

WESTERN AUSTRALIA.



ANNO SEPTIMO

EDWARDI SEPTIMI REGIS,

XXV.

No. 25 of 1907.

AN ACT to confirm a Provisional Order authorising the construction of Tramways in the Municipality of North Fremantle, and to empower the Municipality to construct and maintain works for the generation and supply of Electricity for motive purposes.

[Assented to 20th December, 1907.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *North Fremantle Municipal Tramways Act, 1907.* Short title.
2. In this Act, unless the context is inconsistent therewith, Interpretative
the expression—
 - “Council” means the Council of the Municipality of North Fremantle.
 - “Electricity” means the electric current for the supply of motive power.
 - “Electric Line” means a wire or wires, conductor, or other means used for the purpose of conveying, transmitting,

transforming, or distributing electricity with any casing, coating, covering tube, pipe, pillar, pole, post, frame, bracket, or insulator enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transforming, transmitting, or distributing electricity, but not a telegraph or telephone line.

“Undertakings” means the works in connection with the construction and carrying on of the tramways, and of the supply of electricity as authorised by this Act.

Confirmation of
Provisional Order.

3. The Provisional Order made by the Minister for Works on the eighteenth day of September, one thousand nine hundred and seven, and set forth in the Schedule of this Act is hereby confirmed subject to the amendments to clauses one and nineteen as follows:—

Clause 1.—In line three of clause one the words “and the Municipality of Fremantle” are inserted after the words “North Fremantle,” and in line four of clause one the words “and in so far as the said Municipality of North Fremantle is concerned” are inserted after the word “hereto.”

Clause 19.—The following words are added: “But this Clause shall not be deemed to affect the following contracts for the supply of electricity between the Fremantle Tramway Board and the Fremantle Harbour Trust and the West Australian Government Railways dated January 17th, 1906, and between the Fremantle Tramway Board and the North Fremantle Municipal Council dated November 10, 1905, and for the lease of Tramways North Fremantle Municipal Council dated June 27th, 1907.”

Power to construct.

4. Subject to the provisions of the Tramways Act, 1885, the Municipality of North Fremantle and its assigns (hereafter called the said municipality) may make, form, lay down, construct, maintain, and work the tramways set forth in the said Provisional Order.

Power to use.

5. Notwithstanding the provisions of section sixteen of the Tramways Act, 1885, the said municipality is hereby authorised and empowered—

- (a.) To place or run carriages upon such tramways as set forth in the said Provisional Order, and to demand and take tolls and charges in respect of the use of such carriages.
- (b.) To purchase or otherwise acquire land for the purpose of erecting thereon a generating station, with all necessary plant and machinery, for the supply of electricity as motive power.
- (c.) With the consent of the Governor to enter into any agreement with any municipality or road board for supplying electricity for motive purposes.

- (d.) To demand and take tolls and charges in respect of the supply of electricity for motive purposes to any house, building, or factory within the said municipal district or within the district of any other municipality or road board, under the terms or in pursuance of any agreement from time to time entered into with any such municipality or road board.

6. The council may take the necessary steps—

- (a.) To obtain expert advice as to the proper method of carrying out the undertakings and works hereby authorised or any of them;
- (b.) to decide, in accordance with such advice, as to what portion of the undertakings and works shall forthwith be carried out;
- (c.) to obtain estimates as to the cost of same, and to decide on the amount of the loan necessary for providing for such cost, and for providing interest and sinking fund on such loan during construction of the works, and for contingencies and working expenses;
- (d.) to raise a loan or loans in accordance with the provisions of this Act for the amount so ascertained to be necessary for the purposes aforesaid.

Preliminary matters.

7. (1.) Notwithstanding the provisions contained in section four hundred and thirty-six of the Municipal Corporations Act, 1906, the said municipality may at any time, and from time to time, with, under, and subject to the powers and provisions hereinafter contained, borrow any sum or sums of money which may be necessary for the proper carrying out of the undertakings and works hereby authorised or any of them; but the total amount so borrowed shall not, in any case, exceed the sum of sixty thousand pounds.

Power to borrow money for purposes of undertaking.

(2.) Any sum so borrowed shall not be taken into account in estimating the amount which may be borrowed for other purposes by the said municipality, and shall not be subtracted from ten times the average income of the said municipality in making such estimate.

8. (1.) All moneys borrowed under the powers contained in this Act shall be raised by the sale of debentures; and such debentures shall bear on the face of them a statement that the same are issued in pursuance of the powers conferred by this Act.

Debentures.

(2.) Sections four hundred and forty to four hundred and forty-nine inclusive, of the Municipal Corporations Act, 1906, shall apply to all loans so raised, in the same manner as if such sections were herein re-enacted, and in terms made applicable to this Act.

