

TAROONA SEWERAGE.

No. 13 of 1949.

AN ACT to authorise the Council of the Municipality of Kingborough to borrow an amount not exceeding fifty thousand pounds, for the provision of sewerage facilities within the Town of Taroona, and to confer on the Council powers needed for the construction of sewerage works therefor.

[12 April, 1949.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as the *Taroona Sewerage Act 1949*. Short title and citation.

(2) This Act shall be incorporated and read as one with the *Local Government Act 1906**, in this Act referred to as the Principal Act.

2 In this Act unless the contrary intention appears— Interpretation.

“building block” means any single allotment of land which has been surveyed as part of a subdivision, or any other block of land not capable of subdivision;

“cleansed” means inspected, flushed, cleansed, cleared, and emptied, or such of them as the circumstances require;

“discontinue” means discontinue to use, dismantle, close up, or destroy;

* 6 Edw. VII. No. 31. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 15. Subsequently amended by 2 Geo. VI. Nos. 3 and 33, 4 Geo. VI. No. 46, 5 Geo. VI. Nos. 20 and 42, 6 Geo. VI. Nos. 26 and 62, 7 & 8 Geo. VI. No. 83, 8 Geo. VI. No. 17, 9 Geo. VI. No. 12, and 11 Geo. VI. Nos. 5 and 61.

- “drain” means a drain designed or used for the passage or flow of sewage from any land or premises or from any group of buildings, or block of buildings, or premises;
- “Council” means the Council of the Municipality of Kingborough;
- “Loans Act” means *Local Bodies Loans Act 1881**, as modified for the purposes of this Act by subsection (4) of section three;
- “notice in writing” means a notice in writing signed by the Clerk of the Council and posted to the owner by prepaid registered post to his last-known place of residence or business in this State;
- “premises” includes any house, and any building or structure whatsoever, and any part of any house, building, or structure, and any garden, stable, yard, or other offices used together with, or in conjunction with, any house, building, or structure, and every part thereof;
- “proper officer” means any officer of the Council generally or specially authorised by the Council in respect of, or whose duty it is, to deal with or act in regard to any acts, things, or matters in connection with which the expression is used;
- “sewer” means any sewer or underground gutter or channel for the reception of sewage from a drain, and, in the case of a sewer lying in or beneath the surface of a public or private street, includes all connections therewith that lie in or beneath the street;
- “sewerage district” means such part of the Town of Taroona as the Council may, by resolution published in the *Gazette*, define as the Taroona Sewerage District, together with such and less such areas in the said town as in like manner may be added to or excluded, for the time being, from the sewerage district;
- “sewered property” means property under subsection (3) of section ten deemed and declared to be sewered property;
- “street” means any public or common highway, road, or thoroughfare, and also any public bridge and any road, land, right-of-way, passage, alley, or court which the owners or occupiers of two or more houses or buildings adjoining thereto, or properties abutting thereon, have the right to use, or do commonly use, as a means of access to or drainage from such houses or buildings or properties.

* 45 Vict. No. 16. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 211. Subsequently amended by No. 17 of 1948.

PART II.

BORROWING AND CHARGES.

3—(1) It shall be lawful for the Council, from time to time, to borrow, upon the security of its revenues, by either or both of the following methods, that is to say, under the Loans Act, or by overdraft of current account, such sum or sums of money not exceeding in the whole the sum of fifty thousand pounds, as the Council thinks necessary for the purpose of defraying the cost of the works by this Act authorised to be constructed. Power of Council to borrow £50,000.

(2) Such cost shall, in each case, include all outlay by the Council incidental to such construction, including investigation and other preliminary costs, fees, charges, and expenses incurred (whether before or after the commencement of this Act) by the Council in contemplation of or in connection therewith.

(3) Any such sum or sums borrowed by overdraft, may be in addition to any sum or sums that the Council is authorised to borrow by overdraft under the Principal Act.

