

## TASMANIA.

## THE WYNYARD SEWERAGE ACT 1939.

## ANALYSIS.

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| <ol style="list-style-type: none"> <li>1. Short title and incorporation with 6 Ed. VII. No. 31.</li> <li>2. Repeal.</li> <li>3. Interpretation.</li> <li>4. Power to borrow, construct sewers, &amp;c.</li> <li>5. Cost of any work done by the Council recoverable as expenses.</li> <li>6. Application of <i>Local Bodies Loans Act</i>.</li> <li>7. Form of debentures, &amp;c.</li> <li>8. Rate of interest.</li> <li>9. Indemnity to debenture holders.</li> <li>10. Power to enter on land to carry out work authorised by the Act.</li> <li>11. Authority to levy rate.</li> <li>12. Allocation of rates, costs, and expenses collected.</li> <li>13. Property used by the Crown, &amp;c., shall be subject to the rate.<br/>Power to Crown and others to pay annual sum in lieu of rate.</li> <li>14. Council to provide a map of sewerage system.</li> <li>15. Council to keep sewers in repair.</li> <li>16. Power to erect sewers, drains, &amp;c., under streets and private property.</li> <li>17. Council shall not convey sewerage into any canal, pond, lagoon, or stream.</li> <li>18. Power to enlarge, alter, or discontinue any sewer or drain.</li> <li>19. Power to construct works for disposing of sewage, &amp;c.</li> <li>20. Power to purchase, take, lease, sell, or exchange lands.</li> <li>21. All sewers, &amp;c., constructed so as not to be a nuisance.</li> <li>22. All properties in the sewerage district to be deemed to be seweraged after notice given by Council.<br/>Authority upon giving notice to require owners in sewerage district to provide connections, water-closets, &amp;c.</li> <li>23. Owners to submit plans for providing water-closets and connections.</li> </ol> | <ol style="list-style-type: none"> <li>In default of owner complying, Council may carry out works at his expense.</li> <li>Power for Council to enter land, and inspect and ascertain if notice to carry out works is being complied with.</li> <li>Power to require alterations.</li> <li>24. Power to cause drainage of group of houses.</li> <li>25. Drainage of houses.</li> <li>26. All drains, &amp;c., to be kept so as not to be a nuisance.</li> <li>27. Power to drain under houses.</li> <li>28. No building to be newly erected over sewer.</li> <li>29. Power for Council to inspect.</li> <li>30. If owner required to do any act, occupier also liable at option of Council.</li> <li>31. Power to recover cost of any work done by Council.</li> <li>32. Work to be of such materials as directed by Council, and carried out by licensed persons.</li> <li>33. Payment of compensation.</li> <li>34. Powers of trustees.</li> <li>35. Powers of agents.</li> <li>36. Lessee's right of removing buildings controlled.</li> <li>37. By-laws.</li> <li>38. Pollution of waters.</li> <li>39. Buildings not to be erected in, over, or under sewers.<br/>Penalties on persons placing buildings or encroachments on sewers.</li> <li>40. Penalty on persons sweeping dirt into sewers.</li> <li>41. Penalties on persons interfering with sewers.</li> <li>42. Penalty on occupier disobeying Act or orders of sewerage authority.<br/>And refusing to give name of owner.</li> <li>43. Penalty for offence against this Act.</li> <li>44. Recovery of penalty not to prejudice right to take other proceedings.</li> <li>45. Informations, &amp;c., in name of Council.<br/>Reimbursement of expenses, &amp;c.</li> </ol> |
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1939.

ANNO TERTIO ET QUARTO

GEORGII VI. REGIS.

No. 36.



AN ACT to provide for the installation of a system of Sewerage and Drainage in the Town of Wynyard. [21 December, 1939.]

A.D.  
1939.