(3.) The debentures issued or to be issued by the said municipality in connection with the loan of twelve thousand pounds

advertised in the *Government Gazette* on the fourth day of August, one thousand nine hundred and seven, shall be deemed to have been issued under the powers conferred by this Act, and shall be as valid to all intents and purposes as if all the provisions of this section had been fully complied with.

Special rate to be struck.

9. Whenever any money has been so borrowed by the said municipality, and so long as any portion thereof remains unpaid, the council shall every year strike such a special rate as the council deems necessary to meet the interest and sinking fund of the amount of the loan for which it is responsible, after deducting its proportion of any profit which may have been earned during the preceding year as a result of the working of the undertakings.

Provision for excess or deficiency in rate.

10. (1.) If in any year the proceeds of such special rate are in excess of the sum required for the purposes set out in the preceding section, such excess shall be retained and credited against any sum that may be raised for the like purposes during the next ensuing year.

(2.) If on any year the proceeds of such special rate are insufficient for the purposes aforesaid, the council shall make good the deficiency out of the ordinary income, but shall, in the next ensuing year, add such deficiency to the amount of the rate raisable for that year, and out of the proceeds thereof shall repay to itself the amount so paid out of the ordinary income.

Additional special rates.

11. If on the examination of accounts of the said municipality, as provided in section seventeen of this Act, it appears that the operations of the council during the year have resulted in a loss, the council shall in each year strike an additional special rate as it may deem necessary to defray the amount of such loss; and if the proceeds of such special rate are in excess of the sum required for the purpose of this section, such excess shall form part of the ordinary income of the municipality.

Incorporation of provisions of Municipal Corporations Act, 1906.

12. There shall be incorporated with this Act the following provisions of the Municipal Corporations Act, 1906, namely:—

With respect to “General Provisions as to Rates”;

With respect to “Recovery of Rates”;

And sections four hundred and fifty-two to four hundred and sixty-one with respect to “Borrowing Powers”: Provided nevertheless, that it shall not be necessary to provide a sinking fund for the repayment of the loans during the first twelve months after the raising of the first loan under this Act.

Power of Supreme Court to appoint liquidator.

13. (1.) In the event of any default being made in payment of any principal money or interest of any loan raised under the powers conferred by this Act, the holder of any debenture in respect of which any such principal money or interest is overdue may apply to the Supreme Court, by petition on behalf of himself and all other holders of debentures in respect of which a like

default has been made, for the appointment of an official liquidator of the undertakings.

(2.) An official liquidator, when so appointed, shall be entitled to take possession of the undertakings and the property, plant, machinery, and effects used or appropriated in connection therewith; and subject to any order or direction which may be made by the Supreme Court, he shall have all the powers and authorities conferred by law upon an official liquidator appointed in the winding up of a limited company, including a power of sale and the right to carry on the undertakings as a going concern pending realisation thereof.

14. The undertakings and works shall constitute the primary security for the repayment of all debentures, interest, and costs; but in the event of there being any deficiency on the sale and realisation thereof, the official liquidator may sue for and recover from the said municipality such deficiency.

Undertaking to be the primary security for loans.

15. The net profits derived from the working and undertakings in every year, after deduction of interest and sinking fund on all loans from time to time outstanding, and after allowing for all proper depreciation, shall, subject to the provisions of any agreement made in connection therewith, belong to the said municipality, and the same shall form part of the ordinary income of the said municipality.

Disposal of profits.

16. The council shall cause true accounts to be kept of the money received by and expended by them in connection with the undertakings and works hereby authorised and of all matters in respect of which such expenditure is incurred, and of the assets and liabilities of the undertakings.

Council to keep accounts.

17. In the months of May and November of every year the accounts of the council shall be examined, and the correctness of the statement and balance-sheet made up to the thirtieth day of April and the thirty-first day of October preceding shall be ascertained by the two auditors elected in pursuance of section four hundred and seventy-seven of the Municipal Corporations Act, 1906.

Audit.

18. In forming, constructing, and working the tramways authorised by the said Provisional Order, the council shall observe and perform the conditions and regulations contained in the provisions of the Tramways Act, 1885, so far as the same are applicable, and for such purposes the council shall be deemed to be promoters within the meaning of that Act, and generally all the provisions of that Act, so far as the same are applicable and are not repugnant to the special provisions of this Act, shall apply as if the same had been re-enacted herein and in terms made applicable to this Act.

Provisions of Tramways Act, 1885, to be observed.

Application of
Electric Lighting
Act, 1892.

