

TASMANIA.

THE NEW NORFOLK SEWERAGE ACT 1941.

ANALYSIS.

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TASMANIA.



1941.

ANNO QUINTO

GEORGII VI. REGIS.

No. 23.



AN ACT to declare a Sewerage Area for the Municipality of New Norfolk; to authorise the Council of that Municipality to borrow a sum not exceeding Thirty-nine thousand Pounds for Sewerage purposes; to confer upon the Council all necessary powers in relation to a proposed Drainage and Sewerage System; and to make and levy a separate Local Rate for such purposes. [17 June, 1941.]

A.D.
1941.

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—(1) This Act may be cited as the *New Norfolk Sewerage Act 1941*.

(2) This Act shall be incorporated and read as one with the *Local Government Act 1906*.

Short title
and incor-
poration with
6 Ed. VII.
No. 31.

2 In this Act unless the contrary appears—

“Drain” means any drain, not being a sewer or part of a sewer, used for the drainage of one building only or of premises within the same curtilage, and includes any drain for draining any group or block of houses by a combined operation under the order of the council:

Interpreta-
tion.

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“ 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, matters, or things in connection with which the expression is used :

“ Sewer ” means any sewer or underground gutter or channel which is not a drain within the meaning of this Act, and any drain or portion of a drain laid between a sewer and the boundary line of any allotment or curtilage :

“ Sewered property ” means, as well as any sewered land or premises, any land or premises that may conveniently be served by any sewer constructed by the council for the conveyance of sewage or drainage, which sewer is ready to receive connections from such land or premises :

“ Street ” includes 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.

Sewerage
area.

3—(1) That part of the Municipality of New Norfolk described in the first schedule is hereby declared to be the sewerage area for the purposes of this Act and is in this Act referred to as “ the area.”

(2) The council, after passing a special resolution for that purpose, may, by notice in the “ Gazette,” at any time alter the boundaries of the area and may extend, enlarge, or decrease the same as it thinks fit, and thereupon the land described in the notice shall become and be the area for the purposes of this Act.

(3) The council may exercise in relation to the area all powers and authorities conferred upon it in respect of sewerage by any Act.

Power to
council to
borrow
£39,000.

4—(1) The council, on behalf of the corporation, may borrow on the securities of its revenues in accordance with the provisions of the *Local Government Act 1906* and the *Local Bodies Loans Act 1881* any sums of money not exceeding in the whole the sum of thirty-nine thousand pounds for the purposes of this Act.

(2) Any sums borrowed prior to the commencement of this Act in respect of the matters authorised by this Act shall be deemed to have been borrowed under and for the purposes of this Act.

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5—(1) It shall be lawful for the council, once in every year— A.D. 1941.

- I. To make and levy, for the purposes of this Act, a separate local rate (to be called a sewerage rate), subject to adjustment as is provided in subsection (2) hereof, not exceeding fourpence in the pound upon the annual values of all property in the area, as shown by the assessment roll in force and upon which a service rate is not levied under the provisions of paragraph II. hereof: Power to make and levy sewerage and service rate.
- II. To make and levy a rate (to be called a service rate), not exceeding two shillings in the pound, upon the annual value of every sewered property within the area shown in the assessment roll in force for the time being.

(2) In the event of a property becoming a sewered property for the first time, the rate for the then current year shall be a proportion of the sewerage rate payable up to the time the property became a sewered property, and thereafter a proportion of the service rate shall be payable for the remainder of such year.

(3) Every such rate shall be made, and be recoverable, and be payable by the like persons as any other rate made by the council is made, recoverable, and payable respectively.

(4) In default of payment of any such rate on demand, the same shall become and be a charge on the land in respect of which it is levied.

6—(1) Except as provided in any other Act, every property upon which any building is erected, belonging to or used by or on behalf of the Crown, or any person or body of persons, corporate or unincorporate, notwithstanding that such property may be otherwise exempt from any tax or rate which may be imposed or levied by the Council, shall be subject to the sewerage rate and service rate made and levied in pursuance of this Act, and in any such case the Crown or any such person or body of persons, corporate or unincorporate, shall be deemed to be the owner of such property for the purposes of this Act. Property used by Crown, &c., shall be subject to the rate.

(2) The Crown or any person or body of persons, corporate or unincorporate, may, in every such case as is mentioned in the last preceding subsection, commute its liability to pay any such rate by contribution of an annual sum to be agreed upon by the Council and the Treasurer of the State or Commonwealth, or any such person or body of persons, corporate or unincorporate, as the case may be. Power to Crown and others to pay annual sum in lieu of rate.

(3) Notwithstanding anything contained in this Act, the rates payable in respect of the hospital known as Lachlan Park appointed under the *Mental Hospitals Act 1858* shall be the amount ascertained as provided by the *Lachlan Park (Sewerage) Agreement Act 1941*, and not otherwise.

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Power of council to supply Crown premises, &c., with closets and make charges.

Arrangements with Commonwealth.

Power to construct sewers, &c.

7—(1) The council, at the request of the Treasurer or any municipality or other public authority, may provide water-closets or drains, appliances, apparatus, and connections, and perform any works, matters, or things necessary to be provided or performed for any premises belonging to His Majesty or the municipality or the public authority as the case may be, and the cost and expenses thereof shall be a debt due by and recoverable from His Majesty or the said municipality or public authority, as the case may be.