WHEREAS the Warden, councillors, and electors of the Municipality of Table Cape (hereinafter called "the Municipal Corporation") has borrowed a sum of money under the provisions of the *Local Authorities Public Works Subsidies Act 1936*, and proposes to borrow further sums for the purpose of providing a portion of the Town of Wynyard, as hereinafter defined, with a drainage system, installed in such a manner as to be serviceable for both sewerage and drainage, which work has been declared, by proclamation, on the twenty-first day of January, one thousand nine hundred and thirty-eight, to be a public work for the purposes of the said Act:

Preamble.

*Wynyard Sewerage.*

A.D. 1939.

And whereas it is desired to utilise the said drainage system for both sewerage and drainage:

Be it therefore 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:—

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

**1** This Act may be cited as the *Wynyard Sewerage Act 1939*, and shall be incorporated and read as one with the *Local Government Act 1906*.

Repeal.

**2** The Wynyard Sewerage Act 1912, is hereby repealed.

Interpreta-  
tion.

**3**—(1) In this Act, unless the contrary intention appears—

“Drain” means any drain 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:

“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 to 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:

“Sewerage district” means all that part of the Town of Wynyard as described in the first schedule or as proclaimed under this Act:

“Sewered Property” means, as well as any sewered land or premises, any land or premises that may be conveniently served by any sewer by the Council, and is ready to receive connections from any such land or premises to convey the sewerage or drainage therefrom to such sewer.

(2) The Governor, by proclamation, at any time may alter, increase, or decrease the sewerage district or, in case of any error therein, may amend.

Power to  
borrow, con-  
struct sewers,  
&c.

**4**—(1) It shall be lawful for the Council—

I. To utilise, for sewerage and drainage purposes, the drainage system already installed throughout part of the sewerage district, for the purpose of installing which an amount of five thousand five hundred pounds, repayable, together with interest at the rate of four pounds five shillings per centum per annum, by fifty equal half-yearly payments, has already been borrowed and in part expended by the Council under the provisions of the *Local Authorities Public Works Subsidies Act 1936*:

*Wynyard Sewerage.*

- II. Under the provisions of the last-mentioned Act, to borrow any additional sum that may be required and to expend the same, together with any balance of the said sum of five thousand five hundred pounds hereinbefore mentioned still unexpended, in extending the said drainage system throughout the sewerage district and to utilise such extended drainage system for sewerage and drainage purposes: A.D. 1939.
- III. Under the provisions of the *Local Bodies Loans Act* 1881, as hereinafter modified, to borrow any sums of money required for the purpose of completing, and at any time extending throughout the sewerage district, a complete system of sewerage and drainage:
- IV. Under the provisions of the *Local Bodies Loans Act* 1881, as hereinafter modified, to borrow any sums of money required for carrying out any of the works undertaken by the Council under the provisions of paragraph VI. hereof and under section twenty-three, and for all the costs, outgoings, charges, and expenses of and incidental thereto:
- V. At any time to make, construct, lay down, maintain, alter, or discontinue such sewers, drains, and other works as the Council may think necessary for the purposes of this Act out of the moneys borrowed under the provisions of paragraphs I., II., and III. hereof: and
- VI. To make, perform, construct, and establish such drains, connections, and other things connecting all or any private and other premises within the sewerage district with the Council sewers, and to erect and construct all necessary conveniences and equip the same with such fittings as to the Council may seem fit out of the moneys borrowed under the provisions of paragraph IV. hereof.

(2) Nothing in this section shall be construed as limiting in any manner the existing statutory borrowing powers of the Council.

**5** The amount of money expended in respect of each particular premises, together with administration expenses and interest as hereinafter provided, shall be payable to the Council by the owner of such premises in such manner, subject to the provisions of this Act, as the Council may decide, and the amounts of money so expended shall be deemed to be expenses within the meaning of the *Local Government Act* 1906, and shall be recoverable as such.

Cost of any work done by the Council recoverable as expenses.

**6** In the application of the *Local Bodies Loans Act* 1881 to all and any of the respective loans authorised under section four and the proceedings to be taken by the Council in connection therewith, the following enactments, namely, sections fourteen to twenty-four thereof shall have no effect.