(4) The following provisions of the Loans Act shall have no application to borrowing authorised by this section, that is to say, sections five and six, sections fourteen to nineteen, both inclusive, and sections twenty-three, twenty-four, and twenty-five.

(5) The rate of interest to be payable in respect of any sums so borrowed under the Loans Act shall not exceed four pounds per centum per annum.

4—(1) The Council shall have power, by by-law, to impose an annual service charge for the purposes of this Act in respect of all premises situated within the sewerage district. Service charges and other charges.

(2) Such service charge shall be a minimum amount of three pounds per annum for any such premises and shall be of a uniform amount throughout the said district.

(3) The Council shall have power, by by-law, to impose, in addition to the service charge referred to in subsection (1), an annual charge for the purposes of this Act, in respect of all vacant building blocks and other land situated within the sewerage district.

(4) The charge referred to in subsection (3) shall be a minimum amount of one pound ten shillings per annum for any such building block and shall be of a uniform amount throughout the said district.

(5) The charge for other lands shall be at the rate of two pounds per acre per annum:

Provided that the minimum annual charge for such lands shall be two pounds and that if such lands are liable for the payment of the charge of three pounds per annum under subsection (2) of this section, the said charge of two pounds per acre per annum shall be payable upon the whole area thereof less one acre.

(6) Where portion only of a property, subject to any of the foregoing charges, is within the sewerage district, it shall be lawful for the Council to make a separate charge in respect of such portion of the said property, such charge being such proportion of any of those charges as it shall think fit.

Crown properties, &c., liable to payment of service and other charges.

5—(1) Every property upon which any building is erected, belonging to, or used by or on behalf of the Crown, or of any person, shall, notwithstanding that such property may, apart from this Act, be exempt from payment of any rate that the Council may make or levy, be subject to payment of any charge which may be levied under this Act, and the assessment of such property shall be made upon the same principle as the assessment of other properties within the sewerage district.

(2) The Crown or any such person may commute its liability to pay such charges by contributing an annual sum, to be agreed upon by the Crown or such other person, as the case may be, and the Council.

PART III.

SEWERS, DRAINS, AND CONVENIENCES.

Power of Council to construct sewerage works.

6—(1) The Council may, as it may from time to time determine to be necessary for providing adequate sewerage facilities for the sewerage district—

- (a) make, construct, lay down, and instal sewers (fitted with inspection shafts, ventilators, and flushing and cleansing and other necessary apparatus) and plants for the reception, treatment, and disposal of sewage, and effluents, and such other ancillary works as may be advisable;
- (b) construct, instal, and equip with requisite fittings, water closets, sinks, baths, and other sewerage conveniences in premises within the sewerage district, and drains connecting every such convenience with a sewer;
- (c) attach any shaft, pipe, tube, valve, or other apparatus for ventilating any sewer, drain, or convenience to any wall, building, or structure;
- (d) enlarge, alter the site of, lessen, or discontinue, any of the things authorised by this subsection to be done by the Council.

(2) If the Council discontinues any drain or sewer, it shall provide a drain or sewer in the place of the discontinued drain or sewer, with all necessary connections, so that the sewerage service of the land and premises previously connected with the discontinued drain or sewer shall not be affected adversely by such discontinuance.

(3) The Council shall maintain, repair, and keep cleansed every work authorised by paragraph (a) of subsection (1) of this section, and, may maintain at the expense of the owners of the lands and premises connected therewith every drain and convenience discharging into a sewer.

(4) To enable the Council to do any of the things authorised by this section to be done, it shall be lawful for the Council by itself, or by its proper officer, contractors, overseers, or workmen, to enter upon any lands and premises at all reasonable hours during the day time, and to do all things necessary or proper in connection therewith, but so that as little interference as possible shall result from such entry to the occupier of such land or premises and his business.

(5) The Council shall take all proper precautions in design, construction, installation, ventilation, and otherwise to ensure that no nuisance shall arise in or out of the exercise of any of the powers conferred upon the Council by this section.