(2) The council may enter into any contract or arrangement with the Commonwealth for sanitary works or sanitary services, and may receive payment in pursuance thereof.

8 It shall be lawful for the council to—

- I. Construct, repair, maintain, and have charge of and supervision and control over all such sewers, drains, and other works as the council may think necessary for the purpose of this Act:
- II. Make, perform, construct, and establish such drains, connections, and other things connecting all or any private and other premises within the area with such sewers, and to erect and construct on any such premises all necessary conveniences and equip the same with such fittings as to the council may seem fit:
- III. Within or without the area, for any of the purposes aforesaid, by its officers, surveyors, engineers, agents, contractors, or servants to—
 - (a) Enter, at all reasonable hours in the day-time, into or upon any lands and make surveys, take levels, and sink bores and shafts without becoming liable to any legal proceedings in respect thereof:
 - (b) Open and break up any street:
 - (c) Blast any rock:
 - (d) Carry any such sewers or works through, across, over, or under the bed, waters, banks, and shores of any river, creek, stream, or watercourse, or on any road or any street or place laid out as, or intended for, a street, or through or under any cellar or vault under the carriage-way or pavement of any street, and into, through, or under any lands whatsoever:
 - (e) Construct ventilating shafts, pipes, tubes, or other apparatus, and carry them up the exterior wall of any building, whether public or private, provided that the mouth of every such shaft, pipe, or tube shall be at least six feet higher than any window or door situated

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within a distance of thirty feet therefrom, and also make use of the chimney of any public building or of any factory or of any tramway building as a ventilating shaft or tube: and

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(f) Cause the drainage from sewerage construction works to flow along any drain or watercourse during the course of such construction:

- iv. Contract to supply, for any period not exceeding twenty-one years, any person with dried sewage, sludge, or other treated sewage on such terms as to the council may seem fit: and
- v. Contract to take from any person, within or without the said area, for treatment at any sewage depots or similar works established by the council, any refuse, offal, abattoir waste, or other matter.

9—(1) Where, in the opinion of the council or its proper officer, it is necessary or expedient for the proper drainage of any land, street, lane, right-of-way, yard, passage, premises, or other place within the area that drains or sewers should be made through or under any one or more premises, whether occupied or not, it shall be lawful for the council in default of agreement between the council and owner of such premises, to serve a notice on every such owner requiring every such owner to permit the formation of such drains or sewers through or under such premises, and, after the expiration of fourteen days from the service of such notice, the council may form or make through or under such premises such drains or sewers as may, in the opinion of the council, be necessary for the proper drainage of such land, street, lane, right-of-way, yard, passage, premises, or other place as aforesaid: Provided that such drains or sewers shall be made and maintained in good order so as not to be a nuisance or injurious to health.

Power to
drain
through or
under
premises.

(2) Where the council has, under the powers conferred by this section, formed or made any drain or sewer through or under premises, the council shall not be required to pay any compensation therefor to the parties interested, except in reference to any buildings, path, wall, or fence that may be injured or interfered with by such drain or sewer, or the making thereof, and which the council has not reinstated or repaired.

(3) When any entry is made upon any private lands, the council shall pay to each owner and occupier thereof such equitable compensation for any damage or inconvenience suffered by such owner and occupier respectively as is agreed upon between such owner or occupier respectively and the council, and in case of dispute such compensation shall be recoverable from the council in any court of competent jurisdiction.

Compensa-
tion.

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Alterations of gas-pipes, water-pipes, &c.

Exercise of powers outside boundaries of municipality.

Power to enlarge or discontinue any sewer or drain.

Power to construct works for disposing of sewage, &c.

10—(1) The council, by notice in writing, may require any person, to whom any water-pipes, gas-pipes, tramways, or any electric conductors or other works belong, to raise, sink, or otherwise alter the situation of the same in such manner and within such time as is specified in the notice, and, if such notice is not complied with, the council may make such alterations as it may think necessary.

(2) The expenses attendant upon or connected with such alterations shall be paid by the council.

(3) All or any of the powers conferred by this section may be exercised by the council outside the boundaries of the municipality for the purposes of outfall or distribution of sewage, subject to the following provisions:—

I. One month before commencing the construction of such work outside such boundaries, the council shall—

(a) Give notice of the intended work, by advertisement in a newspaper, describing the nature of the intended work, stating the streets, and lands, if any, through, across, under, or on which the work is to be made, and naming a place where a plan of the intended work is to be seen at all reasonable hours: and

(b) Send a copy of the notice to the owners and occupiers, or reputed owners and occupiers, of such lands and to the local authority having control of such area outside the said boundaries: and

II. If any such owner, occupier, or local authority, or any person who would be affected by the said work, gives to the council notice, in writing, of any objection to such work, the council shall not commence the said work without the sanction of the Governor, who may direct an enquiry to be made into the matter of the objection, and may appoint such person as he thinks fit to make such enquiry.