Application of *Local Bodies Loans Act*.

*Wynyard Sewerage.*

A.D. 1939.

Form of  
debentures,  
&c.

**7**—(1) Any debentures issued in pursuance of this Act shall be a charge upon the municipal rates and revenues of the Council, and may provide for the repayment of the principal amount thereby secured and the payment of interest on such principal amount, by such instalments of principal and interest combined, as will secure the repayment of such principal amount not later than thirty years from the date of such debenture.

(2) The debentures may also provide for the payment of interest on the amount thereof at a rate not exceeding the rate hereinafter mentioned from the due date until payment thereof.

Rate of  
interest.

**8** The rate of interest to be payable in respect of the moneys to be secured by any debenture issued in pursuance of this Act shall not exceed six pounds per centum per annum.

Indemnity to  
debenture  
holders.

**9** No purchaser of any debenture issued under this Act shall be concerned to see to the application of moneys paid for the same or be chargeable or accountable for the loss, misapplication, or non-application of the same, or be required to inquire as to the necessity for raising the same.

Power to  
enter on land  
to carry out  
work  
authorised  
by the Act.

**10** For the purposes of making, performing, constructing, and establishing such drains, conveniences, connections, and things as aforesaid or of cleaning, 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 like manner), it shall be lawful for the Council, their inspectors, overseers, contractors, and workmen to enter upon any land or premises at all reasonable hours during the day-time, and to do all things necessary or proper for the above mentioned 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.

Authority to  
levy rate.

**11**—(1) For the purposes set out in subsection (1) of section twelve, it shall be lawful for the Council, once in every year—

I. To make and levy a rate (to be called a sewerage rate), not exceeding sixpence in the pound, upon the annual value of all properties in the sewerage district as shown by the assessment roll in force, and upon which a service rate is not levied under the provisions of paragraph II. hereof:

II. To make and levy a rate (to be called the service rate), not exceeding two shillings in the pound, upon the annual value of every sewered property within the sewerage district as shown by the assessment roll in force for the time being.

(2) Any such rate shall be made upon, and be payable by, the owners of the properties included in the sewerage district, and shall be recoverable under the provisions of the *Rates and Charges Recovery Act 1936*.

*Wynyard Sewerage.*

(3) Where a portion only of any property is included in the sewerage area, it shall be lawful for the Council to make a separate assessment of such portion of property for rating purposes in respect of this Act.

A.D. 1939.

**12**—(1) All revenue derived by the Council by way of sewerage and service rates levied as hereinbefore provided shall be placed to the credit of a separate account, and shall be applied in payment of—

Allocation  
of rates,  
costs, and  
expenses  
collected.

- I. An administrative charge payable to the general account of the Council of two pounds ten shillings per centum of the amount of such rates as collected:
- II. The working and maintenance expenses of the sewerage and drainage undertaking and expenditure incurred generally in the carrying out of the purposes of this Act, but such general expenditure shall not include any costs and expenses incurred by the Council under section twenty-three:
- III. The annual instalments of interest, and principal, and sinking fund, if any, payable by the Council in respect of the moneys borrowed by it under the provisions of the *Local Authorities Public Works Subsidies Act*, as hereinbefore provided, and under paragraph III. of subsection (1) of section four: and
- IV. Any moneys required at the end of any financial year to balance the separate account mentioned in subsection (2) hereof.

(2) All moneys received by the Council from ratepayers for costs and expenses incurred by the Council in providing and installing water-closets, appliances, and connections, as hereinafter provided, and all interest and administration charges thereon as provided for under section thirty-one shall be placed to the credit of a separate account, and shall be applied in payment of—

- I. An administrative charge payable to the general account of the Council of two pounds ten shillings per centum of the amount of such moneys as collected:
- II. The cost of keeping and maintaining in good repair for a period of twelve months from its completion the work carried out by the Council in accordance with the provisions of subsection (3) of section twenty-three:
- III. The annual instalments of interest, and principal, and sinking fund, if any, payable by the Council in respect of the moneys borrowed by it under paragraph IV. of subsection (1) of section four—

and the balance if any, may, at the discretion of the Council, be transferred to the credit of the separate account mentioned in subsection (1) hereof or may be used by the Council

*Wynyard Sewerage.*

A.D. 1939. in the same manner as the Council is authorised to use moneys borrowed under paragraph iv. of subsection (1) of section four.