19. In connection with the undertakings and works hereby authorised in supplying electricity for motive purposes in the said municipal district and the carrying on of the undertakings when completed, the provisions of the Electric Lighting Act, 1892, shall, so far as they are applicable and not repugnant to the provisions herein contained, apply as if the same had been re-enacted herein and in terms made applicable to this Act, and for such purposes the council shall be deemed to be undertakers within the meaning of that Act.

Power to lease
undertaking.

20. (1.) The council are hereby empowered to lease or vest the entire control and management of the undertaking, or any part thereof, in any person, corporation, or board for such period as may be determined upon and embodied in an agreement duly made between the said council and such person, corporation, or board.

(2.) Notwithstanding anything to the contrary in any Act or regulation made or to be made thereunder, the council may undertake that no rates, taxes, or license fees shall be imposed, levied, or charged by the council on the lessees for or in respect of the tramways or their equipment constructed under this Act, or in respect of the running of such service within the said municipal district.

Minister may con-
struct crossings.

21. It shall at all times hereafter be lawful for the Minister for Works to construct, and for the Commissioner of Railways to maintain and use lines of railway crossing the said tramways at any points; and whenever any such line of railway shall have been so constructed, the Commissioner of Railways may require the council, at the cost of the municipality, to erect a suitable bridge over such railway for the tramway traffic.

Exemption from
rates.

22. The said municipality shall not be chargeable by any other municipality or by any road board with any rate, tax, or payment in respect of any works that may be constructed under the authority of this Act within the boundaries of the district of such other municipality or road board.

Confirmation of
certain agreements.

23. The said municipality is hereby empowered to confirm and validate an agreement dated the twenty-sixth day of April, one thousand nine hundred and seven, and made between the North Fremantle Municipality and the Municipalities of Fremantle and East Fremantle, and an agreement dated the twenty-seventh day of June, one thousand nine hundred and seven, and made between the North Fremantle Municipality and the Fremantle Municipal Tramways and Electric Lighting Board, copies of which agreements are deposited at the Department of Public Works and marked Agreement "A" and Agreement "B," respectively.

Incorporation of
Schedule.

24. The Schedule hereto shall form part of this Act.

THE SCHEDULE.

PROVISIONAL ORDER.

WHEREAS the Mayor and Councillors of the Municipality of North Fremantle, a body corporate under the provisions of the Municipal Corporations Act, 1906, and a body within the meaning of the expression the Promoter, as defined in the Tramways Act, 1885, Section 3, Subsection 1, has made application to me for a Provisional Order authorising the construction of tramways within the said Municipality along the routes specified in the schedule hereunder written: And whereas the Mayor and Councillors, as such body corporate, have given public notice of its intention to make such application in the form prescribed in the Schedule B annexed to the Tramways Act, 1885, by advertisement in the *Government Gazette* and in the *West Australian* newspaper, and has deposited the documents described in Schedule C annexed to the same Act at the Department of Public Works and also at the Town Hall of the said Municipality: And whereas I have considered the said application, and it appears to me expedient and proper that the said application should be granted: Now therefore I, JAMES PRICE, the Minister for Works for Western Australia, do hereby, by virtue of the Tramways Act, 1885, make a Provisional Order, and I do order as follows, that is to say:—

(1.) The Promoter shall be, and is hereby, empowered to make, form, lay down, construct, maintain, and work tramways in, upon, and along such of the streets and roads in the Municipality of North Fremantle as are set out in the First Schedule hereto; to alter and vary the routes of any such tramways, and to extend the same along any other streets or roads within the boundaries of the said Municipality: Provided such alteration or extension shall not be exercisable except with the consent of the Governor in Executive Council.

(2.) The Promoter shall, within twelve months from the 27th day of June, 1907, or within such extended time as the Minister for Works may approve, substantially commence, and thereafter, in a proper and workmanlike manner continuously carry on, construct, complete, and furnish and equip the work, tramways, cars, lines, machinery, and plant of all kinds in connection therewith, so that the same shall be completed and ready for use and running and open for public traffic within eighteen months from the said 27th day of June, 1907, or within such extended time as the Minister for Works may approve.

(3.) The said tramways shall be constructed on a 3ft. 6in. gauge, and shall be laid with steel rails.

(4.) The manner of construction of and the material used in the construction of the said tramways and the voltage of the electric current shall be similar, or as near as possible to that used in the construction of the tramways in Fremantle.

(5.) No cable or live wire shall be affixed or lie closer to the handrail of any balcony than 3ft., and all other necessary precautions shall be taken to prevent persons coming into contact with the said cables, and all necessary longitudinal guard wires shall be erected.

(6.) The said tramway shall be used for the conveyance of passengers and passengers' luggage only.