11 The council may enlarge, lessen, alter the course or levels of, cover in, or otherwise improve any sewer or drain belonging to it, or may discontinue, close up, or destroy any such sewer or drain that has, in its opinion, become unnecessary, on condition that it provides a sewer or drain as effectual for the use of any person who may be deprived in pursuance of this section of the lawful use of any sewer or drain: Provided that the discontinuance, closing up, or destruction of any sewer or drain shall be so done as not to create any permanent nuisance.

12 For the purpose of collecting, receiving, storing, disinfecting, purifying, distributing, or otherwise disposing of sewage and street and house refuse, and of cleansing and flushing sewers and drains, the council may—

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- I. Construct any works and erect and establish any machinery and plant that the council may deem necessary, either within or without the area: A.D. 1941.
- II. Contract for the use of, purchase, exchange, or take on lease, any lands, buildings, engines, materials, or apparatus, either within or without the area: and
- III. Enter into an agreement with the owners of properties outside the area to sewer such properties on such terms and conditions as the council may think fit: Provided that no nuisance be created in the exercise of any of the powers given by this section.

13—(1) The council may, for the purposes and subject to the provisions of this Act, purchase, take, sell, lease, or exchange any land situated within or without the area. Power to purchase, take, lease, sell, or exchange lands.

(2) Any land so acquired, and which is no longer required for the purpose for which it was acquired, may be sold by the council at the best price that can be obtained for the same.

14 The council shall cause all sewers and drains within the area to be constructed and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied, and, for the purpose of clearing, cleansing, and emptying the same, may construct and erect such works as appear necessary, and may cause all or any of such sewers and drains to communicate with, and be emptied into, such places as it may deem fit or necessary, and no person shall, without the consent of the council, cause any private drain or sewer to be emptied, or to flow into any public drain or sewer under the control of the council, nor do any act, matter, or thing which, in the opinion of the council, tends to the injury or stopping of any such drain or sewer. All sewers, &c., constructed so as not to be a nuisance.

15 No person shall—

- I. Take up, remove, demolish, or otherwise interfere with any sewer or drain, or part of a sewer or drain, without having previously obtained the permission, in writing, of the council:
- II. Wilfully or negligently damage any sewer, bank, defence-wall, penstock, grating, gully, side entrance, tide-valve, flap, work, or thing vested in the council:
- III. Cause or permit to be discharged into any sewer any solids or liquids (other than ordinary domestic sewage) liable to cause the generation of gases injurious to human life or health, or to cause injury to the council's sewers or purification works, or to lessen the carrying capacity of the sewers or to interfere with the treatment of the sewage: Penalties on persons interfering with sewers.

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IV. Cause or permit to flow or pass, or to be carried from, any manufactory or business or other premises of any such person into any sewer, or any drain or pipe communicating therewith any—

(a) Benzine, naphtha, ether, or carbon bisulphide:

(b) Inflammable or explosive materials: or

(c) Other material which, separately or in conjunction or in combination with water or sewage or other materials, is liable to form inflammable or explosive compounds: or

v. Do any act by which the sewage or drainage of the area or any part of such area may be obstructed or injured.

Penalty: Twenty pounds and a daily penalty of five pounds.

Buildings,
&c., not to be
erected in,
over, or under
sewers.

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

I. The council may demolish and remove the same and perform any works necessary for restoring or reinstating the sewer or drain: and

II. Such person, and any person who has directed the same to be done, shall 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 in any court of competent jurisdiction.

(2) No person shall—

I. Erect or place any obstruction or encroachment in, upon, over, or under any sewer or drain: or

II. Obstruct, fill in, or divert any sewer or drain vested in the council without the previous consent, in writing, of the council.

Penalty: Twenty pounds and a daily penalty of five pounds.

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

Penalty on
person
sweeping
dirt into
sewers.

17 No person shall sweep, rake, or place any house refuse, soil, rubbish, or filth or any other thing, save as prescribed, into or in any sewer or drain, or over or contiguous to any grate communicating with any such sewer or drain or into any dock or inlet communicating with the mouth of any such sewer or drain, or into which any such sewer or drain discharges its contents, or into any river contiguous thereto.

Penalty: Ten pounds.

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18—(1) No person shall, within the area, without the written consent of the council first had and obtained, cause any building to be newly erected over any sewer or drain.

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Penalty: Five pounds and a daily penalty of two pounds after written notice in this behalf from the council.

No building to be newly erected over sewer.

(2) The council may cause any building erected in contravention of this section to be altered, pulled down, or otherwise dealt with as it thinks fit, and may recover from the offender in any court of competent jurisdiction any expenses incurred by it in so doing.

19 No person shall wilfully or negligently throw or cast, or allow to be thrown or cast, or to flow or fall into any of the storm-water channels, drains, or sewers within the area any refuse, filth, dirt, grease, decomposed substance, or substance liable to decompose, or any poisonous, noxious, offensive, or unwholesome matter.

Refuse, &c., in channels, drains, and sewers.

Penalty: For the first offence twenty pounds and a daily penalty of five pounds; and, for every subsequent offence, penalty fifty pounds.

20—(1) The council shall, after sewers have been laid in any part of the area, cause a general notice to be given that the council has made provision for carrying all the sewage from each and every property situated in the area which, or any part of which, may, in the opinion of the council, be conveniently served by any sewer; and, after such time as is fixed by the council in the notice, each and every such property shall be deemed and taken to be a sewered property within the meaning of this Act.

