that:

- (a) in the circumstances pleaded in sub-paragraphs 31(a) to (b) of this Defence, section 111(1) of the *Mining Act 1904* (WA) had no application to the tailings in the Eastern Gorge Tailings Dump;
- (b) alternatively to sub-paragraph (a) above, section 111(1) of the *Mining Act 1904* (WA) had no application to the tailings in the Eastern Gorge Tailings Dump if and to the extent those tailings were not left upon any land that was comprised in Tailings Lease 1; and
- (c) further or alternatively to sub-paragraphs (a) and (b) above, section 111(1) of the *Mining Act 1904* (WA), on its proper construction, had no application, or no longer has application, to the tailings at the Eastern Gorges Tailings Dump, because:
 - (i) ABA abandoned the tailings to the land by no later than the date on which it applied for Tailings Lease 1; and/or

Particulars

(A) ABA applied for Tailings Lease 1 on the basis that the asbestos contained in the tailings were minerals on or below the surface of the land were the property of the Crown under and in accordance with section 138(2) of the *Mining Act 1904* (WA).

- (ii) in the period that has elapsed since the deposit of the tailings, the tailings have ceased to retain separateness from the realty and have therefore become part of the land.

34. As to paragraph 34 of the Statement of Claim, the Respondent:

Grant of mineral claims

- (a) says that regulation 55(7) of the *Mining Act 1904* (WA) *Regulations* empowered the Mining Act Minister to impose conditions when deciding whether to approve an application for a mineral claim;
- (b) says that it does not know and therefore cannot admit whether the Mining Act Minister determined not to exercise the power pleaded in sub-paragraph (a) above to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim, when deciding to grant the Wittenoom Mine Mineral Claims;

- (c) admits that the Mining Act Minister did not impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim when granting the Wittenoom Mine Mineral Claims;

Transfer of mineral claims

- (d) says that, on the proper construction of the *Mining Act 1904* (WA) and the *Mining Act 1904* (WA) *Regulations*, there was no power to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim upon the transfers pleaded in paragraphs 12 and 26 of the Statement of Claim;
- (e) says that if there was such power to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim (which is denied), it does not know and therefore cannot admit whether it was determined not to exercise that power to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim, at the time of the transfers pleaded in paragraphs 12 and 26 of the Statement of Claim;
- (f) admits that the condition or requirement pleaded in paragraph 34 of the Statement of Claim was not imposed in relation to the Wittenoom Mine Mineral Claims when the transfers pleaded in paragraphs 12 and 26 of the Statement of Claim occurred;

Renewal of mineral claims

- (g) says that no material fact is pleaded by the Applicant that the mineral claims were renewed and that no such renewal occurred;

Grant of tailings lease

- (h) says that section 76(1) of the *Mining Act 1904* (WA), on its proper construction, empowered the Governor to impose conditions when deciding whether to approve an application for a tailings lease;
- (i) does not know and therefore cannot admit that the Governor, or the members of the Executive Council upon whose advice and consent the Governor acted, determined not to exercise the power pleaded in sub-paragraph (h) above to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim, when deciding to grant Tailings Lease 1;
- (j) admits that the Governor did not impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim when granting Tailings Lease 1;

Transfer of tailings lease

- (k) says that the transfer of Tailings Lease 1 pleaded in paragraph 26 of the Statement of Claim required the approval, in writing, of the Mining Act Minister under section 82(1) of the *Mining Act 1904* (WA);
- (l) says that, on the proper construction of section 82(1) of the *Mining Act 1904* (WA), the Mining Act Minister was not empowered to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim when giving approval, in writing, for the transfer of Tailings Lease 1;
- (m) says that if there was such power to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim (which is denied), it does not know and therefore cannot admit whether it was determined not to exercise that power to impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim, when approving the transfer of Tailings Lease 1;
- (n) admits that the Mining Act Minister did not impose the condition or requirement pleaded in paragraph 34 of the Statement of Claim when giving approval, in writing, for the transfer of Tailings Lease 1 pleaded in paragraph 26 of the Statement of Claim;

Renewal of tailings lease

- (o) says that no material fact is pleaded by the Applicant that Tailings Lease 1 was renewed and no such renewal occurred;

Regulation 222 of the *Mining Act 1904* (WA) Regulations

- (p) says that it was at all material times an offence for the holder of any mining tenement to allow any of the detritus, dirt, sludge, refuse, garbage or mine water from its tenement to become a nuisance or an inconvenience to the holder of any other mining tenement or to the public under regulation 222 of the *Mining Act 1904* (WA) Regulations;

Other legislation or powers

- (q) does not know the basis upon which the Applicant alleges that there were failures or determinations in respect of other legislation or powers (including what that legislation or other powers is said to be) and therefore cannot admit those allegations; and

(r) otherwise denies each and every allegation pleaded in that paragraph.

35. The Respondent denies each and every allegation pleaded in paragraph 35 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence.

D.2 Colonial Mine and Mill, Colonial Upstream Tailings Dump and Colonial Downstream Tailings Dump

36. As to paragraph 36 of the Statement of Claim, the Respondent:

- (a) says that the mineral claims were granted by the Mining Act Minister under regulation 55(7) of the *Mining Act 1904 (WA) Regulations*;
- (b) does not know and therefore cannot admit that ABA operated the Colonial Mine pursuant to, or in conformity with, those mineral claims and the rights conferred thereunder;
- (c) repeats sub-paragraphs 42(b) to (c) and 48(b) to (c) of this Defence; and
- (d) otherwise admits that paragraph.

37. The Respondent admits paragraph 37 of the Statement of Claim.

38. The Respondent admits paragraph 38 of the Statement of Claim.

39. The Respondent admits paragraph 39 of the Statement of Claim save as to say that ABA processed the extracted ore from the Colonial Mine at Wittenoom Mill between 1953 and approximately 1957 and at the Colonial Mill between 1958 and 1966.

40. As to paragraph 40 of the Statement of Claim, the Respondent:

- (a) admits that the extraction and/or processing of ore by ABA released blue asbestos at the location where the extraction and processing occurred; and
- (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.

41. As to paragraph 41 of the Statement of Claim, the Respondent:

- (a) says that in 1996 DMT Construction Company undertook works to seal mine openings at the former Colonial Mine;

- (b) says that the purpose of the works referred to in sub-paragraph (a) above was to prevent persons from entering the former Colonial Mine and being exposed to hazards;
- (c) says that the Western Australian Building Management Authority engaged DMT Construction Company to undertake those works;
- (d) says that on an unknown date or dates after 1996 an unknown person or persons re-opened one or more of the mine openings; and
- (e) otherwise admits that paragraph.

42. As to paragraph 42 of the Statement of Claim, the Respondent:

- (a) admits that the areas covered by the Colonial Mine and Colonial Mill are located on part of the Determination Area;
- (b) says that there is no single or fixed meaning of the term "Crown land";
- (c) admits that the land on which the former Colonial Mine and Colonial Mill were located:
 - (i) was Crown land as defined in the *Mining Act 1904* (WA) and the *Land Act 1933* (WA) while those Acts were in force;
 - (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA); and
 - (iii) is and remains Crown land as defined in the *Land Administration Act 1997* (WA);
- (d) further to sub-paragraph (c)(iii) above, says that the land is and remains unallocated Crown land as defined in the *Land Administration Act 1997* (WA); and
- (e) otherwise does not know and therefore cannot admit the allegations in that paragraph.

43. The Respondent admits paragraph 43 of the Statement of Claim.

44. The Respondent admits paragraph 44 of the Statement of Claim.

45. The Respondent admits paragraph 45 of the Statement of Claim.

46. As to paragraph 46 of the Statement of Claim, the Respondent:

- (a) admits that the deposit of tailings at the Colonial Tailings Dumps released blue asbestos at those locations; and
- (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.

47. As to paragraph 47 of the Statement of Claim, the Respondent:

- (a) admits that the asbestos tailings deposited at the Colonial Tailings Dumps were not and never have been covered, contained, sealed or otherwise remediated insofar as those tailings have remained in situ; and
- (b) does not know and therefore cannot admit the allegations in that paragraph insofar as they concern any tailings that were removed by ABA or any other person after being deposited at the Colonial Tailings Dumps.

48. As to paragraph 48 of the Statement of Claim, the Respondent:

- (a) admits that the areas covered by the Colonial Tailings Dumps are located on part of the Determination Area;
- (b) says that there is no single or fixed meaning of the term “Crown land”;
- (c) admits that the land on which the Colonial Tailings Dumps are located:
 - (i) was Crown land as defined in the *Mining Act 1904* (WA) and the *Land Act 1933* (WA) while those Acts were in force;
 - (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA); and
 - (iii) is and remains Crown land as defined in the *Land Administration Act 1997* (WA);
- (d) further to sub-paragraph (c)(iii) above, says that the land is and remains unallocated Crown land as defined in the *Land Administration Act 1997* (WA); and
- (e) otherwise does not know and therefore cannot admit the allegations in that paragraph.

49. The Respondent admits paragraph 49 of the Statement of Claim.

50. The Respondent admits paragraph 50 of the Statement of Claim save as to say that the application for the tailings lease was approved by the Governor under section 76(1) of the *Mining Act 1904* (WA) on 17 January 1968.
51. The Respondent admits paragraph 51 of the Statement of Claim save as to say that Tailings Lease 2 was transferred on 25 January 1967.
52. The Respondent admits paragraph 52 of the Statement of Claim save as to say that:
 - (a) mineral claim MC4700014 was transitioned to prospecting licence PL47/128 held by HPPL and WPPL; and
 - (b) mineral claim MC4700049 was transitioned to prospecting licence PL47/131 held by HPPL and WPPL.
53. The Respondent admits paragraph 53 of the Statement of Claim.
54. As to paragraph 54 of the Statement of Claim, the Respondent:
 - (a) repeats and relies on paragraphs 40 and 60 of this Defence; and
 - (b) otherwise does not know and therefore cannot admit that paragraph.
55. As to paragraph 55 of the Statement of Claim, the Respondent:
 - (a) repeats and relies on paragraph 54 of this Defence insofar as the paragraph relates to blue asbestos released in the areas of and surrounding the Colonial Mine and Colonial Mill, and admits the paragraph to that extent;
 - (b) says that since the surrender of mineral claims MC4700054, MC4700015, MC4700017, MC4700018, MC4700045, MC4700046 and MC4700047, land that was subject to the Colonial Mining Tenements has been the subject to the following tenements or other forms of tenure under the *Mining Act 1904* (WA) or the *Mining Act 1978* (WA):
 - (i) general purpose lease G 47/4;
 - (ii) general purpose lease G 47/6;
 - (iii) prospecting licence P 47/128;
 - (iv) prospecting licence P 47/131; and
 - (v) temporary reserve TR 70/5616; and

- (c) otherwise does not know and therefore cannot admit that paragraph.

