

[Extract from *Commonwealth of Australia Gazette*, No. 64, dated
20th August, 1925.]

THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 3 of 1925.

AN ORDINANCE

To approve the Agreement made between the Commonwealth of Australia, the State of New South Wales, and the Council of the Municipality of Queanbeyan respecting the establishment of a Water Supply for the Town of Queanbeyan, and for other purposes.

BE it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910*, as follows:—

1. This Ordinance may be cited as the *Queanbeyan Water Supply Ordinance 1925*. Short title.

2. The Agreement (in this Ordinance referred to as "the Agreement"), a copy of which is set out in the Schedule to this Ordinance, is hereby approved. Approval of Agreement.

3. The Federal Capital Commission established under the *Seat of Government (Administration) Act 1924* shall be charged with the carrying out of the Agreement on behalf of the Commonwealth. Federal Capital Commission charged with carrying out Agreement.

Dated the fifteenth day of August, 1925.

FORSTER,
Governor-General.

By His Excellency's Command,

G. F. PEARCE,
Minister of State for Home and Territories.

C.3662.

THE SCHEDULE.

AGREEMENT made this nineteenth day of December One thousand nine hundred and twenty-four BETWEEN THE COMMONWEALTH OF AUSTRALIA (hereinafter referred to as "the Commonwealth" of the first part THE STATE OF NEW SOUTH WALES (hereinafter referred to as "the State") of the second part and THE COUNCIL OF THE MUNICIPALITY OF QUEANBEYAN in the said State (hereinafter referred to as "the Council") of the third part

WHEREAS the Council is desirous of establishing a Water Supply for the Territory of Queanbeyan and negotiations have proceeded between the parties hereto in relation thereto :

NOW THIS AGREEMENT WITNESSETH that in consideration of the reciprocal undertakings and agreements hereinafter contained each of the parties hereto respectively hereby agrees with the other parties to the extent and in the manner hereinafter respectively provided :—

(1) This Agreement shall have no force or effect and shall not be binding on the Commonwealth unless and until it is approved by an Ordinance made by the Governor-General of the Commonwealth in Council under and in pursuance of the *Seat of Government (Administration) Act 1910* of the Parliament of the Commonwealth

(2) The State agrees to construct the works described in the Schedule hereto and to complete the same within two years after an Act of the New South Wales Parliament to sanction the construction thereof shall have been assented to

(3) The Commonwealth agrees that after the said Act has been assented to as aforesaid it will construct within the Territory for the Seat of Government a conduit or conduits capable of delivering one hundred and sixty thousand gallons of water in twenty-four hours

(4) The works mentioned in Clause 2 of this Agreement and the conduit or conduits mentioned in Clause 3 of this Agreement shall be so constructed as to connect at the point of intersection of the existing road from Queanbeyan to Canberra and the common boundary of the said Territory and the Municipality of Queanbeyan which point of intersection is hereinafter referred to as the point of supply

(5) (1) Subject to this Agreement the Commonwealth agrees as from a date being not later than seven days after the publication in the *New South Wales Government Gazette* of formal notification of completion of the works referred to in Clause 2 of this Agreement to supply to the Council at the said point of supply and the Council agrees to take from the Commonwealth at the said point of supply daily during the continuance of this Agreement such water of good potable quality as the Council may require within the limits of the capacity of the conduit or conduits mentioned in Clause 3 of this Agreement

(2) If the conduits mentioned in Clause 3 of this Agreement have not at the said date been completed the Commonwealth shall not be required to supply such water until such conduits have been completed.

(3) A certificate by the Minister stating the date upon which water is first supplied shall be conclusive evidence of the matter stated.

(6) (1) The quantity of water supplied to the Council shall be ascertained at the said point of supply by means of a meter to be provided erected and connected by and at the expense of the State.

(2) The said meter shall be kept in repair by and at the expense of the State until completion of the works mentioned in Clause 2 of this Agreement has been formally notified in the *Gazette* as provided in Clause 5 hereof and thereafter such meter shall be kept in repair by and at the expense of the Council.

(7) The readings of the meter shall be taken quarterly by an authorized officer of the Commonwealth in the presence of a representative of the Council. The first reading shall be taken on the seventh day of the fourth month subsequent to the date the water was first supplied and subsequent readings shall be taken at regular intervals of three calendar months commencing on the date fixed for the first reading. The period between any reading and the next preceding reading is hereinafter referred to as a "quarterly period" which term shall be deemed to include the period between the date the water is first supplied and the first reading.