All properties in the area shall be deemed to be sewered properties after general notice given by council.

(2) The council may also, by a further general notice, order that the owner of each and every such property as mentioned in the last preceding subsection hereof shall, within such time as is specified in such further notice, or within such further time as the council may allow, provide such proper water-closet or water-closets, drains, appliances, apparatus, and connections with such sewer or sewers as are prescribed or directed by the council.

Council may by further general notice order owners in area to provide connections, water-closets, &c.

(3) The general notice referred to in subsection (1) of this section shall be—

Form of general notice.

- I. In the form of the second schedule: and
- II. Advertised once in the Gazette and once in a newspaper.

(4) The further general notice referred to in subsection (2) of this section shall be—

Form of further general notice.

- I. In the form in the third schedule: and
- II. Given by serving the same on the owner of any property which, or any part of which, may, in the opinion of the council, be conveniently served by any sewer, or by leaving the same on such property.

21—(1) Within one month after a date to be specified in the further general notice, or within such further time as the council (either before or after the expiration of such month)

Owners to submit plans for providing water-closets and connections.

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A.D. 1941. 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—

- I. Submit for the approval of the council a plan (including a plan drawn to scale) and specification 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
- II. 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, such 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 may allow, or shall, in writing, request the council to carry out the same at the cost and expense of the said owner, and thereupon the council shall do so, and any expenses connected with the preparation of plans and estimates by the council for an owner shall be paid by the owner.

In default of owner's compliance council may carry out works at owner's expense.

(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, then the council may order such owner to comply with such of the requirements of the further general 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 such owner.

Power for council to enter premises and ascertain if further general notice has been complied with.

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

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(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. A.D. 1941.

22—(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. Work to be of such materials and as directed by council and carried out by qualified and licensed persons only.

(2) Every owner shall, at his own cost, maintain such water-closet and other apparatus, including fittings, in such condition and repair as the council may require.

(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 the Act to permit, or for any unauthorised person to carry out or perform, any such work.

23—(1) All premises within any such part of the area as aforesaid shall have such drains leading to such sewers or other places, and having such a fall and constructed of such material and in such manner as shall be satisfactory to the council. No drains shall be made without the written consent of the council or which fail to comply with such conditions as the council may impose. Drainage of houses.

(2) Where, in the case of any such premises, drains satisfactory to the council have not been made, the council may cause such drains to be constructed at the expense of the owner of the premises.

24—(1) If it appears to the council that a group of premises or any number of houses in the same vicinity adjacent or separated by vacant land or that any blocks of vacant land may be sewered and drained more economically or advantageously in combination than separately, and a sewer of sufficient size already exists or is about to be constructed within such reasonable distance as determined by the council of any part of any such group or number of houses or such blocks of vacant land, the council may order that any such group or number of houses or such blocks of vacant land be sewered or drained by a combined operation. Power to cause drainage of group of houses.

(2) The council may order that any new building or premises shall be connected with any sewer or drain used, or to be used, for sewerage and draining by such a combined operation.

25 For the purposes of making, performing, constructing, and establishing such drains, conveniences, connections, and things as aforesaid or of cleansing, renewing, repairing, or amending the same (the cost of which shall be payable by such owner or owners as aforesaid as expenses as aforesaid and in Powers of entry.

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A.D. 1941. like manner), it shall be lawful for the council, its surveyors, inspectors, overseers, contractors, and workmen, to enter upon any lands, buildings, or premises at all reasonable hours during the daytime, and, in cases of emergency, at any time, and to do all things necessary or proper for the abovementioned purposes or any of them, provided that, in every such case, entry shall be made so as to interfere as little as possible with the occupier of such land or premises or his business.

Power for council to inspect private premises.

26—(1) The council, by its proper officer, may inspect and test any drain, water-closet, sink, trap, pipe, or other apparatus connected therewith within the area, and for that purpose at all reasonable times in the daytime, after twenty-four hours' notice, in writing, has been given to the occupiers of the premises whereon the inspection is to be made, or left upon the premises, or, in case of emergency, at any time without notice by its proper officer enter upon the said premises and such proper officer may enter by himself or with workmen and cause the ground to be opened in any place he may think fit, doing as little damage as may be.

Order necessary repairs, &c.

(2) In case any such drain, water-closet, sink, trap, pipe, or other apparatus be found, on inspection or testing, to have been made contrary to the provisions of this Act or by-laws thereunder, or to be in bad order and condition, or to require cleansing or repairing, the council shall give notice, in writing, to the owner of the premises, requiring him to do the necessary works within such time as may be specified in such notice.

(3) If such notice be not complied with by the owner of the premises, the council may, if it thinks fit, execute such works, and the expenses incurred by it in so doing shall be paid to it by the owner of the premises.

Council to pay cost of reinstating premises if drains found correct.

(4) If such drain, water-closet, sink, trap, pipe, or other apparatus be found, on inspection as aforesaid, to be made to the satisfaction of the council and in proper condition and order, the council shall cause the same to be reinstated and made good, and the whole expenses of the inspection and reinstatement shall be defrayed by the council.

If owner required to do any act occupier also liable at option of council.

