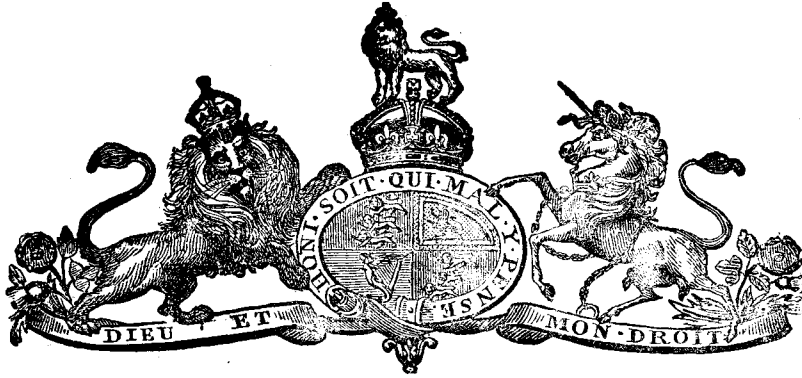


TASMANIA



1909.

ANNO NONO

EDWARDI VII. REGIS,

No. 38.

ANALYSIS.

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AN ACT to provide for the Formation of the ^{A.D.} **1909.**
*Smithton Harbour Trust, and the Execution
 and Maintenance of Harbour Works at
 Duck River and Pelican Point.*

[30 December, 1909.]

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

1s.]

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1 In the construction of this Act :

“ Works ” means and includes such roads, railways, tramways, bridges, jetties, breakwaters, and training walls as shall be or be deemed to be necessary for the construction or maintenance of the *Smithton* Harbour, in accordance with the purposes of this Act :

“ Landholder ” means and includes any and every owner or occupier of any property within the district :

“ Trustees ” means and includes the trustees for the time being elected for the purposes of this Act :

“ Minister ” means the Minister of Lands and Works for the time being :

“ Assessment roll ” means and includes the assessment roll under “ The Assessment, Act, 1900, ” or any Act substituted for the same for the time being in force, in which any property situate in the district is comprised :

“ Owner ” means the person for the time being in the actual receipt of or entitled to receive, or who, if such property were let to a tenant, would be entitled to receive the rents and profits thereof, whether as beneficial owner, trustee, executor, or administrator, or mortgagee in possession, but shall not include any person who holds land at a rent :

“ *Gazette* ” means the *Tasmanian Government Gazette* :

“ Port ” means and includes any port, haven, or harbour within the jurisdiction of the trustees, and any navigable river, creek, or inlet in which the tide ebbs and flows, and which is within the jurisdiction of the trustees.

District defined.

2 “ The *Smithton* Harbour District ” for the purposes of this Act shall be as described in Schedule (6.) of this Act.

First election of trustees.

3—(1.) The Governor shall, by notice published in the *Gazette*, direct that on a day, and at a place or places therein named in the district, between the hours therein named, an election shall be held, to choose from the male resident landholders Five persons to be trustees.

(2.) Such notice shall, in addition to its publication in the *Gazette*, be published at least Three times consecutively in a public newspaper circulating in the district. The First of such publications shall be not less than Twenty-one days before the day appointed for the election.

(3.) Such election shall be presided over by the person appointed for that purpose by the Governor in such notice.

(4.) Nominations of landholders for election as trustees shall be forwarded to and received by the person so appointed to preside Seven clear days before the day for holding the election. Such nominations shall be forthwith advertised in a public newspaper circulating in the district. The person appointed to preside shall perform all the duties of returning officer, and shall preside at the principal polling-place, and shall by writing under his hand appoint a deputy to act for him at each of the other polling-places. The returning officer and every deputy

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returning officer shall, before the day of the poll, make and subscribe before a justice of the peace a declaration in the form in the Schedule (1.), and any returning officer or deputy returning officer who acts contrary to such declaration shall be liable to forfeit and pay a penalty not exceeding Fifty Pounds. The ballot-papers shall have printed on them the names of the several candidates for election, and each of such ballot-papers shall be signed on the back thereof by the returning officer.

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(5.) For the purpose of such poll every owner shall have a number of votes proportioned to the annual value of his property in the district, such value to be ascertained by the assessment roll, according to the scale set forth in "The Local Government Act, 1906."

Voting at poll.