56. As to paragraph 56 of the Statement of Claim, the Respondent:

- (a) says that ABA was not at any material time during the period 1953 to 1966 the holder of a mining lease, mining tenement or authorised holding under the *Mining Act 1904* (WA) which authorised the deposition of tailings at the Colonial Downstream Tailings Dump;
- (b) says that Tailings Lease 2 was granted after ABA had already deposited the tailings at the Colonial Downstream Tailings Dump;
- (c) does not know and therefore cannot admit that the Colonial Downstream Tailings Dump was wholly covered by Tailings Lease 2;
- (d) says that mineral claim MC47000014 was transitioned to prospecting licence PL47/128 held by HPPL and WPPL;
- (e) says that mineral claim MC47000049 was transitioned to prospecting licence PL47/131 held by HPPL and WPPL prior to their surrender on 10 October 1988; and
- (f) otherwise admits the paragraph.

57. The Respondent admits paragraph 57 of the Statement of Claim save as to repeat and rely upon sub-paragraphs 42(b) and (c) and 48(b) and (c) of this Defence.

58. The Respondent denies each and every allegation pleaded in paragraph 58 of the Statement of Claim and says that:

- (a) section 114(7) of the *Mining Act 1978* (WA) applied to prospecting licence PL47/128 (transitioned from mineral claim MC47000014 as pleaded in paragraphs 52 and 56 above) and prospecting licence PL47/131 (transitioned from mineral claim MC47000049 as pleaded in paragraphs 52 and 56 above) as from the date of their surrender on 10 October 1988;
- (b) in the circumstances pleaded in sub-paragraphs 56(a) to (b) of this Defence, section 111(1) of the *Mining Act 1904* (WA) had no application to the tailings in the Colonial Downstream Tailings Dump;

- (c) alternatively to sub-paragraph (b) above, section 111(1) of the *Mining Act* had no application to the tailings in the Colonial Downstream Tailings Dump to the extent that the tailings were not left upon land that was comprised in Tailings Lease 2;
- (d) further or alternatively to sub-paragraphs (b) and (c) above, section 111(1) of the *Mining Act 1904* (WA), on its proper construction, had no application, or no longer has application, to the tailings at the Colonial Tailings Dumps, because:
 - (i) ABA abandoned the tailings to the land by no later than the date on which it applied for Tailings Lease 2; and/or

Particulars

- (A) ABA applied for Tailings Lease 2 on the basis that the asbestos contained in the tailings were minerals on or below the surface of the land were the property of the Crown under and in accordance with section 138(2) of the *Mining Act 1904* (WA).
- (e) in the period that has elapsed since the deposit of the tailings, the tailings have ceased to retain separateness from the realty and have therefore become part of the land.

59. As to paragraph 59 of the Statement of Claim, the Respondent:

Grant of mineral claims

- (a) says that regulation 55(7) of the *Mining Act 1904* (WA) *Regulations* empowered the Mining Act Minister to impose conditions when deciding whether to approve an application for a mineral claim;
- (b) says that it does not know and therefore cannot admit whether the Mining Act Minister determined not to exercise the power pleaded in sub-paragraph (a) above to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim, when deciding to grant the Colonial Mine Mineral Claims;
- (c) admits that the Mining Act Minister did not impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim when granting the Colonial Mine Mineral Claims;

Transfer of mineral claims

- (d) says that, on the proper construction of the *Mining Act 1904* (WA) and the *Mining Act 1904* (WA) *Regulations*, there was no power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim upon the transfers pleaded in paragraphs 36 and 51 of the Statement of Claim;
- (e) says that if there was such power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim (which is denied), it does not know and therefore cannot admit whether it was determined not to exercise that power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim, at the time of the transfers pleaded in paragraphs 36 and 51 of the Statement of Claim;
- (f) admits that the condition or requirement pleaded in paragraph 59 of the Statement of Claim was not imposed in relation to the Colonial Mine Mineral Claims when the transfers pleaded in paragraphs 36 and 51 of the Statement of Claim occurred;

Renewal of mineral claims

- (g) says that no material fact is pleaded by the Applicant that the mineral claims were renewed and no such renewal occurred;

Grant of tailings lease

- (h) says that section 76(1) of the *Mining Act 1904* (WA) empowered the Governor to impose conditions when deciding whether to approve an application for a tailings lease;
- (i) does not know and therefore cannot admit that the Governor, or the members of the Executive Council upon whose advice and consent the Governor acted, determined not to exercise the power pleaded in sub-paragraph (g) above to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim, when deciding to grant Tailings Lease 2;
- (j) admits that the Governor did not impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim when granting Tailings Lease 2;

Transfer of tailings lease

- (k) says that the transfer of Tailings Lease 2 pleaded in paragraph 51 of the Statement of Claim required the approval, in writing, of the Mining Act Minister under section 82(1) of the *Mining Act 1904* (WA);
- (l) says that, on the proper construction of section 82(1) of the *Mining Act 1904* (WA), the Mining Act Minister was not empowered to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim when giving approval, in writing, for the transfer of Tailings Lease 2;
- (m) says that if there was such power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim (which is denied), it does not know and therefore cannot admit whether it was determined not to exercise that power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim, when approving the transfer of Tailings Lease 2;
- (n) admits that the Mining Act Minister did impose not the condition or requirement pleaded in paragraph 59 of the Statement of Claim when giving approval, in writing, for the transfer of Tailings Lease 2 pleaded in paragraph 51 of the Statement of Claim;

Renewal of tailings lease

- (o) says that no material fact is pleaded by the Applicant that Tailings Lease 2 was renewed and no such renewal occurred;

Regulation 222 of the *Mining Act 1904* (WA) Regulations

- (p) says that it was at all material times an offence for the holder of any mining tenement to allow any of the detritus, dirt, sludge, refuse, garbage, or mine water from its tenement to become a nuisance or an inconvenience to the holder of any other mining tenement or to the public under regulation 222 of the *Mining Act 1904* (WA) Regulations;

Other legislation or powers

- (q) does not know the basis upon which the Applicant alleges that there were failures or determinations in respect of other legislation or powers and therefore cannot admit those allegations; and
- (r) otherwise denies each and every allegation pleaded in that paragraph.

60. The Respondent denies each and every allegation pleaded in paragraph 60 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence.

D.3 Yampire Mine and Yampire Tailings Dump

61. As to paragraph 61 of the Statement of Claim, the Respondent:
- (a) says that the mineral claims were granted by the Mining Act Minister under regulation 55(7) of the *Mining Act 1904 (WA) Regulations*;
 - (b) does not know and therefore cannot admit that WABAF operated the Yampire Mine pursuant to, or in conformity with, those mineral claims and the rights conferred thereunder;
 - (c) repeats sub-paragraphs 67(c) to (e) of this Defence; and
 - (d) otherwise admits that paragraph.
62. The Respondent admits paragraph 62 of the Statement of Claim.
63. The Respondent admits paragraph 63 of the Statement of Claim.
64. The Respondent admits paragraph 64 of the Statement of Claim.
65. As to paragraph 65 of the Statement of Claim, the Respondent:
- (a) admits that the extraction and/or processing of ore by WABAF released blue asbestos at the location where the extraction and processing occurred; and
 - (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.
66. As to paragraph 66 of the Statement of Claim, the Respondent:
- (a) says that in 1996 DMT Construction Company undertook works to seal mine openings at the former Yampire Mine;
 - (b) says that the purpose of the works referred to in sub-paragraph (a) above was to prevent persons from entering the former Yampire Mine and being exposed to hazards;

- (c) says that the Western Australian Building Management Authority engaged DMT Construction Company to undertake those works;
- (d) says that on an unknown date or dates after 1996 an unknown person or persons re-opened one or more of the mine openings; and
- (e) otherwise admits that paragraph.

67. As to paragraph 67 of the Statement of Claim, the Respondent:

- (a) admits that the areas over which the former Yampire Mine and Yampire Mill were located:
 - (i) do not form part of the Determination Area; and
 - (ii) are proximate to or in the vicinity of a point generally along the southern boundary of the Determination Area and the northern boundary of Reserve 30082;
- (b) says that the areas over which the former Yampire Mine and Yampire Mill were located are unimproved;
- (c) says that there is no single or fixed meaning of the term “Crown land”;
- (d) admits that the land on which the former Yampire Mine and Yampire Mill were located was Crown land as defined in the:
 - (i) *Mining Act 1904* (WA) while that Act was in force; and
 - (ii) *Land Act 1933* (WA) until 30 October 1969;
- (e) admits that the land on which the former Yampire Mine and Yampire Mill were located is and remains Crown Land as defined in the *Land Administration Act 1997* (WA);
- (f) says that:
 - (i) on and from 31 October 1969 the former Yampire Mine and Yampire Mill were within Reserve 30082, being a Class A reserve set aside for the purpose of National Park;

Particulars

- (A) On 31 October 1969 the Governor set aside Reserve 30082 for the purpose of National Park under section 29 of the *Land Act 1933* (WA).
 - (B) On 31 October 1969 the Governor by proclamation classified Reserve 30082 as a Class A Reserve under section 31 of the *Land Act 1933* (WA);
 - (C) The boundaries of Reserve 30082 have changed from time to time but not so as to exclude the former Yampire Mine or Yampire Mill.
- (ii) from 31 October 1969 until 31 July 1977 Reserve 30082 was vested in the National Parks Board of Western Australia, being a body corporate constituted by Proclamation under section 3 of the *Parks and Reserves Act 1895* (WA), in trust for the purposes of National Park;

Particulars

- (A) On 31 October 1969 the Governor by proclamation vested Reserve 30082 in the National Parks Board of Western Australia under section 33 of the *Land Act 1933* (WA).
- (iii) from 1 August 1977 until 21 March 1985 the control and management of Reserve 30082 was placed in the National Parks Authority by the operation of section 17 of the *National Parks Authority Act 1976* (WA); and
- (iv) on and from 22 March 1985 Reserve 30082 was:
- (A) vested in the National Parks and Nature Conservation Authority (later the Conservation Commission of Western Australia and then the Conservation and Parks Commission) by the operation of section 9(2) of the *Conservation and Land Management Act 1984* (WA); and
 - (B) placed under the management of the Department of Conservation and Land Management (later the chief executive officer of the Department principally assisting the administration of the Act), subject to the direction and control of the Minister, by the operation of section 33 of the *Conservation and Land Management Act 1984* (WA).
- (g) otherwise does not know and therefore cannot admit that paragraph.