7—(1) The Council may construct and lay down any such sewer, drain or effluent, through, across, or under any public or private street, roadway, or right-of-way, or under any railway or tramway, and, after giving reasonable notice in writing to the owner or occupier, through or under or into any lands whatsoever (including Crown lands):

Construction of works through, across, or under streets, railways, &c.

Provided that the Council shall not be liable to pay compensation to the owner or occupier of any such lands, unless the same shall be injured by such construction and the Council has not made good such injury.

(2) Nothing in this Act shall authorise the Council to discharge through any such sewer, drain, or effluent, or otherwise, any sewage into any freshwater stream or watercourse, or into any canal, pond, or lagoon, unless such sewage has first been freed from all excrementitious or other foul or noxious matter likely to affect deleteriously the purity or quality of the water in such streams, watercourses, canal, pond, or lagoon.

8—(1) The Council may, for the purposes of this Act, purchase, acquire, and take, and lease, sell, or exchange any lands situated within the Municipality of Kingborough.

Acquisition of land.

(2) Any land so purchased, acquired, or taken, or any part thereof, that subsequently is no longer required for any of the purposes of this Act, may be sold by the Council.

Council to exhibit map of sewerage district.

9—(1) The Council shall provide a map of the sewerage district, showing every sewer and every drain and every projected sewer and every projected drain.

(2) A copy of such map shall at all times be kept in the Council's office and be available, during office hours, for inspection by persons liable for payment of a sewerage rate or a sewerage service rate levied under this Act.

Power of Council to define and alter areas from which sewerage shall be received into Council's sewer.

10—(1) The Council, as soon as any sewer is available for reception of sewerage, shall, by resolution published in the *Gazette*, define an area, from which such sewerage as the Council shall by by-law direct shall be received into such sewer.

(2) The Council may, in like manner, as circumstances require, increase the area so defined.

(3) All land within—

- (a) any area defined in accordance with this section, as from the date of the gazettal of the defining resolution; and
- (b) any area increased in accordance with this section, as from the date of the gazettal of the increasing resolution,

shall be deemed and is hereby accordingly declared to be seweraged property.

Plans of proposed sewerage facilities to be submitted to Council: Obligations of owners.

11—(1) Within one month after a date to be specified in a notice published in the *Gazette*, or within such further time as the Council (either before or after the expiration of such month) may allow, the owner of each and every property which, or any part of which, may be conveniently served by any sewer shall, if there are any houses or buildings on such property—

- (a) submit for the approval of the Council a plan (drawn to scale) and specifications for providing such property with such water-closet or water-closets, and such drains, appliances, apparatus, and connections fitted and laid in such manner as set forth in any by-law or direction of the Council, and such owner shall, in writing, undertake to carry out the work described in such plan and specification within one month after receipt of notification of the approval of the Council, or within such further time as the Council may allow; or
- (b) submit for the approval of the Council a plan and specification as aforesaid, and, in writing, request the Council, if it does not approve thereof, to make such alterations and amendments therein as the Council considers necessary.

(2) Thereupon the Council shall give its approval to such plan and specification or specify what alterations it requires, and, if any alterations are required, the owner shall forthwith make the same to the satisfaction and approval of the Council.

(3) As soon as the Council notifies the owner of its approval, the owner shall, in writing, undertake to carry out the work described in such plan and specification within one month, or within such further time as the Council shall allow, or shall, in writing, request the Council to carry out the same at the cost and expense of the owner, and thereupon the Council shall do so, and any expenses connected with the preparation of plans and estimates by the Council for any such owner shall be paid by the owner.

(4) If, within such period of one month or such further time as aforesaid, any such owner has not complied with any of the foregoing requirements, or if, after undertaking so to do any such owner has not, within the time limited, provided such water-closet or water-closets and such drains, appliances, apparatus, and connections as aforesaid, the Council shall order such owner to comply with such of the requirements of the said notice or the said undertaking as it deems necessary, and, in default of such compliance, may itself carry out such work as it may deem necessary or carry out such undertaking, and in either case at the expense of the owner.