(6.) Within Three days after the election the person so presiding shall prepare, sign, and forward to the Treasurer a notification of the names of the persons and places of residence of the persons elected to be trustees.

(7.) The Minister, upon receipt of such notification, shall cause to be published in the *Gazette* the names of the persons so elected, and shall also cause written notice of his election to be sent by post to every trustee. Such publication in the *Gazette* shall be conclusive evidence of the facts therein stated.

(8.) The First meeting of trustees shall be held at such time and place as the Minister shall appoint. The Minister is hereby directed forthwith to send by post to every trustee written notice of the time and place so appointed by him for such First meeting.

4 No enquiry shall be permitted as to the right of any person to vote, except only as follows (that is to say) :—The returning officer or deputy returning officer may, if he thinks fit, and shall if required by any scrutineer, take from any person tendering himself as a voter before or at the time the ballot-paper is delivered to him, and not afterwards, the declaration in the Schedule (2.). Any person who refuses to take such declaration shall not be allowed to vote. Any person who wilfully makes such declaration falsely shall be liable to a penalty of not less than One Pound nor more than Twenty Pounds.

Questions to voters.

5 The trustees are hereby declared to be a body corporate by the name of "The *Smithton* Harbour Trustees," having perpetual succession and a common seal. Two of such trustees shall retire annually, both of whom shall be eligible for re-election as hereinafter provided.

Trustees a corporation.
Retirement of trustees.

6 Save as hereinbefore provided, the First election, and every subsequent election of trustees, shall be held in the same manner as elections for councillors under the provisions of "The Local Government Act, 1906," and for the purposes of every such election the annual retirement of and of filling vacancies among the trustees, and recording the proceedings of the trustees, the district shall be deemed to be a municipality, and the provisions of "The Local Government Act, 1906," with regard thereto are hereby incorporated with this Act, *mutatis mutandis*.

Mode of election.

6 Ed. VII. No. 31.

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Trustees may
levy rates.

7 To provide funds for the purposes of this Act the trustees are hereby empowered to make and levy such a rate, not exceeding One Shilling in the Pound, upon the annual value of the property in the district as they may deem necessary.

Amount of rate.

8 The amount of such rate shall be from time to time determined by the trustees annually, and shall be made and levied annually, if required by them.

Mode of collec-
tion.
6 Ed. VII. No. 31.

9 Every such rate shall be made, levied, and collected in the same manner as if the same were a special rate under the provisions of "The Local Government Act, 1906," and the provisions of such Act relating to such rates are hereby incorporated in this Act, *mutatis mutandis*.

Trustees to
control works.

10 The trustees shall have the sole control and management of the construction and maintenance of the works, and upon their election the powers and duties of the Marine Board of *Circular Head* in, upon, and over the wharves, jetties, and training-walls and other works within the *Smithton Harbour District*, by virtue of "The Marine Boards Act, 1889," and the several Acts amending the same or incorporated therewith, shall absolutely cease.

Power to enter
lands.

11 It shall be lawful for the trustees, after Fourteen days' notice to the owner or occupier, to enter upon any uncultivated land, and to cut down, quarry, dig, and carry away all such indigenous timber, stone, clay, or the like material as may be required for the purpose of constructing or completing, repairing or maintaining the works, making full compensation for such timber, stone, clay, or material to the party entitled thereto: Provided that it shall not be lawful for the trustees to cut down any such indigenous timber where it has been reserved and used by the owner or occupier of the land for the purpose of ornament or shelter.

Trustees may
enter Crown
land.

12 The trustees may enter upon and take such waste lands of the Crown as may be necessary for the construction or maintenance of any works under this Act, to remove therefrom timber, stone, clay, or like material, without paying any compensation for either land or material.

Trustees may
take private
lands.

13 The trustees may enter upon and take such private lands as may be necessary for the construction of the works in the mode prescribed by "The Land Clauses Act," which Act, except Sections Eight, Nine, and Thirty-seven thereof, is hereby incorporated with this Act, and the compensation for taking indigenous timber, stone, or material from uncultivated land, or material from any land, for the purposes of this Act, shall be settled by arbitration in the mode prescribed by "The Lands Clauses Act" in case of disputed compensation. The trustees shall be deemed to be the promoters of the undertaking.

Signature of
documents.