27—(1) In any case where it is deemed necessary by the council that the owner of any premises shall do any act, matter, or thing, or construct any works, the council may, at the option of the council, require the person occupying or in possession of the premises to do any such act, matter, or thing, or to construct such works as the council may deem necessary, and any such owner and also the person occupying or in possession of the premises, who refuses or neglects to comply with such direction, order, or notice after service thereof and within a certain time specified to be named therein, shall be liable to a daily penalty of not more than five pounds and not less than five shillings.

(2) Any expense incurred by the person occupying or in possession of such premises in complying with the said direction, order, or notice of the council shall be recoverable by



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such person from the owner in any court of competent jurisdiction as money paid to the use of such owner, or may be deducted from or set off against the rent then due or thereafter at any time and from time to time to become due, and the owner from and against whom such expenses are so recovered, deducted, or set off, if he be a tenant to another person of the same premises, may, in like manner, recover, deduct, or set off the said expenses, any covenant or agreement whatsoever to the contrary notwithstanding.

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(3) In the event of the neglect or failure of the person to whom any such order or notice shall be addressed to comply therewith, the council may carry out the requirements of such order or notice, and may recover in manner hereinafter provided from such person all costs and expenses which the council shall thereby have incurred.

(4) No occupier of any premises shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof than the amount of rent due from him for the premises in respect of which such premises are payable at the time of the demand made upon him or which at any time after such demand and notice not to pay such rent to his landlord have accrued and become payable by him unless he neglect or refuse, upon application made to him for that purpose by the council, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable, but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand or which has since accrued shall lie upon the occupier.

(5) Nothing in this section shall be taken to affect any special contract made between any such owner and occupier respecting the payment of the expenses of any such works as aforesaid.

28 Where, under the authority of this Act—

- I. Two or more persons are, or may be, directed by the council to do, or join in doing, any act or to pay or join in paying any sum of money, cost, or expenses: or
- II. The council permits two or more persons to join in doing any act or paying any sum of money, cost, or expenses—

Council may apportion costs of expenses where persons jointly liable.

the council may apportion the matter to be done or the sum of money, cost, or expenses to be paid between such persons in such manner as the council considers just and reasonable.

29—(1) In all cases in which the council provides any water-closet or drains, appliances, apparatus, and connections, or carries out on any property any works, matters, or things under this Act pursuant to the request of the owner of any property or in default of the compliance of such owner with any lawful order or direction of the council, the costs and expenses thereof shall be paid by the owner of the property.

Power to recover costs of performing works.

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A.D. 1941. — and may be recovered as provided in the *Rates and Charges Recovery Act 1936* after the expiration of one month from the time that the proper officer certifies, in writing, to the council that the same have been provided or carried out and the amount of the costs and expenses.

Payments by instalments.

(2) At the request of the owner the council may accept payment of such costs and expenses by forty quarterly instalments, bearing interest on such portion as from time to time remains unpaid at a rate not exceeding one pound per centum per annum more than the rate of interest payable by the council at the time of the request on moneys borrowed by it for the purposes of this Act: Provided that in no case shall such interest be at a rate less than five pounds per centum per annum.

(3) Such request shall be made in writing, and signed by the owner, and shall be lodged with the council within one month from the time of such owner being notified, in writing, by the council of the amount of such costs and expenses.

(4) The first quarterly instalment shall be payable immediately upon the expiration of the said month.

(5) The owner may at any time pay to the council such portion as then remains unpaid of such costs and expenses, together with interest thereon as aforesaid to the date of payment.

(6) Every notification as aforesaid shall set forth the conditions under which payment by instalments may be made as provided in this section.

Application of the *Rates and Charges Recovery Act 1936*.

(7) If any of the instalments or interest is not paid within fourteen days after the due date thereof, the whole amount then unpaid of the costs and expenses, with interest thereon, shall, if the council so desires, become due and payable by, and may be recovered from, the same persons and in the same manner as is provided in the *Rates and Charges Recovery Act 1936* for the recovery of costs and expenses.

(8) Payment of any instalment and interest may be recovered in like manner.

(9) The certificate, in writing, of the proper officer shall be *prima facie* evidence that the water-closet, drains, appliances, apparatus, or connections have been provided or the works, matters, or things have been carried out (as the case may be) and *prima facie* evidence as to the amount of costs, expenses, and interest recoverable in respect thereof.

Prohibition of use of septic tanks or other sewers.

30 The council may, by order in writing—

- I. Require the owner or occupier of any premises situate within any part of the area to disinfect, empty, cleanse, fill in, and close to the satisfaction of the council, all cesspools and bacteriolytic tanks used in connection with such premises:
- II. Prohibit the owner or occupier of any premises situate within any part of the area from using any existing drain or sewer for the purpose of carrying sewage from such premises.

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31 Where the owner of any lands or property is a trustee, he 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.

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Powers of trustees.

32 Any agent may deduct from any moneys held by him for his principal all rates, charges, costs, and expenses necessarily or properly incurred and paid by him under this Act as 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 as a civil debt recoverable summarily, recover from such principal the amount so incurred and paid.

Powers of agents.

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

Lessee's right of removing buildings controlled.