(5) The Council, by its proper officer, may, at any reasonable times in the day time, after twenty-four hours' notice in writing has been given to the occupier or left upon the premises with some person residing thereon, or if there is no person resident on the premises, without notice, enter any premises and ascertain and determine whether any such notice as aforesaid has or has not been complied with.

(6) The Council may cause the works hereinbefore mentioned to be inspected while in progress, and, from time to time during their execution, the proper officer may, in writing, order such reasonable alterations therein or additions thereto as he thinks necessary.

12—(1) If the Council determines that a common drain shall be connected with a group of premises or with a number of premises (with or without vacant land in each case) the owners of such premises shall provide a common drain in lieu of separate drains. Common drains.

(2) The cost of any such common drain, including all fittings and connections, and interest upon capital expended thereon during the period of construction (at the rate of four pounds per annum per centum) shall be borne by the owners of the premises concerned in such proportions as the Council may determine.

(3) Premises built on any such vacant land shall be connected with such common drain.

Cost of construction of drains:
How defrayed.

13 The cost of the construction and laying down of a drain (or in the case of a common drain the proportion thereof determined by the Council under subsection (2) of section twelve as payable by such owner) including all fittings and connections, and interest upon capital expended thereon during the period of construction (at the rate of four pounds per centum per annum) shall, until paid, be a statutory first charge on the property concerned.

Cost of fittings, &c.:
How defrayed.

14 The cost of installation by the Council of fittings and connections mentioned in subsection (1) of section eleven (including all materials used) together with interest upon the capital expended during the period of installation (at the rate of four pounds per centum per annum) shall, until paid, be a statutory first charge on the property concerned.

When cost of construction and installation payable.

15 The cost of construction and the cost of installation mentioned in sections thirteen and fourteen, respectively, shall each be payable by the owner upon notice in writing to that effect:

Provided that if such owner so elects, in writing, lodged at the Council's office within seven days after the receipt by him of such notice in writing, the cost referred to in the demand, together with interest at the rate of four pounds per centum per annum and an administration charge at the rate of two pounds per centum per annum upon the amount thereof for the time being unpaid from the date of completion of the construction or installation, as the case may be, until final payment, shall be payable and paid by the owner to the Council by twenty equal payments, of which payments the first shall be made within one month after such completion and one at the end of each consecutive period of six months thereafter.

Works to be executed with such materials and in such manner as the Council directs.

16—(1) All such work as aforesaid shall be of such materials and shall be executed or done within such time and in such manner as is directed or approved in any particular case by the Council or the proper officer or any person duly authorised by the Council.

(2) Every owner shall, at his own cost, maintain such drains, water-closets, and other apparatus, including fittings, in such condition and repair as the Council may require; and if any owner fails to comply with the requirements of this subsection, the Council may maintain the said drains, water-closets, and other apparatus (including fittings) in such condition and repair as it thinks fit, and the cost thereof shall be paid to the Council by the owner, on demand, and if not so paid, shall be recoverable as and for money paid by the Council for the owner by action in any court of competent jurisdiction.

(3) All such work shall be carried out only by persons qualified as prescribed and authorised, in writing, by the Council to carry out such work, and such authority may be specially limited to a particular installation or to particular classes of work or otherwise or may be general, and it shall be an offence against this Act to permit or cause any unauthorised person to carry out or perform any such work.

17 Any person who in the said areas, without the written consent of the Council, causes any buildings to be newly erected over any sewer or drain shall forfeit to the Council the sum of fifty pounds, and also a further sum of forty shillings for every day during which the offence is continued after written notice in that behalf from the Council; and the Council may cause any building erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fits, and may recover from the offender by action in any court of competent jurisdiction, any expenses incurred by it in so doing.

Erection of buildings over sewers and drains prohibited.