14 Every summons, notice, or other document, and all contracts and agreements requiring to be signed or executed by the trustees, may be

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signed by the chairman of the trustees, whose signature shall be sufficient for all purposes, and service of any summons, notice, or other proceeding upon the chairman of the trustees shall be deemed to be service upon all the trustees.

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15 In all proceedings, civil or criminal, it shall be sufficient to describe the property in any work as the property of the *Smithton Harbour Trustees*, describing such work in general terms; and all proceedings at law or in equity may be had or taken by and against the trustees, and the trustees may be described in all contracts and agreements under the name of "The *Smithton Harbour Trustees*;" and no action or suit shall abate by reason of any change in the persons constituting such trustees.

Proceedings by or against the trustees.

16 The trustees shall from time to time appoint a treasurer (who may be one of the trustees), and may from time to time appoint and employ collectors of rates, bankers, solicitors, wharfingers, and other officers as the trustees may think necessary and proper, and may from time to time remove all or any of such persons from office, and appoint others in their stead, or in the places of such as may resign or die, and may out of the moneys at their disposal pay such salaries and allowances to such persons respectively as the trustees think fit.

Officers.

17 Nothing herein contained shall prevent the same person holding Two or more of such offices at the same time, save and except that the same persons shall not hold at one and the same time the offices of treasurer to the trustees and collector of rates.

Persons may hold two offices.

18 The chairman and treasurer of the trustees shall be paid respectively such salary as the trustees may from time to time determine.

Salaries.

19 Except as last aforesaid, every person holding any office or place of profit in the gift or disposal of the trustees shall be disqualified from being a trustee, and if any trustee is appointed to any such office or place of profit, he shall thereupon cease to be a trustee. Any trustee who shall be appointed treasurer shall be liable to all the provisions of this Act relating to such officer as if he were not a trustee.

Officers may not be trustees.

20 Before any person, whether treasurer, clerk, collector, or other officer, who is entrusted by the trustees with the custody or control of moneys by virtue of his office, enters upon his office, the chairman of the trustees shall take sufficient security for the faithful performance thereof.

Security.

21 Every officer or person employed by the trustees shall, in books to be kept for that purpose, enter true accounts of all sums of money by him received and paid, and of the several matters for which such sums have been received and paid, and all acts done by him by direction of the trustees; and such books shall at all times be open to

Officers' books.

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the inspection of any trustee, and any trustee may take extracts therefrom.

Officers to pay
over moneys.

22 Every collector or other officer shall, within Seven days after he shall have received any money on behalf of the trustees, pay the same into the bankers of the trustees to their credit, and the receipt of such bankers for the money so paid shall be a sufficient discharge to such collector or officer; and every such collector or officer shall, in such time and in such manner as the trustees direct, deliver to the trustees true and perfect accounts, in writing under his hand, of all moneys paid by him to the said bankers, and also a list of all persons who have neglected or refused to pay any moneys owing by them, with a statement of the moneys due from them respectively.

Officers to make
out accounts.

23 Every collector and other officer appointed or employed by the trustees shall from time to time, when required by the trustees, make out and deliver to them, or to any person appointed by the trustees for that purpose, a true and perfect account in writing under his hand of all moneys received by him on account of the trustees; and such account shall state how, and to whom, and for what purpose such moneys have been disposed of, and, together with such account, such collector or officer shall deliver the vouchers and receipts for such payments; and every such collector or officer shall pay to the trustees, or to any person appointed by the trustees to receive the same, all moneys which appear to be owing from him upon the balance of such accounts.

Failure to render
accounts.

24 If any such collector, treasurer, or other officer fails to render such accounts as aforesaid, or to produce and deliver up all vouchers and receipts relating to the same in his possession or power, or to pay the balance thereof when thereunto required, or if for Three days after being thereunto required he fails to deliver up to the trustees, or to any person appointed by the trustees to receive the same, all books, papers, writings, property, effects, matters, and things in his possession or power relating to the execution of his office or belonging to the trustees, then, on complaint thereof being made to a justice of the peace, such justice of the peace shall forthwith summon such collector, treasurer, or other officer to appear before Two or more justices of the peace, at a time and place to be set forth in such summons, to answer such complaint; and upon the appearance of such collector, treasurer, or other officer, or upon proof by affidavit or otherwise that such summons was personally served upon him or left at his last known place of abode in *Tasmania*, such justices of the peace may hear and determine the matter in a summary way, and may adjust and declare the balance owing by such collector, treasurer, or other officer, and if it appears either upon confession of such collector, treasurer, or officer, or upon evidence, or upon inspection of the accounts, that any moneys of the trustees are in the hands of such collector, treasurer, or officer, or owing by him to the trustees, such justices of the peace may order such collector, treasurer, or officer to pay the same. And if such collector, treasurer, or officer fail to pay the amount so ordered forth-