68. The Respondent admits paragraph 68 of the Statement of Claim.
69. The Respondent admits paragraph 69 of the Statement of Claim.
70. As to paragraph 70 of the Statement of Claim, the Respondent:
- (a) admits that the deposit of tailings at the Yampire Tailings Dump released blue asbestos at that location; and
 - (b) otherwise does not know (with sufficient precision) the areas where the Applicant alleges that the blue asbestos was released and therefore cannot admit that paragraph.
71. As to paragraph 71 of the Statement of Claim, the Respondent:
- (a) admits that the asbestos tailings deposited at the Yampire Tailings Dump were not and never have been covered, contained, sealed or otherwise remediated insofar as those tailings have remained in situ; and
 - (b) does not know and therefore cannot admit the allegations in that paragraph insofar as they concern any tailings that were removed by WABAF or any other person after being deposited at the Yampire Tailings Dump.
72. As to paragraph 72 of the Statement of Claim, the Respondent repeats and relies upon paragraph 67 of this Defence, save that the words “Yampire Mine and Yampire Mill” are substituted here with the words “Yampire Tailings Dump”.
73. The Respondent does not know and therefore cannot admit paragraph 73 of the Statement of Claim.
74. The Respondent admits paragraph 74 of the Statement of Claim.
75. The Respondent admits paragraph 75 of the Statement of Claim.
76. As to paragraph 76 of the Statement of Claim, the Respondent:
- (a) repeats and relies on paragraphs 65, 70 and 82 of this Defence and admits that paragraph to that extent; and
 - (b) otherwise does not know and therefore cannot admit that paragraph.

77. As to paragraph 77 of the Statement of Claim, the Respondent:

- (a) repeats and relies on paragraph 76 of this Defence insofar as it relates to blue asbestos released in the areas of and surrounding Yampire Mine and Yampire Mill, and admits that paragraph to that extent;
- (b) admits that since the surrender of mineral claims MC4700027 and MC4700033, land that was subject to the Yampire Mining Tenements has not been subject to mining tenements or other forms of tenure under the *Mining Act 1904* (WA) or the *Mining Act 1978* (WA); and
- (c) the Respondent otherwise does not know and therefore cannot admit that paragraph.

78. The Respondent admits paragraph 78 of the Statement of Claim.

79. The Respondent admits paragraph 79 of the Statement of Claim, save as to repeat and rely upon sub-paragraphs 67(c) and (d) and paragraph 72 of this Defence.

80. The Respondent denies each and every allegation pleaded in paragraph 80 of the Statement of Claim and says that:

- (a) section 111(1) of the *Mining Act 1904* (WA) had no application to the tailings in the Yampire Mine Tailings Dump to the extent that WABAF was not at any material time during the period 1943 to 1946 the holder of a mining lease, mining tenement or authorised holding under the *Mining Act 1904* (WA) which authorised the deposition of tailings at the Yampire Tailings Dump;
- (b) further and alternatively to sub-paragraph (a) above, section 111(1) of the *Mining Act 1904* (WA), on its proper construction, had no application, or no longer has application, to the tailings at the Yampire Tailings Dump, because in the time that has elapsed since the deposit of the tailings, the tailings have ceased to retain separateness from the realty and have therefore become part of the land.

81. As to paragraph 81 of the Statement of Claim, the Respondent:

Grant of mineral claims

- (a) says that regulation 55(7) of the *Mining Regulations* empowered the Mining Act Minister to impose conditions when deciding whether to approve an application for a mineral claim;

- (b) says that it does not know and therefore cannot admit whether the Mining Act Minister determined not to exercise the power pleaded in sub-paragraph (a) above to impose the condition or requirement pleaded in paragraph 81 of the Statement of Claim, when deciding to grant the Yampire Mining Tenements;
- (c) admits that the Mining Act Minister did not impose the condition or requirement pleaded in paragraph 81 of the Statement of Claim when granting the Yampire Mining Tenements;

Transfer of mineral claims

- (d) says that, on the proper construction of the *Mining Act 1904 (WA)* and the *Mining Act 1904 (WA) Regulations*, there was no power to impose the condition or requirement pleaded in paragraph 81 of the Statement of Claim upon the transfers pleaded in paragraphs 61 and 74 of the Statement of Claim;
- (e) says that if there was such power to impose the condition or requirement pleaded in paragraph 81 of the Statement of Claim (which is denied), it does not know and therefore cannot admit whether it was determined not to exercise that power to impose the condition or requirement pleaded in paragraph 59 of the Statement of Claim, at the time of the transfers pleaded in paragraphs 61 and 74 of the Statement of Claim;
- (f) admits that the condition or requirement pleaded in paragraph 81 of the Statement of Claim was not imposed in relation to the Yampire Mining Tenements when the transfers pleaded in paragraphs 61 and 74 of the Statement of Claim occurred;

Renewal of mineral claims

- (g) says that no material fact is pleaded by the Applicant that the mineral claims were renewed and no such renewal occurred;

Regulation 222 of the *Mining Act 1904 (WA) Regulations*

- (h) says that it was at all material times an offence for the holder of any mining tenement to allow any of the detritus, dirt, sludge, refuse, garbage, or mine water from its tenement to become a nuisance or an inconvenience to the holder of any other mining tenement or to the public under regulation 222 of the *Mining Act 1904 (WA) Regulations*;

Other legislation or powers

- (i) does not know the basis upon which the Applicant alleges that there were failures or determinations in respect of other legislation or powers and therefore cannot admit those allegations; and
 - (j) otherwise denies each and every allegation pleaded in that paragraph.
82. The Respondent denies each and every allegation pleaded in paragraph 82 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence.

D.4 Wittenoom Racecourse

83. The Respondent admits paragraph 83 of the Statement of Claim and says further that:
- (a) in or about 1951, ABA, its employees, servants or agents, constructed the racetrack component of the Wittenoom Racecourse;
 - (b) on 8 January 1954 Reserve 23864, being Lot 359 on Diagram 62975 Plan Wittenoom Gorge Townsite, was set apart for the purpose of “Sports Ground and Racecourse”, over an area which included the racetrack that had been constructed by ABA;
 - (c) by instrument dated 8 January 1954, made under section 33 of the *Land Act 1933* (WA), Reserve 23864 was vested in the Tableland Road Board, to be held in trust for the purpose of sports ground and racecourse;
 - (d) on 16 December 1960, the purpose of Reserve 23864 was changed to “Sports Ground, Racecourse & Caravan Park”, and the reserve was vested in the Tableland Shire;
 - (e) in or before 1967, the Wittenoom Gorge Race Club erected the buildings associated with the Wittenoom Racecourse, to be leased by the Tableland Shire to the Wittenoom Gorge Race Club;
 - (f) on 13 September 1968, the vesting in the preceding sub-paragraph was revoked and the reserve re-vested in the Tableland Shire, with an added power to lease the reserve for a term of up to 21 years;
 - (g) on 11 July 1975, the vesting in sub-paragraph (f) above was revoked and the reserve was vested in the Shire of West Pilbara;

- (h) between 1988 and 1989, the Shire of Ashburton partially buried the tailings at the Wittenoom Racecourse; and
 - (i) on 9 November 1995, the vesting in sub-paragraph (h) above was cancelled, and Reserve 23864 was cancelled.
84. The Respondent does not know and therefore cannot admit paragraph 84 of the Statement of Claim.
85. As to paragraph 85 of the Statement of Claim, the Respondent:
- (a) says that between 1988 and 1989, the Shire of Ashburton partially buried the tailings at the Wittenoom Racecourse; and
 - (b) otherwise admits that paragraph.
86. As to paragraph 86 of the Statement of Claim, the Respondent:
- (a) admits that the former Wittenoom Racecourse does not form part of, and is surrounded by, the Determination Area;
 - (b) says that there is no single or fixed meaning of the term “Crown land”;
 - (c) admits that the land on which the former Wittenoom Racecourse was located:
 - (i) was Crown land as defined in the *Mining Act 1904* (WA) while that Act was in force;
 - (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA);
 - (iii) was Crown land as defined in the *Land Act 1933* (WA) while that Act was in force but excluding the period 8 January 1954 to 9 November 1995; and
 - (iv) is and remains Crown land as defined in the *Land Administration Act 1997* (WA);
 - (d) further to sub-paragraph (c)(iv) above, says that the land is and remains unallocated Crown land as defined in the *Land Administration Act 1997* (WA);
 - (e) says that the former Wittenoom Racecourse was vested in the Tableland Road Board, Tableland Shire and Shire of West Pilbara under the *Land Act 1933* (WA) during the periods pleaded in paragraph 83 of this Defence; and

- (f) otherwise does not know and therefore cannot admit the allegations in that paragraph.

- 87. As to paragraph 87 of the Statement of Claim, the Respondent does not know the basis upon which the Applicant alleges that there were failures or determinations to impose conditions or requirements and therefore cannot admit the allegations pleaded therein.
- 88. The Respondent denies each and every allegation pleaded in paragraph 88 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence

D.5 Wittenoom Airport

- 89. The Respondent admits paragraph 89 of the Statement of Claim and says further that:
 - (a) the Wittenoom Airport was located in Reserve 23278, Location 4 Windell, Plan 97/300;
 - (b) on 13 July 1951, Reserve 23278 was set aside as a public reserve for the purpose of "Aerial Landing Ground";
 - (c) by lease dated 28 June 1951, Reserve 23278 was leased to the Commonwealth of Australia for a term of 15 years, and thereafter from month to month, to be held on trust for the purpose of an Aerial Landing Ground;
 - (d) on 2 September 1966, the boundaries of Reserve 23278 were amended to include Windell Location 8, and the reserve was leased to the Commonwealth of Australia for a further term of 21 years;
 - (e) the Commonwealth of Australia was the occupier of and/or had the control of the Reserve 23278 until October 1993; and
 - (f) Reserve 23278 is and has been an unmanaged reserve for the purposes of the *Land Administration Act 1997* (WA).
- 90. The Respondent does not know and therefore cannot admit paragraph 90 of the Statement of Claim.
- 91. The Respondent admits paragraph 91 of the Statement of Claim.
- 92. As to paragraph 92 of the Statement of Claim, the Respondent:
 - (a) denies that any part of the Wittenoom Airport is within the Determination Area;

- (b) says that the Wittenoom Airport does not form part of the Determination Area and is surrounded by the Determination Area;
 - (c) says that there is no single or fixed meaning of the term “Crown land”;
 - (d) admits that the land on which the Wittenoom Airport is located:
 - (i) was Crown land as defined in the *Mining Act 1904* (WA) while that Act was in force;
 - (ii) is and remains Crown land as defined in the *Mining Act 1978* (WA);
 - (iii) was Crown land as defined in the *Land Act 1933* (WA) while that Act was in force but excluding the period during which the Commonwealth of Australia held a lease over Reserve 23278; and
 - (iv) is and remains Crown land as defined in the *Land Administration Act 1997* (WA); and
 - (e) further to sub-paragraph (d)(iv) above, says that the land is and remains an unmanaged reserve as defined in the *Land Administration Act 1997* (WA);
 - (f) otherwise does not know and therefore cannot admit that paragraph.
93. As to paragraph 93 of the Statement of Claim, the Respondent does not know the basis upon which the Applicant alleges that there were failures or determinations to impose conditions or requirements and therefore cannot admit the allegations pleaded therein.
94. The Respondent denies each and every allegation pleaded in paragraph 94 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence.