18—(1) It shall be lawful for the Council, if it shall so determine, to construct any sewer or drain under any house or other building:

Power of Council to construct sewers, &c., under buildings.

Provided that—

- (a) the Council shall so construct and maintain any such sewer or drain as not to be a nuisance or injurious to the health of the occupants of such house or building; and
- (b) the Council shall pay compensation to the owner of such house or building if (and only if) the same may be injured in such construction and the Council has not made good such injury.

(2) Any compensation payable under this section shall be determined in accordance with the provisions of the Principal Act.

PART IV.

MISCELLANEOUS.

19 Any trustee, being the owner of any lands or property as such trustee, may apply any of the funds under his control in relation to such lands or property in defraying any rates, charges, costs, or expenses necessarily or properly incurred by him under this Act as such owner.

Trustees empowered to apply trust funds in payment of charges, &c., under this Act.

20 Any agent may deduct from any moneys held by him for his principal all rates, charges, costs, and expenses necessarily or properly incurred or paid under this Act as the owner of any houses, lands, or premises for which he is the agent of such principal, or he may, in any court of competent jurisdiction, recover from such principal the amount so incurred and paid.

Agents empowered to deduct moneys for payment of charges, &c., under this Act.

Provisions relating to the removal of buildings by lessees.

21 Where under any lease, whether executed before or after the passing of this Act, a lessee has the right to remove buildings at the end of his term he shall not be entitled to remove the same or any part thereof, unless—

- (a) he first pays to the lessor all the costs, expenses, and interest paid or payable under this Act by the lessor in respect of all water-closet fittings and connections installed under the provisions of section six for the purposes of the buildings or part so removed; or
- (b) the removal of such buildings or part can be effected without injury to such fittings and connections.

By-laws.

22 The Council may make such by-laws as may be necessary or convenient for carrying out or giving effect to the provisions of this Act, and for prescribing the mode in which the duties imposed upon, and the authorities and powers conferred upon, or exercisable by, the Council shall or may, be performed, and for fixing all charges, and prescribing a penalty for every offence not specially provided for in this Act.

Powers of Council with respect to buildings, &c., erected in contravention of this Act.

23—(1) If any person knowingly erects or constructs any building, wall, bridge, fence, mound, embankment, excavation, tunnel, or work in, upon, or under any sewer or drain without the previous consent in writing of the Council—

- (a) the Council may demolish and remove the same and perform any works necessary for restoring or reinstating such sewer or drain; and
 - (b) such person, and the person who has directed the same to be done, shall each be guilty of an offence against this Act and shall be jointly and severally liable for the expenses incurred by the Council, and such expenses may be recovered by the Council, by action in any court of competent jurisdiction.
- (2) Every person who—
- (a) knowingly erects or places any obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain; or
 - (b) obstructs, fills in, or diverts any sewer or drain without the previous consent, in writing, of the Council,

shall, in addition to any other proceeding to which he may be liable therefor, be liable to a penalty of twenty pounds for every such offence and to a further daily penalty of five pounds.

(3) Nothing contained in this section shall extend to prevent or impede the maintenance, repair, or renewal of any building, wall, bridge, fence, or other structure under which a sewer or drain has been constructed, but so, nevertheless, that the same does not injure or obstruct such sewer or drain.

24 Every person who sweeps, rakes, or places any house refuse, soil, rubbish, or filth, or any other thing into or in a sewer, or drain or over or contiguous to any grate communicating therewith or into any dock or inlet communicating with the mouth of a sewer or drain or into which a sewer discharges its contents, shall, for every such offence, be liable to a penalty of ten pounds.

Penalty
for placing
rubbish, &c.,
in sewers.

25 No person shall—

Offences and
penalties.