(7.) The roads of the lines shall be properly macadamised for a width of 6ft. 6in. for single lines and 16ft. for double lines, if constructed, and shall be kept in thorough repair to the level of the rails.

(8.) The tolls and charges authorised to be taken, and which shall be demanded by the Promoter, shall be paid to such persons and at such places upon or near the tramways, and in such manner and under such regulations as the Promoter shall appoint, by notice to be exhibited in some conspicuous place in the inside of each of the passenger cars to be used by the Promoter upon the said tramways.

(9.) All cars used on the said tramways shall be moved by electric power, and the Promoter may erect and maintain all such poles and posts with wires attached thereto in the said streets mentioned in the said Schedule hereunder written, along the routes therein mentioned, as may be necessary or required for supplying electricity to the said cars and for working the said tramways on the overhead trolley system.

(10.) All cars used on the said tramways may travel at a speed not exceeding the rate of 10 miles an hour, and may follow after each other at distances not less than 50 yards, and may stop at any point on the said tramways (except on the crossings of streets) for the purpose of taking up and setting down passengers, and may stand at the terminus of any of the said tramways.

(11.) The said tramway shall be constructed with single or double lines; and before commencing to construct the said tramways the Promoter shall submit, for the inspection of the Minister for Works, plans and drawings of the proposed tramways, and shall obtain his approval thereof in writing.

(12.) All plans and specifications where required in connection with the carrying out of the work shall be submitted to the Minister for Works for approval, and all work shall be carried out and finished to the entire satisfaction of the Minister for Works.

(13.) In the event of fire or any other serious accident, the local Fire Brigade or Police shall have power to order the supply of current to be discontinued at any place in order to avoid danger or accident to firemen, etc., carrying out their duties; and the Promoter shall have no claim for compensation for loss of traffic or for damage.

(14.) The Promoter shall, at his own expense, alter or divert all wires, metal pipes, tubing, and cables that would be subject to electrolysis, so that they shall not be within twenty-four inches of any portion of the tramway system carrying electric current; and the Promoter shall not by anything herein contained be exempted from any liability to compensation for damage or loss by any electrolysis for which he may be responsible.

(15.) The Promoter may from time to time, with the consent of the Minister for Works, make and enter into and carry into effect contracts, agreements, and arrangements with any person, corporation, or company for the use of the said tramways or portion thereof, and for prescribing and regulating the tolls and charges to be paid for such use, and the terms and conditions of such use, and all matters incidental thereto.

(16.) Nothing contained herein shall prejudice any agreements entered into between the Municipality of North Fremantle and any person, board, road board, company, or corporation except so far as the same is contrary to or in conflict with the provisions of the Order or of the Tramways Act, 1885.

(17.) The term "The Promoter," whenever hereinbefore used, shall mean and include the Mayor and Councillors of the Municipality of North Fremantle, its successors and assigns, whenever the context so requires or admits.

(18.) Tramways already constructed by the Fremantle and East Fremantle Councils and operated by the Fremantle Tramways Board, or tramways at any time hereafter constructed and operated by any other municipality or road board adjoining North Fremantle, may be connected with, and the carriages of such adjoining municipality or road board run upon the tramway lines constructed

pursuant to the provisions of this Act upon such terms and conditions as may be agreed upon between the North Fremantle Council and the adjoining municipality or road board, or in any case of disagreement, as may be determined by the Minister for Works : Provided, however, that the Fremantle Tramway Board shall not have the right to exercise the powers contained in this section during the period of an agreement dated 27th June, 1907, between North Fremantle and Fremantle Municipal Tramways and Electric Lighting Board, or any extended period of such agreement.

(19.) No person, board, company, or corporation other than the Municipality, save as herein provided, shall hereafter undertake the business of the supply of electricity, or shall hereafter construct any electric line in, under, or over any way, road, street, public place, or public reserve within the municipal district of North Fremantle, without the consent of the said Municipality is first had and obtained.

The Schedule above referred to:—

- (a.) A tramway starting at a point on the northern boundary of the North Fremantle Municipality ; thence Southerly along Victoria Avenue and Swan River Bridge, and connecting with the existing tramline on Canning Road, Fremantle.
- (b.) A tramway starting at a point on the Victoria Avenue route at the intersection of John Street ; thence along John Street to the River Esplanade, along the Esplanade to Harvest road, and by that road South-Westerly to the Victoria Avenue route.
- (c.) A tramway starting at a point on the Victoria Avenue route near the Northern boundary of the Municipality, proceeding Westerly to the Ocean Parade ; along that Parade Southerly to John Street ; thence along John Street to the first-mentioned route in Victoria Avenue.

Given under my hand this 18th day of September, 1907.

JAMES PRICE,

Minister for Works.