E. SPREAD OF ASBESTOS

E.1 Mechanism of spread

95. As to paragraph 95 of the Statement of Claim, the Respondent:
- (a) admits that blue asbestos or material containing blue asbestos can be disturbed by wind, water, human activity, animal activity or other movement;
 - (b) admits sub-paragraph (b); and
 - (c) otherwise denies each and every allegation pleaded in that paragraph.

E.2 Wittenoom Mine and Eastern Gorge Tailings Dump

96. As to paragraph 96 of the Statement of Claim, the Respondent:

- (a) admits that asbestos tailings deposited at the Eastern Gorge Tailings Dump have, since they were deposited, been dispersed and spread by wind and water; and
- (b) otherwise does not know and cannot admit the allegations pleaded in that paragraph.

97. As to paragraph 97 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), repeats paragraphs 16, 21 and 95 of this Defence;
- (b) as to sub-paragraph (b), does not know (with sufficient precision) the further areas where the Applicant alleges blue asbestos or material containing blue asbestos is continuously being dispersed, spread, accumulated and released and therefore cannot admit that sub-paragraph; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

E.3 Colonial Mine, Colonial Upstream Tailings Dump and Colonial Downstream Tailings Dump

98. As to paragraph 98 of the Statement of Claim, the Respondent:

- (a) admits that asbestos tailings deposited at the Colonial Upstream Tailings Dump and Colonial Downstream Tailings Dump have, since they were deposited, been dispersed and spread by wind and water; and
- (b) otherwise does not know and cannot admit the allegations pleaded in that paragraph.

99. As to paragraph 99 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), repeats paragraphs 40, 46 and 95 of this Defence;
- (b) as to sub-paragraph (b), does not know (with sufficient precision) the further areas where the Applicant alleges blue asbestos or material containing blue asbestos is continuously being dispersed, spread, accumulated and released and therefore cannot admit that sub-paragraph; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

E.4 Yampire Mine and Yampire Tailings Dump

100. As to paragraph 100 of the Statement of Claim, the Respondent:

- (a) admits that asbestos tailings deposited at the Yampire Tailings Dump have, since they were deposited, been dispersed and spread by wind and water; and
- (b) otherwise does not know and cannot admit the allegations pleaded in that paragraph.

101. As to paragraph 101 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), repeats paragraphs 65, 70 and 95 of this Defence;
- (b) as to sub-paragraph (b), does not know (with sufficient precision) the further areas where the Applicant alleges blue asbestos or material containing blue asbestos is continuously being dispersed, spread, accumulated and released and therefore cannot admit that sub-paragraph; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

E.5 Wittenoom Racecourse

102. As to paragraph 102 of the Statement of Claim, the Respondent:

- (a) admits that asbestos tailings used to construct Wittenoom Racecourse have, since they were deposited, been dispersed and spread by wind and water; and
- (b) otherwise does not know and cannot admit the allegations pleaded in that paragraph.

103. As to paragraph 103 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), repeats paragraphs 84 and 95 of this Defence;
- (b) as to sub-paragraph (b), does not know (with sufficient precision) the further areas where the Applicant alleges blue asbestos or material containing blue asbestos is continuously being dispersed, spread, accumulated and released and therefore cannot admit that sub-paragraph; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

E.6 Wittenoom Airport

104. As to paragraph 104 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), admits that asbestos tailings deposited at Wittenoom Airport have, since they were deposited, been dispersed and spread by wind and water; and
- (b) otherwise does not know and therefore cannot admit the allegations in sub-paragraph (b).

105. As to paragraph 105 of the Statement of Claim, the Respondent:

- (a) as to sub-paragraph (a), repeats paragraphs 90 and 95 of this Defence;
- (b) as to sub-paragraph (b), does not know (with sufficient precision) the further areas where the Applicant alleges blue asbestos or material containing blue asbestos is continuously being dispersed, spread, accumulated and released and therefore cannot admit that sub-paragraph; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

F. THE NATURE OF BLUE ASBESTOS

106. The Respondent admits paragraph 106 of the Statement of Claim.

107. The Respondent admits paragraph 107 of the Statement of Claim.

108. The Respondent denies each and every allegation pleaded in paragraph 108 of the Statement of Claim and says that:

- (a) individual blue asbestos fibres of respirable dimensions that present the greatest inhalation hazard are generally not visible to the unaided human eye; and
- (b) the danger to human health posed by blue asbestos is influenced by fibre dimensions, concentration, duration, cumulative exposure and other factors.

109. Save as has been admitted in paragraphs 95 to 108 of this Defence, the Respondent denies each and every allegation pleaded in paragraph 109 of the Statement of Claim and says that:

- (a) the movement and accumulation of asbestos or material containing blue asbestos depends on the existence of ongoing sources, environmental transport pathways and other factors;

- (b) the use of blue asbestos and material containing blue asbestos was widespread in Wittenoom;

Particulars

- (A) ABA made asbestos tailings available for use in Wittenoom until 1966.
 - (B) On and from their acquisition of the Tailings Dumps from ABA on 23 March 1967, HPPL and WPPL made asbestos tailings available for use in Wittenoom, including to the local government and to residents for incorporation into concrete, until about August 1975.
 - (C) Asbestos tailings were present at the Wittenoom Airport, the Wittenoom Racecourse and golf course, and residents from time to time used tailings for roadways and as groundcover at their residences.
 - (D) Asbestos tailings were used in the construction of some buildings and roads.
- (c) blue asbestos occurs naturally in areas within the Determination Area; and
 - (d) it is not possible to remove, contain or otherwise remediate all of the blue asbestos and material containing blue asbestos.

110. As to paragraph 110 of the Statement of Claim, the Respondent:

- (a) admits that people are at risk of inhaling and potentially ingesting asbestos fibres within the Wittenoom Asbestos Management Area depending on fibre release, environmental conditions, activity patterns, duration of presence, duration of exposure and other factors; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

G. STATE OF KNOWLEDGE

111. As to paragraph 111 of the Statement of Claim, the Respondent:

- (a) in relation to the allegations about the Mines, admits that paragraph save as to repeat paragraphs 12(e), 36(e) and 61(e) of this Defence; and
- (b) in relation to the allegations about the Tailings Dumps:
 - (i) admits the allegations in and from at least 1978; and

- (ii) otherwise does not know and therefore cannot admit that paragraph.

112. As to paragraph 112 of the Statement of Claim, the Respondent:

- (a) admits that it knew or ought to have known that the mining and other processing activities at the Mines released blue asbestos or material containing blue asbestos (including of respirable particulate size) at the location where the mining and other processing activities occurred, from 1950; and
- (b) otherwise denies each and every allegation pleaded in that paragraph.

113. As to paragraph 113 of the Statement of Claim, the Respondent:

- (a) admits that it knew or ought to have known of the presence of asbestos tailings and blue asbestos at the Wittenoom Racecourse, from at least 1978; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

114. As to paragraph 114 of the Statement of Claim, the Respondent:

- (a) admits that it knew or ought to have known of the presence of asbestos tailings and blue asbestos at the Wittenoom Airport, from at least 1978; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

115. As to paragraph 115 of the Statement of Claim, the Respondent:

- (a) admits that in and from 1978 it knew, and ought to have known, that blue asbestos or material containing blue asbestos:
 - (i) had spread from one or more of the Eastern Gorge, Colonial Upstream or Colonial Downstream Tailings Dumps via Joffre Creek down the gorge and into part of the Fortescue Flats inside the Wittenoom Asbestos Management Area; and
 - (ii) had been and could be released into the air in Wittenoom from tailings deposits that had already been placed in Wittenoom, if and when actuated by wind, water, human activity, animal activity or other movement; and
- (b) otherwise denies each and every allegation pleaded in that paragraph.

116. As to paragraph 116 of the Statement of Claim, the Respondent:

- (a) says that it was not until the publication in 1960 and 1961 of research papers by Dr Wagner in South Africa that a link between low level asbestos exposure and mesothelioma was suspected;
- (b) says that by the mid-1960s the suspicions were beginning to be accepted and by about the end of 1978 there was a view in the scientific community that it was not possible to determine an exposure limit below which no danger of mesothelioma or of lung cancer could be assumed;
- (c) says that it received advice from the Public Health Department in 1978 to the effect that:
 - (i) adults were at risk of contracting mesothelioma after 50 years' residence in Wittenoom;
 - (ii) children (who tended to play on ground contaminated with asbestos) were at risk after much shorter periods; and
 - (iii) there was no or negligible danger to casual visitors and tourists, or persons staying in Wittenoom for less than three months;
- (d) says that the state of knowledge as to the risks of low level asbestos exposure continued to grow incrementally from 1978 leading to a total ban on asbestos in Australia in 2003; and
- (e) otherwise denies each and every allegation pleaded in that paragraph.

H. RESPONSE TO THE RISK TO HUMAN HEALTH

117. The Respondent denies each and every allegation pleaded in paragraph 117 of the Statement of Claim and says that the Respondent has taken the steps set out in Schedule B to this Defence.

118. The Respondent denies each and every allegation pleaded in paragraph 118 of the Statement of Claim.

119. The Respondent admits paragraph 119 of the Statement of Claim.

I. EFFECTS OF BLUE ASBESTOS

120. As to paragraph 120 of the Statement of Claim, the Respondent:

- (a) admits that blue asbestos is respirable by humans; and
- (b) otherwise denies each and every allegation pleaded in that paragraph.

121. As to paragraph 121 of the Statement of Claim, the Respondent:

- (a) admits that the inhalation of respirable blue asbestos fibres of certain particulate sizes is a risk and danger to human health;
- (b) says that the risk associated with light and non-occupational exposure to respirable blue asbestos fibres of certain particulate sizes is associated with mesothelioma; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

122. In response to paragraph 122 of the Statement of Claim, the Respondent:

- (a) admits sub-paragraphs (a) and (e), save that the Respondent does not know and therefore cannot admit the individual Banjima People who are aware of those matters or when or how the Applicant and Banjima People became aware of those matters; and
- (b) does not know and therefore cannot admit sub-paragraphs (b), (c) or (d).

123. As to paragraph 123 of the Statement Claim, the Respondent:

- (a) denies that the Applicant has held and continues to hold a reasonable fear and/or apprehension of harm to the health and wellbeing of Group Members if they enter the Affected Area and other areas of the Determination Area; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

124. As to paragraph 124 of the Statement of Claim, the Respondent:

- (a) repeats paragraph 109 of this Defence; and
- (b) otherwise does not know and therefore cannot admit that paragraph.