- (a) take up, remove, demolish, or otherwise interfere with or cause to be taken up, removed, demolished, or interfered with, any sewer or drain or part thereof, without having previously obtained the permission, in writing, of the Council;
- (b) wilfully damage any sewer, drain, bank, defence wall, penstock, grating, gully side-entrance, tide valve, flap, work, or other thing vested in the Council;
- (c) cause or permit to be discharged into any sewer or drain any storm or rain water from roofs or other surfaces or any solid or liquid (other than ordinary domestic sewage) liable to cause the generation of gases injurious to human life or health, or to cause injury to such sewer or drain or any of the said works, or to lessen or interfere with the carrying or treatment capacity thereof;
- (d) cause or permit to flow, or pass, or to be carried from, any manufactory or business or other premises of any persons into a sewer—
 - (i) any benzine, naphtha, ether, carbon bisulphide;
 - (ii) any inflammable or explosive materials which will not readily mix with water; or
 - (iii) any other materials which, separately or in conjunction or in combination with water or sewage or other materials, are liable to form inflammable or explosive compounds;
- (e) do any act by which the sewerage or the sewerage district, or any part thereof, may be obstructed or injured;
- (f) without the consent in writing of the Council, do any act in relation to any sewer or drain which the Council is authorised by this Act to do; or
- (g) employ any person, not being an authorised person,

to do any work by this Act required to be done by an authorised person, or himself not being an authorised person, do or undertake to do any such work.

Penalty: Twenty pounds, together with a further daily penalty of five pounds.

Penalty for obstruction.

26 Every occupier of any premises who prevents any authorised person from carrying into effect, with respect to such premises, any of the provisions of this Act, or any order of the Council made in pursuance thereof, shall be liable to a daily penalty not exceeding five pounds.

General penalty.

27—(1) Every person guilty of an offence against this Act shall, for every such offence, be liable to a penalty expressly imposed by this Act or by any by-laws made thereunder.

(2) If no penalty is so expressly imposed, he shall be liable to a penalty of twenty pounds and to a daily penalty of five pounds.

Recovery of penalties.

28—(1) Every penalty under this Act may be recovered and enforced in the manner expressly provided in this Act by any by-laws made thereunder.

(2) If the manner of recovery or enforcement is not so provided, it may be recovered and enforced in any Court of Petty Sessions.

(3) Except as otherwise expressly provided—

(a) all penalties imposed by this Act or by any by-law made thereunder for offences committed within the sewerage district, or in respect of any part of the undertaking of the Council, may be recovered by the Council or by any person thereto authorised by it; and

(b) the said penalties may be recovered from the person actually committing the offence, or the person causing the commission of the offence, or by whose order or direction the offence was committed.

Recovery of damages, costs, and expenses.

29—(1) Every penalty imposed upon any person by this Act or by any by-laws made thereunder shall be without prejudice to the right of the Council to recover from such person—

(a) any sum for damage sustained by it through his act or default;

(b) the costs and expenses incurred by it in remedying any such damage; and

(c) the value of any water wasted, misused, unduly consumed, illegally diverted or illegally taken by such person.

(2) The payment of any such penalty shall not bar or affect the right of the Council to bring any action, or take any proceedings, against such person, which the Council might, apart from this Act, bring or take against that person.

30—(1) In any proceedings for the recovery of penalties under this Act, or under any by-laws made thereunder, the complaint, where not to be required to be made on oath, may be laid and made in the name of the Council, and in any case may be laid and made by the Council Clerk or some officer of the Council appointed generally or in respect of any special proceeding, or by any police officer. Complaints:
How made.

(2) The Council Clerk or other officer shall be reimbursed out of the sewerage account any damages, costs, charges, or expenses to which he is put or with which he is chargeable by any reason of any thing contained in this section.

GOVERNMENT PRINTING OFFICE.

No. 14 of 1949.

AN ACT to enable the Government Printing Office
to be conducted as a Business Undertaking.

[12 April, 1949.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Government Printing Office Act* 1949. Short title.

2 The purpose of this Act is to enable the printing office and associated business conducted by the Government Printing Department to be carried on and accounted for as a business undertaking under the name of "the Government Printing Office". Purpose
of Act.