Property used by the Crown, &c., shall be subject to the rate. Power to Crown and others to pay annual sum in lieu of rate.

**13**—(1) 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, notwithstanding that such property may be exempt from any tax or rate which may be imposed or levied by the Council, shall be subject to the service rate, made and levied in pursuance of section twelve, the assessment being on the same principle as on other property within the sewerage district.

(2) The Crown or any person or body of persons corporate 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 person or body of persons corporate, as the case may be.

Council to provide a map of sewerage system.

**14** The Council shall provide a map exhibiting a system of sewerage and drainage for effectually draining the sewerage district, and may cause all necessary surveys to be made and levels to be taken for the purpose of making such map or maps and laying-out such system of sewerage and drainage; and a copy of such map or maps shall be kept at the office of the Council, and shall at all reasonable times be open to the inspection of the ratepayers of the sewerage district; and the Council shall cause all such inquiries to be made as it may think necessary to ascertain the best means of disposing of the sewerage and the cost of carrying out the system of sewerage and drainage.

Council to keep sewers in repair.

**15** The Council shall keep in repair all sewers and drains vested in it, and shall cause to be made such sewers and drains as may be necessary for effectually draining the sewerage district or such part thereof as the Council may from time to time decide, and shall cause such sewers and drains to be properly constructed, covered, ventilated, and kept so as not to be a nuisance or injurious to health. And the Council may cause any shaft, pipe, tube, valve, or other apparatus for ventilating any sewer or drain to be attached to any wall or any building situate within the sewerage district.

Power to erect sewers, drains, &c. under streets and private property.

**16** The Council may construct any sewer, drain, or other work connected with the sewerage or drainage of the sewerage district through, across, or under any street or place laid out or intended as a street, or under any railway or tramway, and after giving reasonable notice, in writing, to the owner or occupier, into, through, or under any lands or premises whatsoever within the sewerage district.



*Wynyard Sewerage.*

**17** Nothing in this Act shall authorise the Council to make or use any sewer, drain, or outfall for the purpose of conveying sewage or filthy water into any freshwater stream or watercourse, or into any canal, pond, or lagoon until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter as would affect or deteriorate the purity or quality of the water in such stream, watercourse, canal, pond, or lagoon; but nothing in this section shall prevent the construction of stormwater overflows from any sewer belonging to the Council to be used only in the case of rainfall exceeding the carrying capacity of the said sewers or pumping plant.

A.D. 1939.

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Council shall not convey sewage into any canal, pond, lagoon, or stream.

**18** The Council may, at any time, enlarge, lessen, alter the course 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 of providing 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.

Power to enlarge, alter, or discontinue any sewer or drain.

**19** 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 the sewers and drains, the Council may—

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

- I. Construct any works and pipe-lines that the Council may deem necessary, either within or without the sewerage district:
- II. Contract for the use of, purchase, or exchange, or take on lease, any land, buildings, engines, materials, or apparatus, either within or without the sewerage district: and
- III. Enter into an agreement with the owners of properties outside the sewerage district 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.

**20**—(1) The Council may, for the purposes, and subject to the provisions of this Act, purchase, or take, or lease, sell, or exchange any lands situated within or without the sewerage district.

Power to purchase, take, lease, sell, or exchange, lands.

(2) Any lands so acquired, and which are no longer required for the purpose for which they were acquired, may be sold at the best price that can be obtained for the same.

**21** The Council shall cause all sewers and drains within any part of the sewerage district 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

All sewers, &c., constructed so as not to be a nuisance.