125. The Respondent does not know and therefore cannot admit paragraph 125 of the Statement of Claim.

126. The Respondent does not know and therefore cannot admit paragraph 126 of the Statement of Claim.

J. ALLEGED LIABILITY IN NUISANCE

J.1 Private nuisance

127. As to paragraph 127 of the Statement of Claim, the Respondent repeats paragraphs 18, 23, 42, 48, 57, 67, 72, 79, 86 and 92 of this Defence.

128. As to paragraph 128 of the Statement of Claim, the Respondent:

- (a) admits that at all material times, Crown land (as variously defined) within the State of Western Australia has been managed or administered pursuant and subject to various Acts and subsidiary legislation as enacted from time to time, including the following:
 - (i) *Land Regulations 1997* (WA);
 - (ii) *Land Act 1933* (WA);
 - (iii) *Land Administration Act 1997* (WA);
 - (iv) *Mining Act 1904* (WA);
 - (v) *Mining Act 1978* (WA);
 - (vi) *Parks and Reserves Act 1895* (WA)
 - (vii) *National Parks Authority Act 1976* (WA)
 - (viii) *Conservation and Land Management Act 1984* (WA);
 - (ix) *Contaminated Sites Act 2006* (WA);
 - (x) *Local Government Act 1995* (WA) (including its predecessors); and
 - (xi) subsidiary legislation enacted from time to time under or in relation to those Acts identified in the preceding sub-paragraphs;
- (b) admits that the Minister for Lands, acting for and on behalf of the Respondent pursuant to sections 7(4) and 10(1) of the *Land Administration Act 1997* (WA), may exercise any and all powers and perform any and all duties conferred upon it under the *Land Administration Act 1997* (WA), including over the Determination Area; and
- (c) otherwise denies each and every allegation pleaded in that paragraph.

129. The Respondent denies paragraph 129 of the Statement of Claim and repeats paragraph 128 above.
130. The Respondent denies paragraph 130 of the Statement of Claim.
131. As to paragraph 131 of the Statement of Claim, the Respondent repeats the matters pleaded in paragraphs 111 to 116 above.
132. The Respondent denies paragraph 132 of the Statement of Claim.
133. As to paragraph 133 of the Statement of Claim, the Respondent:
- (a) repeats paragraphs 111 to 117 of this Defence; and
 - (b) otherwise denies each and every allegation pleaded in that paragraph.
134. The Respondent denies each and every allegation pleaded in paragraph 134 of the Statement of Claim.

J.2 Public nuisance

135. As to paragraph 135 of the Statement of Claim, the Respondent:
- (a) repeats paragraph 133 of this Defence; and
 - (b) otherwise denies each and every allegation pleaded in that paragraph.
136. The Respondent denies each and every allegation pleaded in paragraph 136 of the Statement of Claim.
137. The Respondent denies each and every allegation pleaded in paragraph 137 of the Statement of Claim.

J.3 Nuisance on the case

138. The Respondent denies each and every allegation pleaded in paragraph 138 of the Statement of Claim.

K. ALLEGED LOSS AND DAMAGE

139. The Respondent denies each and every allegation pleaded in paragraph 139 of the Statement of Claim and says that, in point of law:
- (a) cultural loss is not recoverable in relation a claim for private nuisance, public nuisance or action on the case; and

- (b) any loss or damage that was not reasonably foreseeable at the time that the Respondent allegedly authorised or acquiesced in activities that caused the release of blue asbestos and/or deposit of blue asbestos, as pleaded in paragraph 132 of the Statement of Claim, is too remote and not recoverable.

L. ALLEGED INADEQUACY OF DAMAGES

140. The Respondent denies each and every allegation pleaded in paragraph 140 of the Statement of Claim.

M. FURTHER MATTERS OF DEFENCE

M.1 Section 33B *Federal Court of Australia Act 1976* (Cth)

141. By virtue of section 33B of the *Federal Court of Australia Act 1976* (Cth), this Honourable Court cannot grant relief in this proceeding under Part IVA of the Act in respect of any cause of action that accrued before 4 March 1992, being the date on which the *Federal Court of Australia Amendment Act 1991* (Cth) commenced.

M.2 The *Contaminated Sites Act 2003* (WA)

142. On 25 January 2008 the **Chief Executive Officer** of the Department principally assisting the Minister responsible for the administration of the *Contaminated Sites Act 2003* (WA) relevantly classified the parcels of land set out in Part 1 of Schedule A to this Defence, as a known or suspected contaminated site, with a classification of “Contamination – remediation required”, because of the known presence of free asbestos fibre contamination within soils on the contaminated site, under and in accordance with section 13 of the *Contaminated Sites Act 2003* (WA).
143. The classification of the parcels of land set out in Part 1 of Schedule A to this Defence is an “other interest” in the Determination.
144. On 25 May 2021, the Chief Executive Officer classified those part parcels of land set out in Part 2 of Schedule A to this Defence, as a known or suspected contaminated site, with a classification of “Contamination – remediation required”, because of the known presence of free asbestos fibre contamination within soils on the contaminated site, under and in accordance with section 13 of the *Contaminated Sites Act 2003* (WA).
145. The areas identified in sub-paragraphs 6(a) to (e) of the Statement of Claim are wholly within the areas set out in Schedule A to this Defence.

146. The responsibility for determining the person or persons who are responsible for the remediation of the areas set out in Schedule A to this Defence, and the extent to which that person or persons are responsible for remediation of that area of land (in whole or part) is placed with the Contaminated Sites Committee established under the *Contaminated Sites Act 2003* (WA).
147. The Respondent's responsibility, if any, for remediating the areas set out in Schedule A to this Defence is prescribed or conditioned by the *Contaminated Sites Act 2003* (WA), the terms of which the Respondent relies on for their full force and effect.
148. On or before May 2025, the Applicant requested that the Contaminated Sites Committee make a determination as to who is responsible for the contaminated site under the *Contaminated Sites Act 2003* (WA).

M.3 Section 264 *Land Administration Act 1997* (WA)

149. The loss and damage claimed by the Applicant in paragraph 139 of the Statement of Claim is alleged by the Applicant to be the result of a nuisance which is comprised of blue asbestos and material containing blue asbestos, which was caused by, and was the direct consequence of:
- (a) the mining activities pleaded in paragraphs 12, 36 and 61 of the Statement of Claim;
 - (b) the use of asbestos tailings to construct the Wittenoom Racecourse as pleaded in paragraph 83 of the Statement of Claim; and
 - (c) the use of asbestos tailings to construct and maintain the runway and immediately abutting land at Wittenoom Airport as pleaded in paragraph 88 of the Statement of Claim.
150. If the claimed loss and damage is established (which is denied), the Respondent is not liable for that loss or damage because it was not caused by and was not a direct consequence of an act of the Crown or an activity undertaken by the Crown.

Particulars

- (a) The Respondent relies upon s 264 of the *Land Administration Act 1997* (WA) for its full force and effect.
- (b) The Respondent repeats paragraphs 18(d), 23(d), 42(d), 48(d), 67(b), 86(d) and 92(e) of this Defence.

M.4 Section 132 *Conservation and Land Management Act 2002* (WA)

151. The Respondent is not vicariously liable for anything done or omitted to be done by any person:

- (a) in good faith in, or in connection with, the performance or purported performance of functions under the *Conservation and Land Management Act 1984* (WA); and
- (b) who is by the operation of section 132 of the *Conservation and Land Management Act 1984* (WA) exempt from civil liability.

M.5 Section 5X *Civil Liability Act 2002* (WA)

152. Further and in the alternative: without limitation to the denial in paragraph 117 of this Defence, insofar as the Applicant alleges that a decision was made by the Respondent not to implement the encapsulation strategy referred to in the particulars subjoined to paragraph 117 of the Statement of Claim:

- (a) that decision was made by the Minister for Lands on 30 November 2016 having regard to the following considerations:
 - (i) the cost of the proposed encapsulation strategy and the fact that it, if implemented, it would not account for any of the contamination in Wittenoom Gorge, the townsite or floodplain; and
 - (ii) advice from the Core Working Group of the Wittenoom Steering Committee, which had reached consensus on the following:
 - (A) the technical agencies of the Wittenoom Steering Committee considered that the encapsulation strategy was too expensive to proceed;
 - (B) State funding could be more effectively spent targeting measures that reduced or stopped people entering the area;
 - (C) the removal of the final few residents in the former townsite and demolition of the remaining infrastructure would go a long way towards reducing risk;
 - (D) the removal of the final few residents, along with the realignment of the public road, would be the two most powerful control measures that the

State could implement in the short term and they therefore needed to become the main focus of the Wittenoom Steering Committee;

- (E) the end point of the project would be determined based on what the State believed was an acceptable level of risk recognising that Wittenoom would never be 100 per cent safe regardless of the level of remediation that occurs;
 - (F) asbestos is naturally occurring and therefore continually deposited in the Wittenoom area;
 - (G) the definition of “Acceptable Risk” in the Wittenoom context was to be led by the Department of Health; and
 - (H) the end use of the area needed to be determined in association with the Traditional Owners of the land, being the most important land user group to consider in the management and closure of the project going forward;
- (b) in considering the proposed encapsulation strategy, during a meeting convened on 21 March 2016, the Core Working Group of the Wittenoom Steering Committee agreed that the proposed strategy was not economically feasible, and that a revised remediation approach should be designed and costed, having regard to the following considerations:
- (i) the major effort, cost, time and danger in the proposed encapsulation strategy;
 - (ii) the need for monitoring and maintenance and risk of future structures failing;
 - (iii) uncertainty as to whether the tailings stockpiles still represented a continual asbestos source to downstream areas;
 - (iv) the absence of quantification of mass movement downstream;
 - (v) the desirability of further exploring other options or combination of options which may produce a reasonable management outcome at a lower cost; and
 - (vi) the need to have regard to the ultimate targets and end points for the Wittenoom management project; and

- (c) the decisions pleaded in sub-paragraphs (a) and (b) above were policy decisions that were reasonably open to be made.

M.6 *Crown Suits Act 1898 (WA)*

153. Neither the Applicant nor any Group Member has a right of action in relation to any cause of action that accrued during the currency of the *Crown Suits Act 1898 (WA)* because:

- (a) the Applicant's claim is not founded upon and does not arise out of:
 - (i) a breach of a contract entered into by or under the lawful authority of the Governor on behalf of the Crown or of the Executive Government of the Colony within section 33(1) of the *Crown Suits Act 1898 (WA)*; or
 - (ii) a wrong or damage, independent of contract, done or suffered in, upon, or in connection with a public work within section 33(2) of the *Crown Suits Act 1898 (WA)*; and
- (b) no petition setting forth the relief sought was filed within 12 months after the claim or demand arose as was required by sections 22(1) and 37 of the *Crown Suits Act 1898 (WA)*.

M.7 *Crown Suits Act 1947 (WA)*

154. The Applicant has no right of action in relation to any cause of action that accrued after the *Crown Suits Act 1947 (WA)* received the royal assent on 1 November 1947 until section 6 of the Act was repealed on 15 November 2005 because notice in writing was not given to the Crown Solicitor within 3 months after the date on which the cause of action accrued and no action was commenced within 12 months after the cause of action arose as was required by section 6 of the *Crown Suits Act 1947 (WA)*.