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with, it shall be lawful for such justices of the peace to issue their warrant to levy the same by distress, and in default of sufficient distress, to commit such collector, treasurer, or officer to gaol, there to remain without bail for a period not exceeding Three months, unless the same is sooner paid. A.D. 1909.

25 If any such collector, treasurer, or officer summoned as aforesaid refuses to make out such account in writing, or to produce and deliver to the justices of the peace the several vouchers and receipts relating thereto, or to deliver up any books, papers, or writings, property, effects, matters, or things in his possession or power belonging to the trustees, such justices of the peace may commit such collector, treasurer, or officer to gaol, there to remain till he shall have delivered up all the vouchers and receipts in his possession or power relating to such account, and all the books, papers, writings, effects, matters, and things in his possession or power belonging to the trustees. Refusal to make out accounts.

26 If any trustee, or any person acting on behalf of the trustee, makes oath that he has good reasons to believe, upon grounds to be stated in his deposition, and he does believe, that it is the intention of any such collector, treasurer, or officer of the trustees to abscond, the justice of the peace taking such depositions may, instead of issuing his summons as aforesaid, issue his warrant for bringing such collector, treasurer, or officer before such Two or more justices of the peace as aforesaid; but no person executing such warrant shall keep such collector, treasurer, or officer in custody longer than Twenty-four hours without bringing him before a justice of the peace; and the justice of the peace before whom such collector, treasurer, or officer is brought may either discharge such collector, treasurer, or officer if he thinks there is no sufficient ground for his detention, or order such collector, treasurer, or officer to be detained in custody so as to be brought before Two or more justices of the peace, at a time and place to be named in such order, unless such collector, treasurer, or officer gives bail to the satisfaction of such justice of the peace for his appearance before such justices of the peace to answer the complaint of the trustees Arrest of office

27 No proceeding against or dealing with any such collector, treasurer, or officer as aforesaid shall deprive the trustees of any remedy which they otherwise would have had against such collector, treasurer, or officer, or any surety for him. Saving of remedies.

28 The trustees shall cause books to be provided and kept, and true and regular accounts to be entered therein of all sums of money received and paid under the authority of this Act, and of the several purposes for which such sums of money have been received and paid, which books shall at all reasonable times be open to the inspection of any trustees or any creditor of the trustees without fee or reward, and the persons aforesaid, or any of them, may take copies of or extracts from any of the said books without paying for the same and any Books.

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person having the custody of the said books who does not, on the reasonable demand of any person as aforesaid, permit him to inspect the said books and to take copies of the extracts from the same, or any of them, shall for every such offence incur a penalty not exceeding Five Pounds.

Officers and accounts to be subject to 1 Ed. VII. No. 15.

29—(1.) The officers and the accounts of the trustees shall be subject and liable to all the provisions of “The Audit Act, 1901,” and any amendment thereof, in the same manner in all respects as if such officers and accounts had been specifically mentioned therein, and such officers shall at all times comply with the requirements of the Auditor-General in respect to such accounts.

Accounts to be gazetted.

(2.) The accounts of the trustees shall be published in the *Gazette* by the Auditor-General as soon as may be after such accounts have been audited.

Wharfage rates.

30 Such wharfage on goods entered to be landed at any port within the jurisdiction of the trustees not exceeding those specified in Schedule (3.), and on goods entered for export at any port within the jurisdiction of the trustees not exceeding those specified in Schedule (4.), and such harbour dues not exceeding those in Schedule (5.), as may from time to time be fixed by any by-law made by the trustees under the authority of this Act, shall be payable and paid to such officer as may be appointed by the trustees for the purposes of this Act.

Until such by-laws as aforesaid shall be made, the wharfage payable under the by-laws of the Marine Board of *Circular Head* at the date of the first election of trustees hereunder shall continue to be payable and paid to the trustees, or such officer as aforesaid, for the purposes of this Act.

Incorporation of part of the Leven Harbour Trust Act.