*Wynyard Sewerage.*

A.D. 1939. 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 they 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 properties in the sewerage district to be deemed to be sewer-ed after notice given by Council.

**22**—(1) The Council, after sewers have been laid in any part of the sewerage district, shall cause a general notice, in the form set out in the second schedule, to be given that the Council has made provision for carrying off the sewage from each and every property situated in the sewerage district which, or any part of which, may 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 to be a sewer-ed property within the meaning of this Act.

Authority upon giving notice to require owners in sewerage district to provide connections, water-closets, &c.

(2) The Council may, by a further general notice in the form set out in the third schedule hereto, order that the owner of each and every such property, as mentioned in subsection (1) 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-closets, drains, appliances, apparatus, and connections with such sewer or sewers as are prescribed or directed by the Council.

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

- 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—

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

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

**23**—(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) allows, 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 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

*Wynyard Sewerage.*

direction of the Council, or any modification thereof, which the proper officer, on written application made to him, approves in writing under his hand, and such owner shall, in writing, undertake to carry out such plan within one month, or such further time as the Council allows if the plan is approved by the Council: or

A.D. 1939.

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, 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: and

III. As soon as the Council gives its approval, undertake, in writing, to carry out such plan and specification within one month or such further time as the Council allows, 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.

(2) If within such 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 as it deems to be necessary, or, in default of such compliance, may carry out such undertaking (as the case may be).

In default of owner complying, Council may carry out works at his expense.

(3) When the Council carries out the work of providing such water-closet or water-closets, and such drains, appliances, apparatus, and connections, the Council shall, at its own cost and expense, keep and maintain the same in good repair for a period of twelve months from the time of completing the work, unless the necessity for such repair is caused by the wilful act or negligence of the owner or occupier of the premises.

Power for Council to enter land and inspect and ascertain if notice to carry out works is being complied with.

(4) The Council, by its proper officer, may at any reasonable time 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.

Power to require alterations.

*Wynyard Sewerage.*

A.D. 1939.

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

Power to cause drainage of group of houses.

**24**—(1) If it appears to the Council that any group of premises, or any number of premises 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 is prescribed or determined by the Council of any part of any such group or number of premises or such blocks of vacant land, the Council may order that any such group or number of premises or any such blocks of vacant land be sewered or drained by a combined operation.

(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.

Drainage of houses.

**25**—(1) All premises within any such part of the sewerage district 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.

(2) No drain shall be made without the written consent of the Council, and then only upon complying with such conditions as the Council may impose; and the Council may in the case of there not being any such satisfactory drain to any premises within the sewerage district cause such drains to be made.

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

**26** All drains whatsoever, water-closets, sinks, grids, stables, cow-houses, yards, and places within any such part of the said sewerage district 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.

Power to drain under houses.

**27**—(1) In case, 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 sewerage district 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 to serve a notice on the owner or owners of such premises requiring such owner or owners to permit the formation of such drains or sewers through or under such premises, and, after the expiration of a reasonable time from the service of such notice, the Council may form or make through or under such premises such drains or sewers as

*Wynyard Sewerage.*

may, in the opinion of the Council, be necessary for the proper drainage of such land, street, lane, right-of-way, yard, passage, private premises, or other places 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.

A.D. 1939.

(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 building 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.

**28**—(1) No person shall, in the sewerage district, without the written consent of the Council, cause any building to be newly erected over any sewer or drain.

No building  
to be newly  
erected over  
sewer.

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

(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 in any court of competent jurisdiction any expenses incurred by it in so doing from the offender.

**29**—(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 sewerage district, and for that purpose at all reasonable times in the day-time, 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 without notice, 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.

Power for  
Council to  
inspect.

(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 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 execute such works, and the expenses incurred by it in so doing shall be paid to it by the owner of the premises.

(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 expense of the inspection and reinstatement shall be defrayed by the Council.

*Wynyard Sewerage.*

A.D. 1939.

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

**30**—(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 after the expiration of such specified time of not more than five pounds and not less than five shillings.