M.8 *Limitation Act 1935 (WA)*

155. Alternatively to paragraphs 153 and 154 above, the Applicant is statute barred in relation to any cause of action that accrued before 15 November 2005 because:

- (a) by sections 38(1)(c)(vi) and 38(1)(c)(vii) of the *Limitation Act 1935 (WA)*, any action, suit, or other proceeding founded on tort or other actions in the nature of actions on the case had to be commenced within 6 years of the cause of action accruing; and

- (b) more than 6 years had elapsed when the Applicant commenced these proceedings.

M.9 *Limitation Act 2005 (WA)*

156. The Applicant is statute barred in relation to any cause of action that accrued on and from 15 November 2005 until 24 February 2020 because:

- (a) by section 13 of the *Limitation Act 2005 (WA)* an action on any cause of action cannot be commenced if 6 years have elapsed since the cause of action accrued; and
- (b) more than 6 years had elapsed when the Applicant commenced these proceedings.

M.10 No continuing nuisance for cause of action accrual purposes

157. If, which is denied, the Respondent is liable in private nuisance, public nuisance and/or action on the case, the cause of action accrued when the damage first occurred and does not give rise to fresh daily causes of action.

M.11 Mandatory injunctive relief is not available or should be declined as a matter of discretion

158. This Honourable Court does not have the power to grant the mandatory injunction sought by the Applicant because to do so would be contrary to the scheme of the *Contaminated Sites Act 2003 (WA)* and the implementation of that Act.

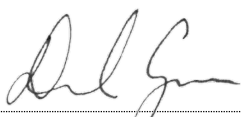
159. Alternatively to paragraph 158 above, this Honourable Court should decline to exercise its discretion to grant the mandatory injunctive relief sought by the Applicant having regard in particular to the following:

- (a) as pleaded in paragraph 148 above, the Applicant has requested that the Contaminated Sites Committee make a determination as to who is responsible for the contaminated site under the *Contaminated Sites Act 2003 (WA)*;
- (b) further or alternatively to sub-paragraph (a) above, any remediation of the areas set out in Schedule A to this Defence is to occur under and in accordance with the provisions of the *Contaminated Sites Act 2003 (WA)*;
- (c) the granting of the mandatory injunctive relief sought by the Applicant would:

- (i) undermine and/or distort the achievement of the objects, principles and allocation of responsibility provided for by the Parliament of Western Australia for the remediation of contaminated sites in the *Contaminated Sites Act 2003* (WA); and
- (ii) give rise to undesirable uncertainty as to the lawful, proper and orderly administration of the *Contaminated Sites Act 2003* (WA), including the exercise of statutory powers and functions conferred by that Act on the Contaminated Sites Committee and Chief Executive Officer;
- (d) it is not possible to remove, contain or otherwise remediate all of the blue asbestos and material containing blue asbestos; and
- (e) the granting of the relief sought by the Applicant would require the Court to oversee remediation works requiring substantial investigations, studies and assessments, over several years, and may require the Court to make policy decisions, in determining what steps are required, or should be taken, , which would also involve a need to consider and balance the risks to human health associated with the removal, containment or remediation of the blue asbestos and material containing blue asbestos.

160. The Respondent denies that the Applicant is entitled to the relief as sought or to any relief at all.

Date: 14 August 2026



Signed by Daniel Gorman
For the State Solicitor for Western Australia
Solicitor for the Respondent

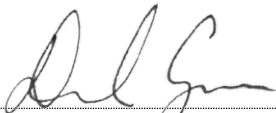
This pleading was prepared by Cobey Taggart SC and Andrew Shuy, counsel for the Respondent.

Certificate of lawyer

I Daniel Michael Gorman certify to the Court that, in relation to the defence filed on behalf of the Respondent, the factual and legal material available to me at present provides a proper basis for:

- (a) each allegation in the pleading; and
- (b) each denial in the pleading; and
- (c) each non admission in the pleading.

Date: 14 August 2026



Signed by Daniel Gorman
For the State Solicitor for Western Australia
Solicitor for the Respondent

SCHEDULE A – PARCELS OF LAND CLASSIFIED AS "CONTAMINATION – REMEDIATION REQUIRED" UNDER SECTION 13 OF THE *CONTAMINATED SITES ACT 2003 (WA)*

PART 1

Item	Land Parcel
A.1	Unallocated Crown Land, Landgate PIN: 1019486, known as Wittenoom WA 6751
A.2	Unallocated Crown Land, Landgate PIN: 714981, known as Wittenoom WA 6751
A.3	WINDELL LOCATION 8 as shown on certificate of title LR3003/76 known as 4 Second Av, Wittenoom WA 6751
A.4	Unallocated Crown Land, Landgate PIN: 1015127, known as Wittenoom WA 6751
A.5	LOT 4 ON DEPOSITED PLAN 206297 as shown on certificate of title LR3003/74 known as 4 Second Av, Wittenoom WA 6751
A.6	WINDELL LOCATION 12 as shown on certificate of title 1259/658 known as Wittenoom WA 6751
A.7	WINDELL LOCATION 9, Unallocated Crown Land, Landgate PIN: 1019489, known as Wittenoom WA 6751
A.8	LOT 300 ON PLAN 49912 as shown on certificate of title LR3137/389 known as Wittenoom WA 6751
A.9	Crown Reserve 22418, known as Wittenoom WA 6751
A.10	Crown Reserve 22415, known as Wittenoom WA 6751
A.11	LOT 13 ON DEPOSITED PLAN 168720 as shown on certificate of title LR3151/433 known as Wittenoom WA 6751
A.12	LOT 5 ON DEPOSITED PLAN 206297 as shown on certificate of title LR3003/75 known as Wittenoom WA 6751
A.13	LOT 41 ON DEPOSITED PLAN 175323 as shown on certificate of title LR3003/80 known as Wittenoom WA 6751
A.14	LOT 22 ON DEPOSITED PLAN 173297 as shown on certificate of title LR3151/435 known as Wittenoom WA 6751

Item	Land Parcel
A.15	WINDELL LOCATION 15 as shown on certificate of title LR3064/308 known as Wittenoom WA 6751
A.16	WITTENOOM TOWNSITE LOT 442 as shown on certificate of title LR3118/439 known as Wittenoom WA 6751
A.17	Unallocated Crown Land, Landgate PIN: 1015148, known as Wittenoom WA 6751
A.18	Unallocated Crown Land, Landgate PIN: 1015126, known as Wittenoom WA 6751
A.19	Unallocated Crown Land, Landgate PIN: 1015141, known as Wittenoom WA 6751
A.20	LOT 28 ON DEPOSITED PLAN 175021 as shown on certificate of title LR3150/127 known as Wittenoom WA 6751
A.21	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.22	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.23	WITTENOOM TOWNSITE LOT 366 as shown on certificate of title LR3067/251 known as Wittenoom WA 6751
A.24	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.25	WITTENOOM TOWNSITE LOT 389 as shown on certificate of title LR3067/281 known as Wittenoom WA 6751
A.26	WITTENOOM TOWNSITE LOT 358 as shown on certificate of title LR3067/244 known as Wittenoom WA 6751
A.27	WITTENOOM TOWNSITE LOT 445 as shown on certificate of title LR3129/26 known as 445 Burges St, Wittenoom WA 6751
A.28	WITTENOOM TOWNSITE LOT 446 as shown on certificate of title LR3129/27 known as 446 Windell Av, Wittenoom WA 6751
A.29	LOT 447 ON PLAN 32516 as shown on certificate of title LR3129/28 known as 447 Windell Av, Wittenoom WA 6751

Item	Land Parcel
A.30	WITTENOOM TOWNSITE LOT 437 as shown on certificate of title LR3115/648 known as Wittenoom WA 6751
A.31	WITTENOOM TOWNSITE LOT 360 as shown on certificate of title 1229/991 known as 360 Second Av, Wittenoom WA 6751
A.32	WITTENOOM TOWNSITE LOT 356 as shown on certificate of title LR3067/239 known as 356 First Av, Wittenoom WA 6751
A.33	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.34	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.35	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.36	WITTENOOM TOWNSITE LOT 339 as shown on certificate of title LR3157/162 known as Wittenoom WA 6751
A.37	WITTENOOM TOWNSITE LOT 340 as shown on certificate of title LR3157/157 known as Wittenoom WA 6751
A.38	WITTENOOM TOWNSITE LOT 341 as shown on certificate of title 1403/766 known as Wittenoom WA 6751
A.39	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.40	WITTENOOM TOWNSITE LOT 343 as shown on certificate of title 1878/905 known as Wittenoom WA 6751
A.41	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.42	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.43	WITTENOOM TOWNSITE LOT 347 as shown on certificate of title LR3050/357 known as 12 First Av, Wittenoom WA 6751
A.44	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751

Item	Land Parcel
A.45	WITTENOOM TOWNSITE LOT 349 as shown on certificate of title LR3146/936 known as 8 First Av, Wittenoom WA 6751
A.46	WITTENOOM TOWNSITE LOT 350 as shown on certificate of title LR3146/937 known as 6 First Av, Wittenoom WA 6751
A.47	WITTENOOM TOWNSITE LOT 351 as shown on certificate of title LR3146/938 known as 4 First Av, Wittenoom WA 6751
A.48	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.49	WITTENOOM TOWNSITE LOT 330 as shown on certificate of title LR3136/820 known as 30 First Av, Wittenoom WA 6751
A.50	WITTENOOM TOWNSITE LOT 329 as shown on certificate of title LR3146/939 known as 32 First Av, Wittenoom WA 6751
A.51	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.52	WITTENOOM TOWNSITE LOT 7 as shown on certificate of title LR3147/876 known as 29 First Av, Wittenoom WA 6751
A.53	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.54	WITTENOOM TOWNSITE LOT 3 as shown on certificate of title LR3136/305 known as 21 First Av, Wittenoom WA 6751
A.55	WITTENOOM TOWNSITE LOT 2 as shown on certificate of title LR3136/304 known as 19 First Av, Wittenoom WA 6751
A.56	WITTENOOM TOWNSITE LOT 1 as shown on certificate of title 1328/628 known as 17 First Av, Wittenoom WA 6751
A.57	WITTENOOM TOWNSITE LOT 456 as shown on certificate of title LR3132/187 known as 361 Second Av, Wittenoom WA 6751
A.58	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.59	WITTENOOM TOWNSITE LOT 12 as shown on certificate of title 545/182A known as 26 Second Av, Wittenoom WA 6751