31 Section Fifty-nine of “The *Leven* Harbour Trust Act,” and every amendment, modification, and alteration thereof, shall be and the same are hereby incorporated with this Act, *mutatis mutandis*.

All acts, matters, and things directed or required to be done by the master-warden of a marine board shall and may lawfully be done by the chairman of the trustees.

All acts, matters, and things directed or required to be done by one or more wardens of a marine board shall and may lawfully be done by one or more of the trustees.

Whenever in the Acts or parts of Acts incorporated in this Act as last above mentioned “the Board” is referred to, such reference shall be deemed to extend to and mean “The *Smithton* Harbour Trust.”

Expenses of Act, poll, &c.

32 The expenses of and attending the taking of every such poll as aforesaid, of the preparation of this Act, of the preparation of the plans, specifications, and estimates of the works, and the report thereon, and of the First election of trustees hereunder in the first instance shall be borne by the Municipality of *Circular Head*, and shall be repaid by the *Smithton* Harbour Trustees to the Council of the said Municipality

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out of the moneys at the disposal of the Board within Six months after A.D. 1909. the election of such Trustees.

33 This Act may be cited for all purposes as "The *Smithton* Short title. Harbour Trust Act."

SCHEDULES.**(1.)**

I, *A.B.*, do solemnly and sincerely declare that I will faithfully perform the duties devolving upon me in ascertaining the decision of landholders within the Smithton Harbour District as to the election of Trustees mentioned in the notice of the Governor in the "Gazette," dated the day of 190 , and I will not in any manner interfere with any voter when filling-up his ballot-paper, or attempt to ascertain the manner in which he votes; and, in case I should become acquainted with the manner in which any voter has voted, then that I will not disclose my knowledge to any person or persons, nor aid, directly or indirectly, in discovering the same; and will conduct such election in a regular and proper manner.

(2.)

I, *A.B.*, do solemnly and sincerely declare that I am the person named (*A.B.*) in the Assessment Roll now in force for the district of Circular Head, and a voter for the Smithton Harbour District; and that I have not before voted at this poll.

Witness—

(To be signed by declarant and witnessed by Returning Officer or Deputy-Returning Officer.)

(3.)**WHARFAGE RATES ON GOODS INWARDS.**

	s.	d.
Tun, butt, each	3	9
Pipe or puncheon, each	2	0
Hogshead, each	1	6
Barrel, tierce, or quarter-cask, each.....	1	0
Octave, keg, or firkin	0	6
Case, crate, cask, bale, box, bundle, trunk, bag, or other package, containing goods not otherwise enumerated, measuring 30 cubic feet and upwards	3	0
Ditto, over 5 cubic feet, and not exceeding 30 cubic feet	2	0
Ditto, under 5 cubic feet	0	9
Box of tea	0	2
Chest of tea	0	9
Half-chest	0	6
Quarter-chest	0	4
Case, cask, or other package, of any liquid, in bottle, tin, jar, carboy, or drum, 5 gallons and under 10 gallons, reputed quarts and pints ...	0	6
Ditto, 10 gallons and under 25 gallons	0	9
Ditto, exceeding 25 gallons	1	0

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	s.	d.
Sugar, coffee, rice, dried fruits, tallow, soap, paint, potatoes, onions, sago, tapioca, flour, meal, salt, cordage, flax, oakum, nails, shot, iron sheathing, metal, steel, galvanised iron (corrugated or plain), lead, or other loose metal, machinery, and other heavy goods not otherwise enumerated, per cwt.	0	4
Less than 1 cwt. to pay as 1 cwt.		
Candles, per 100 lb.	1	0
Less than 50 lb. to pay as 50 lb.		
Coals, per ton	2	0
Less than 1 ton to pay as 1 ton.		
Timber, per load of 50 cubic feet	4	0
Less than 25 cubic feet to pay as 25 cubic feet.		
Oars, spades, shovels, forks, frying-pans, and other similar articles, per dozen	0	3
Fractional parts of a dozen to pay as a dozen.		
Brooms, handles, staves, handspikes, gun-stocks, and small pieces of shaped wood, per score	0	4
Fractional part of a score to pay as a score.		
Grain, malt, or pulse, per 100 lb.	0	6
Four-wheel carriage	20	0
Two-wheel carriage	10	0
Piano or harmonium	4	0
Tubs or buckets, per score	0	6
Chairs, if loose, each	0	2
Sheep, each	0	1
Horses, each	5	0
Cattle, per head	1	0

All articles for the use of His Majesty's Government or of the fisheries of the Commonwealth, as well as all fish oils and whalebone landed from any vessel engaged in the fisheries, all empty casks intended for the fisheries, and guano bones and bonedust, and other manures, to be exempt from wharfage.