- I. He first pays to the council all the costs and expenses and interest payable under this Act in respect of any drains, appliances, apparatus, and connections constructed for the purposes of the said buildings or parts thereof: and
- II. The removal of the said buildings or parts can be effected without injury to such drains, appliances, apparatus, and connections or the consent, in writing, of the council to such removal is obtained.

34—(1) The council may contract and agree with the owner of any premises or land that any sewers or drains required to be made, altered, or enlarged by such owner shall be made, altered, and enlarged by the council.

Council may contract with owner for making, altering, or enlarging sewers or drains.

(2) The cost of making, altering, or enlarging such sewers or drains as certified by the proper officer shall be repaid by the owner so agreeing to the council.

35 All private sewers or drains which communicate with any sewer vested in the council, together with the portion of any sewer lying between the premises drained and the sewer with which it so communicates, and all fittings and apparatus connected therewith, shall, from time to time, be repaired and cleansed under the inspection and direction of the proper officer of the council at the cost and expense of the owner or occupier of the land or premises in respect of which the sewers or drains have been constructed.

Private sewers to be cleansed.

36—(1) When it is desired by any person to abandon, either wholly or in part, or to extend, contract, or alter any design for a sewer or drain previously approved by the council, notice, in writing, of such desire shall be given by the person by whom such approval has been obtained to the council, accompanied by plans and sections showing the nature of the

Abandonment, alteration, &c., of designs for sewers previously approved.

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A.D. 1941. abandonment, extension, contraction, or alteration desired, and no such abandonment, extension, contraction, or alteration shall be made without the previous approval, in writing, of the council.

(2) No person shall abandon wholly or in part or extend, contract, or alter in construction any drain or sewer approved or sanctioned by the council without the previous sanction of the council.

If sewer not constructed within twelve months fresh consent to be applied for.

37 If any sewer or drain sanctioned and approved by the council is not constructed or executed within twelve months from the date of such sanction or approval, the works for the construction of such sewer or drain shall not be executed without a fresh sanction by the council, which sanction shall be applied for and obtained in like manner as the original sanction for the construction of such sewer or drain.

Seven days' notice to be given before drains can be branched into main sewers.

38—(1) Every person intending to make or branch any sewer or drain into a sewer vested in the council shall, seven clear days before commencing any works for that purpose, make written application to the council, accompanied by a plan showing such particulars as are required by any by-law or direction of the council.

(2) No such work shall be—

- I. Commenced until the sanction, in writing, of the council has been given: or
- II. Proceeded with or executed except under the immediate direction of the proper officer.

Construction of private sewers and drains.

39—(1) No person shall make or branch, or cause to be made or branched, any sewer or drain, or make, or cause to be made, any opening into any sewer vested in the council without the previous consent, in writing, of the council.

(2) Any person may, with such consent at his own expense, make or branch any drain into any sewer vested in the council or any part thereof which is so far completed as to be ready for use in any street or other place within the area, such drain being of such construction, size, and materials, and conforming to such conditions and branched into the sewer and ventilated in such manner and form in all respects as the council prescribes or directs.

Penalty.

(3) No person shall—

- I. Without the consent, in writing, of the council, make or branch any sewer or drain, or make any opening into any of the sewers vested in the council: or
- II. Make or branch any drain of different construction, size, or materials, or under other conditions or in any other manner or form than as prescribed or directed by the council.

Penalty: Fifty pounds.

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(4) The council may cut off the connection between such drain and the sewer, or, if it thinks fit, may execute the necessary works for making the said drain conformable to its by-laws or directions at the expense of the person making or branching such drain, and such expenses may be recovered under the *Rates and Charges Recovery Act 1936*.

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Power to cut off drains.

40 All drains whatsoever, water-closets, sinks, grids, stables, cow-houses, yards, and places within any such part of the area as aforesaid shall be constructed and kept so as not to be a nuisance or injurious to health and so that there is no overflow or leakage or soakage therefrom.

All drains, &c., to be kept so as not to be a nuisance.

41 Where any land is subdivided into holdings or allotments abutting back to back, side to back, or side to side, without any passage or right-of-way between them, the council may, notwithstanding anything to the contrary in this Act, make and provide, at such place or places as it shall decide, any drain or sewer which it deems necessary for the proper drainage of such holdings or allotments without making any compensation therefor to parties interested, except in reference to any building that may be injured or interfered with by such drain, sewer, or the making thereof and which the council has not reinstated or repaired.

Drainage of adjacent lands.

42—(1) Any notice or order under this Act may be in print or in writing, or partly in print and partly in writing.

Service on owners and occupiers.

(2) Save as otherwise expressly provided, where any notice or order is required to be given to the owner or occupier of any house, building, land, or premises, such notice or order addressed to the owner or occupier thereof (as the case may require) may be served on the occupier of such house, building, land, or premises, or left with some inmate thereat, or, if there is no occupier, may be put up on some conspicuous part of such house, building, land, or premises.

(3) When the owner of any such house, building, land, or premises, and his place of residence are known to the council, it shall be the duty of the council, if such residence is within its municipality, to cause every notice or order required to be given to the owner to be served on such owner or left with some inmate of his residence, and, if such owner is not resident within the municipality but within the Commonwealth, to send every such notice or order by registered letter through the post, addressed to such owner at his last known place of residence.