Item	Land Parcel
A.60	WITTENOOM TOWNSITE LOT 13 as shown on certificate of title 545/182A known as 24 Second Av, Wittenoom WA 6751
A.61	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.62	WITTENOOM TOWNSITE LOT 15 as shown on certificate of title LR3147/883 known as 20 Second Av, Wittenoom WA 6751
A.63	WITTENOOM TOWNSITE LOT 440 as shown on certificate of title LR3118/437 known as Wittenoom WA 6751
A.64	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.65	WITTENOOM TOWNSITE LOT 43 as shown on certificate of title 1403/718 known as 5 Second Av, Wittenoom WA 6751
A.66	WITTENOOM TOWNSITE LOT 44 as shown on certificate of title 1403/719 known as 7 Second Av, Wittenoom WA 6751
A.67	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.68	WITTENOOM TOWNSITE LOT 47 as shown on certificate of title 1403/721 known as 13 Second Av, Wittenoom WA 6751
A.69	WITTENOOM TOWNSITE LOT 455 as shown on certificate of title LR3132/932 known as Wittenoom WA 6751
A.70	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.71	WITTENOOM TOWNSITE LOT 20 as shown on certificate of title LR3147/874 known as 23 Second Av, Wittenoom WA 6751
A.72	WITTENOOM TOWNSITE LOT 454 as shown on certificate of title LR3132/185 known as 25 Second Av, Wittenoom WA 6751
A.73	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.74	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751

Item	Land Parcel
A.75	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.76	WITTENOOM TOWNSITE LOT 29 as shown on certificate of title LR3147/875 known as 24 Third Av, Wittenoom WA 6751
A.77	WITTENOOM TOWNSITE LOT 30 as shown on certificate of title LR3141/222 known as 22 Third Av, Wittenoom WA 6751
A.78	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.79	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.80	WITTENOOM TOWNSITE LOT 38 as shown on certificate of title LR3147/877 known as 6 Third Av, Wittenoom WA 6751
A.81	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.82	WITTENOOM TOWNSITE LOT 40 as shown on certificate of title LR3147/881 known as 2 Third Av, Wittenoom WA 6751
A.83	WITTENOOM TOWNSITE LOT 435 as shown on certificate of title LR3003/82 known as 109 Fourth Av, Wittenoom WA 6751
A.84	WITTENOOM TOWNSITE LOT 353 as shown on certificate of title 1199/467 known as 353 Fourth Av, Wittenoom WA 6751
A.85	WITTENOOM TOWNSITE LOT 71 as shown on certificate of title 1342/423 known as 45 Fifth Av, Wittenoom WA 6751
A.86	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.87	WITTENOOM TOWNSITE LOT 77 as shown on certificate of title 327/83A known as 40 Sixth Av, Wittenoom WA 6751
A.88	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.89	WITTENOOM TOWNSITE LOT 80 as shown on certificate of title LR3138/945 known as 34 Sixth Av, Wittenoom WA 6751

Item	Land Parcel
A.90	WITTENOOM TOWNSITE LOT 457 as shown on certificate of title LR3132/933 known as Wittenoom WA 6751
A.91	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.92	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.93	LOT 220 ON DEPOSITED PLAN 206101 as shown on certificate of title LR3174/673 known as 75 Second Av, Wittenoom WA 6751
A.94	WITTENOOM TOWNSITE LOT 219 as shown on certificate of title 1672/443 known as 219 Second Av, Wittenoom WA 6751
A.95	WITTENOOM TOWNSITE LOT 218 as shown on certificate of title 1672/443 known as 77 Second Av, Wittenoom WA 6751
A.96	WITTENOOM TOWNSITE LOT 217 as shown on certificate of title 1672/443 known as 79 Second Av, Wittenoom WA 6751
A.97	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.98	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.99	WITTENOOM TOWNSITE LOT 357 as shown on certificate of title LR3067/241 known as Wittenoom WA 6751
A.100	Unallocated Crown Land, Landgate PIN: 1015142, known as Wittenoom WA 6751
A.101	WITTENOOM TOWNSITE LOT 390 as shown on certificate of title LR3067/182 known as 390 Forrest St, Wittenoom WA 6751
A.102	WITTENOOM TOWNSITE LOT 438 as shown on certificate of title LR3114/930 known as 378 Second Av, Wittenoom WA 6751
A.103	WITTENOOM TOWNSITE LOT 442 as shown on certificate of title LR3118/439 known as Wittenoom WA 6751
A.104	WITTENOOM TOWNSITE LOT 380 as shown on certificate of title LR3136/306 known as 85 Second Av, Wittenoom WA 6751

Item	Land Parcel
A.105	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.106	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.107	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.108	WITTENOOM TOWNSITE LOT 450 as shown on certificate of title LR3132/181 known as 71 Fourth Av, Wittenoom WA 6751
A.109	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.110	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.111	WITTENOOM TOWNSITE LOT 268 as shown on certificate of title 430/81A known as 74 Fifth Av, Wittenoom WA 6751
A.112	WITTENOOM TOWNSITE LOT 269 as shown on certificate of title 1776/31 known as 72 Fifth Av, Wittenoom WA 6751
A.113	WITTENOOM TOWNSITE LOT 270 as shown on certificate of title 1322/674 known as 70 Fifth Av, Wittenoom WA 6751
A.114	WITTENOOM TOWNSITE LOT 271 as shown on certificate of title 1776/29 known as 68 Fifth Av, Wittenoom WA 6751
A.115	WITTENOOM TOWNSITE LOT 272 as shown on certificate of title 1776/30 known as 66 Fifth Av, Wittenoom WA 6751
A.116	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.117	WITTENOOM TOWNSITE LOT 166 as shown on certificate of title 1403/736 known as 59 Fourth Av, Wittenoom WA 6751
A.118	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.119	WITTENOOM TOWNSITE LOT 162 as shown on certificate of title 1403/734 known as 51 Fourth Av, Wittenoom WA 6751

Item	Land Parcel
A.120	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.121	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.122	WITTENOOM TOWNSITE LOT 170 as shown on certificate of title LR3050/353 known as 62 Fifth Av, Wittenoom WA 6751
A.123	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.124	WITTENOOM TOWNSITE LOT 173 as shown on certificate of title LR3050/354 known as 56 Fifth Av, Wittenoom WA 6751
A.125	WITTENOOM TOWNSITE LOT 174 as shown on certificate of title LR3147/878 known as 54 Fifth Av, Wittenoom WA 6751
A.126	WITTENOOM TOWNSITE LOT 175 as shown on certificate of title LR3147/879 known as 52 Fifth Av, Wittenoom WA 6751
A.127	WITTENOOM TOWNSITE LOT 176 as shown on certificate of title LR3147/880 known as 50 Fifth Av, Wittenoom WA 6751
A.128	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.129	WITTENOOM TOWNSITE LOT 276 as shown on certificate of title 1373/656 known as 71 Fifth Av, Wittenoom WA 6751
A.130	WITTENOOM TOWNSITE LOT 275 as shown on certificate of title LR3147/882 known as 69 Fifth Av, Wittenoom WA 6751
A.131	WITTENOOM TOWNSITE LOT 274 as shown on certificate of title 1353/253 known as 67 Fifth Av, Wittenoom WA 6751
A.132	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.133	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.134	WITTENOOM TOWNSITE LOT 449 as shown on certificate of title LR3132/180 known as 76 Sixth Av, Wittenoom WA 6751

Item	Land Parcel
A.135	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.136	WITTENOOM TOWNSITE LOT 285 as shown on certificate of title 1476/152 known as 72 Sixth Av, Wittenoom WA 6751
A.137	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.138	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.139	WITTENOOM TOWNSITE LOT 180 as shown on certificate of title 1729/666 known as 55 Fifth Av, Wittenoom WA 6751
A.140	WITTENOOM TOWNSITE LOT 179 as shown on certificate of title LR3050/356 known as 53 Fifth Av, Wittenoom WA 6751
A.141	WITTENOOM TOWNSITE LOT 178 as shown on certificate of title LR3050/355 known as 51 Fifth Av, Wittenoom WA 6751
A.142	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.143	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.144	WITTENOOM TOWNSITE LOT 190 as shown on certificate of title 547/197A known as 54 Sixth Av, Wittenoom WA 6751
A.145	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.146	WITTENOOM TOWNSITE LOT 85 as shown on certificate of title 2004/375 known as 41 Sixth Av, Wittenoom WA 6751
A.147	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.148	WITTENOOM TOWNSITE LOT 193 as shown on certificate of title 2011/615 known as 49 Sixth Av, Wittenoom WA 6751
A.149	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751

Item	Land Parcel
A.150	WITTENOOM TOWNSITE LOT 195 as shown on certificate of title 1632/81 known as 53 Sixth Av, Wittenoom WA 6751
A.151	WITTENOOM TOWNSITE LOT 196 as shown on certificate of title 2011/616 known as 55 Sixth Av, Wittenoom WA 6751
A.152	WITTENOOM TOWNSITE LOT 197 as shown on certificate of title 2011/616 known as 59 Sixth Av, Wittenoom WA 6751
A.153	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.154	WITTENOOM TOWNSITE LOT 201 as shown on certificate of title 1331/974 known as 64 Seventh Av, Wittenoom WA 6751
A.155	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.156	WITTENOOM TOWNSITE LOT 452 as shown on certificate of title LR3132/183 known as 60 Seventh Av, Wittenoom WA 6751
A.157	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.158	WITTENOOM TOWNSITE LOT 453 as shown on certificate of title LR3132/184 known as 56 Seventh Av, Wittenoom WA 6751
A.159	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.160	WITTENOOM TOWNSITE LOT 208 as shown on certificate of title 530/198A known as 50 Seventh Av, Wittenoom WA 6751
A.161	WITTENOOM TOWNSITE LOT 439 as shown on certificate of title LR3118/436 known as Wittenoom WA 6751
A.162	WITTENOOM TOWNSITE LOT 289 as shown on certificate of title 1402/111 known as 65 Sixth Av, Wittenoom WA 6751
A.163	WITTENOOM TOWNSITE LOT 290 as shown on certificate of title 1402/115 known as 67 Sixth Av, Wittenoom WA 6751
A.164	WITTENOOM TOWNSITE LOT 291 as shown on certificate of title 1402/114 known as 69 Sixth Av, Wittenoom WA 6751

Item	Land Parcel
A.165	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.166	WITTENOOM TOWNSITE LOT 295 as shown on certificate of title 1402/112 known as 77 Sixth Av, Wittenoom WA 6751
A.167	WITTENOOM TOWNSITE LOT 441 as shown on certificate of title LR3118/438 known as Wittenoom WA 6751
A.168	Road Reserve, Landgate PIN: 1192040, known as Wittenoom WA 6751
A.169	WITTENOOM TOWNSITE LOT 388 as shown on certificate of title LR3067/278 known as Wittenoom WA 6751
A.170	WITTENOOM TOWNSITE LOT 387 as shown on certificate of title LR3067/275 known as Wittenoom WA 6751
A.171	WITTENOOM TOWNSITE LOT 385 as shown on certificate of title LR3067/269 known as Wittenoom WA 6751