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

(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, if it see fit, 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) When the owner or occupier of any premises is, from poverty or otherwise, unable, in the opinion of the Council, effectually to carry out the requirements of any order, regulation, by-law, or of any of the provisions of this Act relating to the construction of any works or the doing of any matter or thing for the purposes of this Act, and the value of the property is insufficient to defray such costs, the Council may, without enforcing such requirements on such owner or occupier, enter the said premises, and, out of the rates or moneys applicable to the execution of this Act, construct such works.

(5) 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 expenses are payable at the time of the demand made upon him, or which shall, at any time after such demand made upon him 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

*Wynyard Sewerage.*

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.

A.D. 1939.

(6) Nothing in this section shall affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

**31—(1)** In all cases in which the Council provides any water-closet or drains, appliances, apparatus, and connections pursuant to the requirements of the owner of any property or in default of the compliance of such owner with any lawful order or direction of the Council, or pursuant to any such requirement or in any such default carries out on any premises or property any works, matters, or things under this Act, the costs and expenses thereof as defined in subsection (2) of this section shall be paid by the owner of the premises or property concerned and shall, together with interest upon capital expended thereon during the period of installation at such rate as may be agreed upon between the Council and the owner, or failing agreement at the date of completion, at a rate equal to one pound per centum per annum more than that paid by the Council in respect of moneys borrowed by it under paragraph IV. of subsection (1) of section four, be charged upon the said premises or property concerned as if it were a rate duly levied and payable under the *Local Government Act 1906*, and may be recovered from the persons and in the manner provided by 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 and carried out and the amount of the costs and expenses.

Power to  
recover cost  
of any work  
done by  
Council.

(2) "Costs and expenses" where referred to in this section shall be:—

- I. If the work is executed by employees of the Council, the wages paid and the cost to the Council of such materials as may be used in the course of such work, together with a supervision charge of ten pounds per centum of the total thereof: or
- II. If the work is executed and the materials are supplied for the Council by an independent contractor, the contract price paid to such contractor by the Council, together with any expenses incurred by the Council in letting the contract.

(3) At the request, in writing, of the owner, the Council may accept payment of such costs and expenses, together with interest at the rate provided for in subsection (1) of this section, and an administration charge at the rate of two pounds ten shillings per centum per annum upon the amount thereof for the time being unpaid from the date of completion of the said work until final payment, by twenty equal

*Wynyard Sewerage.*

A.D. 1939. payments, the first of which shall be made within one month of such completion and the remaining nineteen half-yearly thereafter.

(4) Such request shall be made in writing and signed by the owner, and shall be lodged with the Council within one month from the completion of the work as certified to by the proper officer under subsection (1) of this section.

(5) The owner may, at any time, pay to the Council such portion as then remains unpaid of the costs and expenses, together with the interest and administration charges as aforesaid to the date upon which the next following half-yearly instalment is due and payable, and thereupon no further interest shall be payable.

(6) If any of the said instalments is not paid within fourteen days after the due date thereof, the whole amount then unpaid of the costs and expenses, with the interest and administration charge 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 by the *Rates and Charges Recovery Act 1936*.

(7) Payment of any instalment may be recovered in the like manner.

(8) 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.

Work to be of such materials as directed by Council, and carried out by licensed persons.

**32** Any work or thing to be executed or done shall be of such materials, and 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 all such works and things shall be executed only by persons authorised by the Council so to do.

Payment of compensation.

**33**—(1) In the exercise of the powers granted in relation to any works authorised under this Act, the Council shall cause as little detriment and inconvenience, and do as little damage as possible, and, except where otherwise provided herein, in every case where the interests of any person are injuriously affected by the exercise by the Council of any powers conferred by this Act, compensation shall be paid by the Council.

(2) Such compensation as aforesaid shall be determined in accordance with the provisions of the *Local Government Act 1906*.

Powers of trustees.