(4) It shall be the duty of any such occupier of any such house, building, land, or premises on which there is served any such notice or order affecting the owner of any such house, building, land, or premises to send every such notice or order forthwith by registered letter through the post, addressed to such owner at his residence, and this subsection shall be printed on every such notice.

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(5) It shall not be necessary in any notice or order to mention the name of the owner or occupier, and it shall be sufficient to designate him as "the owner" or "the occupier" of any such house, building, land, or premises without further description.

(6) All notices or orders required under this Act to be served on any owner or occupier shall, if due service thereof has been once made on any owner or occupier, be binding on all persons claiming by, from, or under such owner or occupier to the same extent as if such notice or order had been served on such last-mentioned persons respectively.

Power to
make by-laws
as to sewer-
age and
drainage.

43 The council may make by-laws for the better carrying out of the purpose and provisions of this Act, and in particular may prescribe—

- I. The mode in which the duties imposed upon and the authorities and powers conferred upon or exercisable by the council shall be or may be performed:
- II. Charges to be payable under this Act:
- III. Measures for protecting its undertaking and every part thereof from trespass or injury:
- IV. The plans and levels of sites for buildings and the levels of the bottom of cellars and lowest parts of buildings, and the drainage of streets into sewers, and the drainage of waste water (exclusive of storm water) from factories and other buildings and premises connected therewith, and regulating such matters:
- V. The dimensions, form, and mode of construction and the materials and the keeping, cleaning, and repairing of the pipes, drains, and other means of communication with sewers and the fittings and apparatus connected therewith and the emptying, closing, cleansing, and filling up of sinks, cesspools, bacteriolytic tanks, and privies, and such other works of cleansing and of removing and disposing of refuse as the council is authorised to perform, and regulating such matters:
- VI. The form or class of any baths, water-closets, soil-pans, sinks, cesspits, wells, and other receptacles and fittings and the arrangement thereof, with power to prohibit any such thing, the use of which, in the judgment of the council, may tend to any fouling or contamination or to endanger the public health; and controlling and regulating the management and use of any closets and soil-pans permitted in any premises before the same are sewered by the council:
- VII. The manner of the admission to drains or sewers of any land drainage, surface or otherwise, or rain-water from roofs, yards, streets, or other surfaces, whether by inlets specially designed to admit it or

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by any other inlet or opening so placed that such water may get access thereto, and the regulation of such admission and the prohibition thereof except as prescribed: A.D. 1941.

- VIII. The positions in which any inlets or openings may be placed and the prohibition thereof in such positions that any extraneous water from any river, bay, gully, or creek, or any other source, whether in flood or otherwise, may gain access to drains or sewers:
- IX. The regulation and where necessary the prohibition of the provisions, of water-closets or the fitting or laying of drains, sinks, traps, appliances, apparatus, or connections in cellars or basements:
- X. The cases in which, and the manner in which, the discharge into any drain or sewer of any solid or liquid other than ordinary domestic sewage may be permitted:
- XI. The management and use in all respects of the property of the council and of its undertaking and the regulation of the construction, completion, maintenance, and extension thereof.

44 A by-law may—

- I. Impose a penalty for any breach thereof and also different penalties in case of successive breaches, but no such penalty shall exceed twenty pounds:
- II. Impose also a daily penalty for any breach thereof, but no such penalty shall exceed one pound per day:
- III. Provide that, in addition to a penalty, any expense incurred by the council in consequence of the breach of a by-law or in the execution of work directed by the by-law to be executed by any person, and not executed by him, shall be paid by the person committing such breach or failing to execute such work:
- IV. Require any work or thing to be executed or done of such materials, within such time or 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 it, and require works to be executed only by qualified persons licensed by the council.

General provisions to by-laws.

45—(1) Every occupier of any premises who prevents the owner thereof, or 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 of five pounds.

Penalty on occupier disobeying Act or order of council.

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Or refusing
to give
name and
address of
owner.

(2) No occupier of any premises, when requested by or on behalf of the council to state the name and address of the owner of the premises occupied by him, shall refuse or wilfully fail to disclose or wilfully mis-state the same.

Penalty: Twenty pounds.

(3) Every such occupier, during the continuance of such refusal and provided he satisfies the court that he has endeavoured in good faith to comply with the provisions of this Act, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Penalty of
giving use
of drain
without
permission.

46—(1) No person who has received permission to connect a private sewer or drain with any sewer vested in the council shall —

- I. Fail to repair or cleanse such permitted branch, sewer, or drain according to the direction of the proper officer: or
- II. Wilfully permit any other person, not having the authority or consent of the council, to use any such permitted sewer or drain or any branch into the same.

Penalty: Twenty pounds.

(2) The council may cut off from its sewer the sewer or drain of every person so offending.

Penalties for
offences
against this
Act.

47—(1) Every person guilty of an offence against this Act shall, for every such offence, be liable to the penalty expressly imposed by this Act or by the by-law.

(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
penalty not
to prejudice
right of
council to
take other
proceedings.

48—(1) Every penalty imposed upon any person by this Act or by any by-law thereunder shall be without prejudice to the right of the council to recover from such person—

- I. Any sum for damage sustained by it through his act or default: and
- II. The costs and expenses incurred by it in remedying any such damage.