Unless otherwise provided, goods packed in cases or packages shall pay wharfage rates as if not so packed.

(4.)

WHARFAGE RATES OUTWARDS.

	s.	d.
Potatoes, per bag	0	1½
Grain, pulse, and malt, per 100 lb. or part of 100 lb.	0	3
Timber, in log, per 100 superficial feet	0	2
Any quantity less than 100 feet to pay as 100 feet.		
Timber, sawn, per 100 superficial feet	0	2
Any quantity less than 100 feet to pay as 100 feet.		
Palings and staves, per 100	0	2
Any number less than 100 to pay as 100.		
Ores of galena, copper, iron, or tin, per ton	0	6
Any quantity less than a ton to pay as a ton.		

(5.)

HARBOUR DUES.

Harbourmaster's Fees.

Every steam ship and sailing ship, not being a coasting ship only, entering any port, and loading and discharging passengers, cargo, or ballast, shall pay Two-pence per registered ton.

Steam ships or sailing ships, employed in coasting only, shall pay One Penny per registered ton for each trip.

*Smithton Harbour Trust.**Pilotage Rates.*

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For every sailing vessel, a sum not exceeding One Shilling per ton, inwards, and the same outwards.

For every steam vessel, a sum not exceeding Eight-pence per ton, inwards, and the same outwards.

For every day a pilot is detained on board any vessel whilst under quarantine, or by any act of the master, a sum not exceeding Twenty Shillings per day.

(6.)

Commencing at a point on the Arthur River due south of the south-east angle of 99 acres 1 rood 36 perches purchased by M. Sampson by a northerly line to the south-east angle of that land by the east and part of the north boundary of that land by the east boundaries of lands selected by H. W. Charlton F. C. B. and E. W. Fairey respectively by part of the east boundary of land purchased by J. S. Ransom by the south and by the east boundary of land purchased by M. Richardson by part of the south and by part of the east boundary of land purchased by S. S. Field by the south and part of the east boundary of land purchased by J. A. Moore by the west boundary of lands purchased by M. S. and E. H. Moore respectively by the north boundary of land purchased by A. A. Smith by part of the east boundary of land purchased by A. Thorpe by the south by the east by the north and by a west boundary of other land purchased by A. Thorpe by a south and by the west boundaries of land purchased by A. A. Smith by the west boundaries of lands purchased by E. W. O'Connor and W. O'Connor respectively by the south boundary of land purchased by D. C. Kay by the west boundary of land purchased by E. W. O'Connor by the north boundary of land purchased by J. Kay by a north and east and again by a north boundary of land purchased by H. A. Kay by part of the east and part of the north boundary of land purchased by D. C. Kay the Younger by the north-west boundary of land purchased by A. H. Davis by the west boundary of land purchased by L. A. King by part of the north boundary of the lastmentioned land by the west and by the north boundary of other land purchased by L. A. King by part of the west boundary of land purchased by J. Corcoran by part of the south and by the west boundary of land purchased by F. C. Wells by the east boundary of land purchased by H. B. Jones to Deep Creek thence by that creek to the south boundary of land purchased by J. H. Harvey by the south by the east and by part of the north boundary of that land by the eastern boundaries of lands purchased by T. J. Hills J. C. Hills E. M. Ferguson and H. S. Ferguson respectively by the north boundary of the lastmentioned land to Deep Creek aforesaid thence by that creek to Duck Bay by that bay north-westerly to a point opposite the eastern extremity of Perkins Island thence by a line to and along the northern shore of that island by the western shores of that island and by a line to the north-east angle of the Parish of Williams by the eastern boundaries of that parish and the Parish of Togari and by a continued southerly line to the Arthur River thence by a south-easterly line to Pyramid Hill and thence by a north-easterly line (the continuation of which would strike the south-west angle of land selected by W. B. Holton) to the Arthur River and thence by that river (after crossing the same) to the point of commencement.