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



*Wynyard Sewerage.*

**35** 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, land, or premises for which he is the agent of such principal, or he may, in any court of competent jurisdiction, as a civil debt, recover from such principal the amount so incurred and paid.

A.D. 1939.

Powers of agents.

**36** Where under a lease, whenever executed, a lessee has the right to remove buildings at the end of his term, he shall not be entitled to remove the same or any part thereof unless—

Lessee's right of removing buildings controlled.

- I. He first pays to the lessor or to the Council all the costs, and expenses, and interest paid or payable under this Act by the lessor in respect of any drains, appliances, apparatus, and connections constructed by or at the cost of such lessor for the purposes of the buildings or part so removed: and
- II. The removal of the buildings or part can be effected without injury to such drains, appliances, apparatus, and connections.

**37** The Council may make by-laws for the better carrying out the purposes and provisions of this Act, and for prescribing the mode in which the duties imposed upon, and the authorities and powers conferred upon or exercisable by, the Council shall or may be performed, and for fixing all charges, and for fixing a penalty for every offence not herein provided, such by-laws to be in accordance with and passed, enforced, and repealed according to the provisions of the *Local Government Act 1906*.

By-laws.

**38** Every person who wilfully or negligently throws or casts, or causes or allows to be thrown or cast, or to flow or fall into any of the stormwater channels, drains, or sewers within the sewerage districts any refuse, filth, dirt, grease, decomposed substance, or substance liable to decompose, or any poisonous, noxious, offensive, or unwholesome matter shall, without prejudice to any other proceedings to which he is liable therefor, be liable to a penalty for the first offence of twenty pounds, and for every subsequent offence to a penalty of fifty pounds, and to a further daily penalty of five pounds.

Pollution of waters.

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

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

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

*Wynyard Sewerage.*

A.D. 1939.

II. Such person and the person who has directed the same to be done shall each be guilty of an offence against this Act, and shall be jointly and severally liable for the expenses incurred by the Council, and such expenses may be recovered in any court of competent jurisdiction.

Penalties on persons placing buildings or encroachments on sewers.

(2) Every person who—

I. Knowingly erects or places any obstruction, annoyance, or encroachment in, upon, over, or under any sewer or drain: or

II. Obstructs, fills in, or diverts any sewer or drain without the previous consent, in writing, of the Council—

shall, in addition to any other proceeding to which he may be liable therefor, be liable to a penalty of twenty pounds, and to a further 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 a sewer or drain has been constructed, but so, nevertheless, that the same does not injure or obstruct the sewer or drain.

Penalty on persons sweeping dirt into sewers.

**40** No person shall sweep, rake, or place any house refuse, soil, rubbish, or filth, or any other thing, 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.

Penalties on persons interfering with sewers.

**41** 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 solid or liquid (other than ordinary domestic sewage) liable to cause the generation of gases injurious to human life or health, or to cause injury to the sewers or purification works, or to lessen the carrying capacity of the sewers or to interfere with the treatment of the sewage:

*Wynyard Sewerage.*

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—

A.D. 1939.

- (a) Any benzine, naptha, ether, or carbon bisulphide:
- (b) Any inflammable or explosive materials which will not readily mix with water:
- (c) Any other materials which, separately or in conjunction or in combination with water or sewage or other materials, are liable to form inflammable or explosive compounds: or

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

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

**42**—(1) No occupier of any premises shall prevent the owner thereof 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 hereof.

Penalty on occupier disobeying Act or orders of sewerage authority.

Daily penalty: Five pounds.

(2) If the 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, refuses or wilfully omits to disclose, or wilfully mis-states, the same, any justice may summon the party to appear before a court of petty sessions, at a time and place to be appointed in such summons.

And refusing to give name of owner.

(3) If the party so summoned neglects or refuses to attend at the time and place so appointed, or if he does not show good cause for such refusal, or if such wilful omissions or mis-statements are proved, the court before which such party is so summoned may impose upon the offender a penalty of twenty pounds.