(2) The payment of any such penalty shall not bar or affect the right of the council to bring any action or to take any proceedings against such person.

Penalties
recoverable
by council.

49—(1) All penalties imposed by this Act or by any by-law thereunder, for offences committed within the area 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.



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(2) All penalties when recovered shall be paid into the sewerage revenue account, and shall be applied to the purposes of the council in connection with sewerage.

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Appropriation of penalties.

50—(1) In any proceedings for the recovery of penalties under this Act or under any by-law thereunder, the complaint may be laid and made in the name of the council, and in any case may be laid and made by the clerk or some officer of the council appointed generally or in respect of any special proceedings.

Information, &c., in name of council.

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

Reimbursement of expenses, &c.

THE FIRST SCHEDULE.

The lands comprised in the sewerage area are bounded as follows:— Bounded on the south west by the north-eastern boundary of 50 acres of land located to Elizabeth Jones junior commencing at the south-eastern angle of that land on the Lachlan River thence on the south east by 20 chains westerly along the north-western boundary of the last-mentioned land and along the north-western boundary of 50 acres of land located to Elizabeth Jones senior to a municipal reserve thence by 575 8/10th links south-easterly along that reserve thence again on the south east by 1640 links south-westerly along the south-eastern boundary of that reserve thence on the south west by 3850 links north-westerly along the south-western boundary of that reserve thence on the north west by the north-western boundary of that reserve to the western side of a roadway 50 feet wide thence by that roadway in a general northerly direction to the main road from Glenora to New Norfolk thence again by a continuation of the said roadway 50 feet wide to the River Derwent thence by that river in a north-easterly direction to a point being the projection of the south-western side of the New Norfolk bridge road approach thence by that approach in a north-westerly direction to the southern side of the Lyell State Highway crossing the River Derwent aforesaid thence again by a continuation of the said approach to the northern side of the said State highway thence by that State highway in a westerly direction to Back River road thence by the north-eastern side of that road to the southern boundary of 219 acres of land granted to Andrew Guy thence on the north by 14 chains easterly to the south-eastern angle of that land thence again on the north west by 47 chains north-easterly along the south-eastern boundary of the last-mentioned land to the western side of a public road 50 links wide thence by that road in a south-easterly direction to the Derwent Valley Railway thence again by a continuation of the said public road 50 links wide to the River Derwent aforesaid thence by that river after crossing same in a general north-easterly direction to its junction with the Lachlan River aforesaid and thence by the last-mentioned river to the point of commencement.

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THE SECOND SCHEDULE.

MUNICIPALITY OF NEW NORFOLK.

GENERAL NOTICE.

The New Norfolk Municipal Council, having made sewers for carrying off the sewage from each and every property which, or any part of which, is included within the area hereinafter described, doth hereby declare that on and after the _____ day of _____, 19____, each and every property which, or any part of which, is included in the said area shall be deemed to be a sewered property within the meaning of the *New Norfolk Sewerage Act 1941*.

The boundaries of the sewerage area hereinafter referred to are [here describe them].

By order of the Council,

.....
Council Clerk.

THE THIRD SCHEDULE.

MUNICIPALITY OF NEW NORFOLK.

FURTHER GENERAL NOTICE.

The New Norfolk Municipal Council, having made sewers for carrying off the sewage from each and every property which, or any part of which, is included in the area hereinafter described, doth hereby order as follows (that is to say):—

- (1) Within one month after the _____ day of _____, 19____, or within such further time as the council, either before or after the expiration of such one month, allows, the owner of each and every property which, or any part of which, is included in the said area shall, if there are any houses or buildings on such property:—

- I. Submit for the approval of the council a plan (including a map drawn to scale) 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 specifications within one month after receipt of notification of the approval of the council or within such further time as the council may allow: or
- II. Submit for the approval of the council a plan 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, and thereupon the council shall do so or give its approval to the first-named plan and specification, and, if any alterations are required, the owner shall forthwith make the same to the satisfaction and approval of the council. As soon as the council notifies the owner of its approval, such 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 may allow, or shall, in

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writing request the council to carry out the same at the cost and expense of the said owner and thereupon the council shall do so. Any expenses connected with the preparation of plans and estimates by the council for an owner shall be paid by the owner. A.D. 1941.

- (2) 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, then the council may order such owner to comply with such of the requirements of this further general notice or the said undertaking as it deems to be necessary, or may carry out such undertaking, and, in either case, at the expense of the owner.
- (3) In the event of the council executing the work, the council will, if so requested, accept payment of the costs and expenses by forty quarterly instalments, bearing interest at a rate not exceeding one pound per centum per annum more than the rate of interest payable by the council at the time of the request on moneys borrowed by it for the purpose pursuant to the *New Norfolk Sewerage Act 1941* or the whole may be paid off at any time with interest as aforesaid to the date of payment; Provided however that in no case shall such interest be at a rate less than five pounds per centum per annum.
- (4) The area hereinbefore referred to is [*here describe it*].
- (5) The by-laws of the council can be inspected at the office of the council situate at the Council Chambers, New Norfolk.

By order of the Council,

.....
Council Clerk.