PART 2

Item	Land Parcel
A.172	Parcel 78799 Approximate spatial representation of section Rail Maintenance Track (RMT) within part of Lot 116 on Deposited Plan 220191 as shown on certificate of title LR3064/463, and within part of Lot 5418 on Deposited Plan 404418 as shown on certificate of title LR3165/155, Wittenoom WA 6751

SCHEDULE B – STEPS TAKEN BY THE STATE TO MANAGE THE RISK TO HUMAN HEALTH POSED BY THE ASBESTOS FROM HISTORICAL MINING AT WITTENOOM

Item	Date	Event
B.1	1973-1977	Medical and occupational health personnel employed by the State carried out surveys of Wittenoom and sample and data analyses, concluding that the quantity of asbestos fibres in Wittenoom was not higher than acceptable exposure standards and that it was highly unlikely a person exposed to those fibres would contract an asbestos-related disease.
B.2	30 September 1977	The Chest and Tuberculosis Services of the Public Health Department conducted a chest X-ray survey of 146 Wittenoom residents to assess potential asbestos-related health impacts. Twenty-three persons were identified as having abnormal or possibly abnormal appearances, although no cases of carcinoma and no definite cases of asbestosis were identified.
B.3	September 1978	The State Government approved the establishment of a committee of senior departmental officers to study the question of Wittenoom's future and the feasibility of removing or otherwise dealing with asbestos tailings in the town and environs.
B.4	November 1978	The State Government decided that Wittenoom would be phased out over time rather than immediately closed and that a timetable would be developed for the withdrawal of services.
B.5	December 1978	The Public Health Department and Main Roads Department prepared a report on asbestos contamination at Wittenoom, assessing sources of fibre dispersion and options for controlling human exposure, including remediation and relocation measures.
B.6	December 1978	The State Government reached agreement with Wittenoom residents to establish Health, Works and Tourism Committees to assess health risks, investigate environmental improvement measures and develop the area's tourism future.
B.7	Late 1978-April 1979	The Occupational Health Branch of the Public Health Department conducted a dust sampling programme in Wittenoom, following which it reported that residents were inhaling blue asbestos fibres during normal daily activities. The findings were communicated to residents and publicly released by the Minister for Health as part of

Item	Date	Event
		the State's assessment of health risks associated with continued habitation of Wittenoom.
B.8	August 1979	Following strong representations from Wittenoom residents, State Government decided that Wittenoom would not be phased out or closed, but continued to recommend that residents, especially if they were young or had children, should leave the township.
B.9	October 1980	The Public Health Department commenced ambient airborne asbestos monitoring at Wittenoom. The monitoring program measured ambient airborne asbestos concentrations.
B.10	December 1980	The State Government banned connection of power and water to houses of new residents arriving in Wittenoom.
B.11	March 1981	The State Government re-affirmed the phasing out of Wittenoom and began planning for a new tourist centre away from Wittenoom.
B.12	August 1981-82	The Department of Public Health undertook airborne asbestos monitoring at the Wittenoom school.
B.13	1981	The State Government established an Interdepartmental Committee on Wittenoom to collectively manage the issues associated with Wittenoom. This committee has taken several forms since this time and now exists as the Wittenoom Steering Committee chaired by the Department of Planning, Lands and Heritage.
B.14	1984	The Department of Public Health conducted air monitoring in Wittenoom.
B.15	October 1984	The State Government adopted a phase-down policy, introducing warning signage, demolishing unneeded buildings, and examining relocation options.
B.16	1985	Officers of the Department of Conservation and Environment and the Mines Department undertook sampling of the Wittenoom Gorge outwash fan and Fortescue River system to assess the movement and distribution of crocidolite fibres from historical mining activities. The investigation concluded that the tailings dumps were largely stable, with only limited fibrous material being transported beyond the gorge, and recommended ongoing environmental monitoring.

Item	Date	Event
B.17	July 1985	The Department of Mines commissioned a study into methods for reducing the hazards associated with surface asbestos-bearing mine waste and tailings at Wittenoom and Colonial Mines.
B.18	18 December 1985	The State Government closed Wittenoom Primary School.
B.19	January 1986	The Department of Regional Development requested an independent review of the adequacy of the monitoring technique for determining the presence of atmospheric fibres in Wittenoom.
B.20	March 1986	The Department of Conservation and Environment conducted survey of contamination including at Wittenoom township, found that, because no safe level of exposure to suspected carcinogens can be assumed, the consistently elevated and uniquely high levels of crocidolite fibres detected throughout the Wittenoom townsite, compared with sites 9 km and 43 km away, were unacceptable.
B.21	June 1988	The State Government published pamphlets to inform the public of the health hazard of asbestos tailings.
B.22	16 December 1989	The State Government closed Wittenoom Police Station.
B.23	June 1990	The State Government published an updated brochure to inform the public of the health hazard of asbestos tailings.
B.24	July 1990	Officers of the Department of Mines visited Yampire Mine and produced a report of recommendations, including for the sealing of the two main openings of the underground mine.
B.25	October 1990	The Department of Mines advised the Department of Regional Development and the North West that, based on August 1990 site inspections, the estimated cost of rendering safe and remediating the Yampire Gorge (15,000 tonnes of tailings), Colonial (25,000 tonnes) and Wittenoom (1,000,000 tonnes) mine sites, including tailings removal, was \$37.99 million.
B.26	May 1992	The State Government appointed a Committee of Inquiry (Nevill Inquiry) which, with the assistance of the National Institute of Occupational Health Laboratories (Sydney), took personal and

Item	Date	Event
		static air samples at Wittenoom township to identify exposure to residents and workers and exposure to tourists over tailings areas.
B.27	October 1992	The State Government decided not to accept recommendations in the Nevill report to allow Wittenoom to remain open and directed that phase-down measures continue, including planning for remediation of asbestos-contaminated mine sites.
B.28	31 October 1992	The State Government closed the Fortescue Hotel.
B.29	4 November 1992	Northwest Minister Ernie Bridge announced that all Government-owned buildings in Wittenoom would be demolished.
B.30	April 1994	The Western Australian Building Management Authority commissioned CMPS&F Environmental to undertake the Wittenoom Townsite, Caravan Park, Racetrack and Airport Remediation Assessment.
B.31	1981-1995	The State Government undertook a number of initiatives to phase down activity in Wittenoom, including: (a) encouraging long-term residents to leave by offering to purchase homes, buildings, land and businesses, and to pay travel expenses and relocation costs; (b) acquiring and demolishing properties in Wittenoom; (c) requesting the Water Authority of Western Australia and SECWA not to reconnect water and power respectively to be reconnected to previously disconnected services and not to commission any new services; (d) erecting signs warning of the risks of asbestos to residents and visitors; (e) in June 1988, issuing a Department of Regional Development and the North West pamphlet warning residents and visitors of the health risks associated with exposure to asbestos tailings; and (f) allocating funds for both townsite clean-up planning and the rehabilitation of nearby mine sites.
B.32	13 June 1996	The Western Australian Building Management Authority substantially completed: (a) the Wittenoom Government Buildings Dismantling and Burial Project, including demolition and burial of 28 houses, 107 building slabs and major government and community buildings; airport fuel storage tanks removed by

Item	Date	Event
		McMahon Services in June 1996; and (b) the Wittenoom Mine Site Project, funded by a \$950,000 State Government allocation approved on 12 February 1996, with works completed by DTMT Construction Company under engineering supervision and air-monitoring controls.
B.33	Mid-1990s - 2000	The State Government allocated funding to property purchases, demolition and mine-site closure works, as part of a long-term strategy to reduce habitation, remove infrastructure, and undertake remediation of mine sites and contaminated areas.
B.34	2003	The State Government provided funding of \$2 million to Hancock Prospecting Pty Ltd and Wright Prospecting Pty Ltd to contract McMahon Services Pty Ltd to undertake works to bury the Colonial Mine Mill, workshop, settlement and other associated infrastructure under a cost sharing arrangement with the State. The work did not include removal of concrete pads, footings or tailings.
B.35	25 June 2006	Kimberley, Pilbara and Gascoyne Minister Jon Ford announced a relocation program for individuals living in Wittenoom.
B.36	2006	The State Government commissioned a report from GHD and Parsons Brinckerhoff in relation to the management of asbestos contamination at Wittenoom.
B.37	15 March 2007	The Wittenoom townsite was abolished as a townsite in accordance with section 262(2) of the <i>Land Administration Act 1997</i> (WA).
B.38	2008	The Chief Executive Officer of the Department of Environment and Conservation relevantly classified the Wittenoom and Yampire Asbestos Management Area as “Contaminated – remediation required” under the <i>Contaminated Sites Act 2003</i> (WA).
B.39	2010	The Department of Environment and Conservation published a brochure warning of the presence of blue asbestos in Yampire Gorge.
B.40	November 2010	The Department of Regional Development and Land commissioned an ethnographic and archaeological study of Aboriginal sites in the Wittenoom area.
B.41	2011-2015	The State Government commissioned a series of technical, environmental, geotechnical and remediation planning studies to

Item	Date	Event
		develop remediation options and cost estimates for asbestos-contaminated areas at Wittenoom and Yampire, including consultation with Banjima representatives.
B.42	2012	The Department of Environment and Conservation installed asbestos warning signs in Yampire Gorge to alert visitors to the risks associated with asbestos exposure.
B.43	2018	Since the State Government commenced phasing down the Wittenoom townsite in 1978, approximately 120 houses, town infrastructure and a number of roads have been demolished.
B.44	2019	The <i>Wittenoom Closure Bill 2019</i> was introduced to Parliament but was not progressed through the Legislative Council and lapsed.
B.45	2020	Multi-lingual signage warning visitors of the dangers associated within WAMA were installed.
B.46	2021-2022	The <i>Wittenoom Closure Bill 2021</i> was reintroduced to Parliament in August 2021 and passed through Parliament on 23 March 2022 as the <i>Wittenoom Closure Act 2022</i> (WA).
B.47	2023-2024	Following the passage of the <i>Wittenoom Closure Act 2022</i> (WA), which provided for the acquisition of 14 remaining privately-owned properties in the former Wittenoom townsite, contractors engaged by the Department of Planning, Lands and Heritage demolished and buried all remaining buildings, infrastructure and relics in the townsite. Earth bunds were installed to prevent vehicular access to the town and gorge.
B.48	2024 -ongoing	The Department of Energy, Mines, Industry Regulation and Safety commenced investigations to address data gaps relevant to future remediation options, including LiDAR surveys, aerial imagery acquisition, remote sensing assessments and field data collection.
B.49	2024-ongoing	The State Government by the Department of Health prepared a preliminary scope for a Human Health Risk Assessment.
B.50	2025	The State Government by the Department of Planning, Lands and Heritage commissioned a report from GHD to undertake consolidation and reassessment of remediation options.