(4) Every such owner, during the continuance of such refusal, and provided he satisfies the court that he has in good faith endeavoured 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.

**43** Every person guilty of an offence against this Act shall, if no penalty is so expressly imposed in respect thereof, be liable to a penalty of twenty pounds, and to a daily penalty of five pounds.

Penalty for offence against this Act.

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*Wynyard Sewerage.*

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A.D. 1939.

Recovery of  
penalty not  
to prejudice  
right to  
take other  
proceedings.

**44** Every penalty imposed upon any person by or under this Act 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:
- II. The costs and expenses incurred by it in remedying any such damage: and
- III. The value of any water wasted, misused, unduly consumed, illegally diverted, or illegally taken by him.

Informations,  
&c., in name  
of Council.  
Reimburse-  
ment of  
expenses, &c.

**45** Any proceedings for the recovery of penalties under this Act may be taken, in the name of the Council, by any officer of the Council appointed generally or in respect of any special proceeding; any council clerk or other officer taking such proceedings shall be reimbursed out of the sewerage account any damages, costs, charges, or expenses to which he is put or with which he is chargeable by reason of such proceedings.

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*Wynyard Sewerage.*

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A.D. 1939.

THE FIRST SCHEDULE.

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## DESCRIPTION OF THE BOUNDARIES OF THE WYNYARD SEWERAGE DISTRICT.

Commencing at the River Inglis at a point opposite the north-western side of Reid-street thence along that side of Reid-street to a point two chains south-west from its intersection with Saunders-street thence by a straight south-easterly line parallel with Saunders-street to the north-western side of Jenner-street thence by that side of Jenner-street to the south-west side of Cotton-street thence by that side of Cotton-street to the Tasmanian Government railway-line thence by that railway-line to Camp Creek thence by Camp Creek to the River Inglis and thence by that river to the point of commencement.

THE SECOND SCHEDULE.

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## MUNICIPALITY OF TABLE CAPE.

## GENERAL NOTICE.

The Table Cape Municipal Council having made sewers for carrying off the sewerage 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 seweraged property within the meaning of the *Wynyard Sewerage Act 1939*.

The boundaries of the sewerage area hereinbefore referred to are [*Here describe them*].

By order of the Council,

.....  
Council Clerk.

THE THIRD SCHEDULE.

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## MUNICIPALITY OF TABLE CAPE.

## FURTHER GENERAL NOTICE.

The Table Cape Municipal Council having made sewers for carrying off the sewerage 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—

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*Wynyard Sewerage.*

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A.D. 1939.

- I. Submit for the approval of the Council a plan 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, or any modification thereof which the proper officer of the Council, on written application made to him, approves, in writing under his hand, and such owner shall, in writing, undertake to carry out such plan within one month or such further time as the Council allows if the plan is approved by the Council: 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 shall give its approval to the firstnamed plan, and if any alterations are required the owner shall forthwith make the same to the approval of the Council. As soon as the Council gives its approval, such owner shall, in writing, undertake to carry out such plan as the Council determines within one month or such further time as the Council allows, 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. Any expenses connected with the preparation of plans and estimates by the Council for an owner shall be paid by the owner.

(2) If within such one month or such further time any such owner has not complied with some one 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 as it deems to be necessary, or may carry out such undertaking (as the case may be) and such order shall be an order, disobedience of which is punishable by a penalty of twenty pounds and a continuing penalty of five pounds per day.

(3) In the event of the Council executing the work, the Council will, if so requested, accept payment by twenty equal half-yearly payments of the costs and expenses, together with interest at a rate not exceeding one pound per centum per annum more than that paid by the Council in respect of moneys borrowed by it under the *Wynyard Sewerage Act 1939*, for the purpose of financing such work, and also, together with an administration charge at the rate of two pounds ten shillings per centum per annum, both such interest and administration charge being calculated in respect of the amount of such costs and expenses unpaid from time to time from the date of completion of the work until final payment.

(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, Wynyard.

By order of the Council,

.....  
Council Clerk.