(8) The reading of the said meter taken in accordance with Clause 7 hereof shall be binding and conclusive between the Council and the Commonwealth as to the quantity of water supplied to the Council unless the Council shall within seven days of the receipt of the statement thereof as mentioned in Clause 11 hereof lodge with an authorized officer of the Commonwealth an objection that the meter is recording incorrectly

(9) If any such objection shall be lodged by the Council within the time aforesaid the meter shall as soon as reasonably practicable after the receipt of such objection by the Commonwealth be tested for correctness of registration. Such test shall be carried out by a person nominated by the Board of Water Supply and Sewerage of the State in the presence of an authorized officer of the Commonwealth and the authorized representative of the Council. Should the meter be found on such test to register incorrectly a fair adjustment either by addition or deduction as the case may require shall be made to or from the quantity of water already recorded and such adjustment shall appear in the next succeeding statement of a reading forwarded to the Council under Clause 11 hereof. The cost of such test shall be borne equally by the Commonwealth and the Council. If the meter is at any time removed for the purpose of testing the quantity of water supplied for each day during the period the meter is so removed shall be taken to be the daily average of water supplied during the preceding quarterly period.

(10) Subject to this clause the Council shall pay for all water supplied to it by the Commonwealth at the rate of one shilling and threepence per thousand gallons. The said rate of one shilling and threepence per thousand gallons is based on the cost of electricity from the Canberra Power House used for pumping water from the Cotter Reservoir being sixpence per thousand gallons based on a charge of one penny farthing per unit. At the end of the fifth year of this Agreement and at the end of each fifth year thereafter the Commonwealth or the Council may require a review of the said rate. If upon any review it shall be ascertained that the then cost of electricity used for pumping water from the Cotter Reservoir is greater or less than sixpence per thousand gallons the said rate of one shilling and threepence per thousand gallons shall be increased or decreased proportionately to the increase or decrease in the said cost of electricity used for pumping and the Council shall as from the beginning of the year next after such fifth year pay at such increased or decreased rate as the case may be for all water supplied to it by the Commonwealth until such rate is again altered (if at all) upon review as aforesaid. For the purposes of this clause a certificate under the hand of the Minister stating the cost of electricity used for pumping water from the Cotter Reservoir shall be accepted by the Council as conclusive evidence of such cost.

(11) (1) The Commonwealth shall after each date upon which the meter has been read pursuant to this Agreement forward to the Council a statement of the reading showing the quantity of water to be paid for under this Agreement in respect of the quarterly period immediately preceding and the amount payable therefor and the Council shall within twenty-eight days after the delivery of such statement and notwithstanding that an objection has been lodged by the Council in pursuance of Clause 8 hereof pay to the Commonwealth the amount shown by such statement to be due to the Commonwealth. If default be made in payment of the amount due within the said twenty-eight days the Commonwealth may take any action it may think necessary to obtain payment of the said amount and also may without notice cut off the supply of water to the Council until payment of the said amount is made.

(2) The State agrees to introduce forthwith into the Parliament of the State a Bill containing and use every endeavour to have enacted as a law of the State provisions under which if the Council makes default for three months in the due payment of any amounts payable to the Commonwealth hereunder the Commonwealth may apply for the appointment of a receiver in like manner and to the like extent as provided for in Section three hundred and seventy-six of the said *Local Government Act 1919*:

(12) (1) The Council undertakes to take from the Commonwealth a minimum quantity of one million eight hundred thousand gallons (1,800,000) of water in each quarterly period.

(2) If the quantity of water taken by the Council in any quarterly period as aforesaid is less than one million eight hundred thousand gallons (1,800,000) and the Commonwealth has during such period been able and willing to supply such quantity the Council shall in respect of such period pay to the Commonwealth such amount as would have been payable to the Commonwealth if the Council had in such period taken a minimum quantity of one million eight hundred thousand gallons.

(3) A certificate under the hand of the Minister stating the quantity of water which the Commonwealth was able and willing to supply during any quarterly period shall be accepted by the Council as conclusive evidence of the fact so stated.

(13) While the Commonwealth will endeavour to prevent any interruption or deficiency in the supply of water the Commonwealth shall not be responsible for any interruption in the supply of water or for any failure stoppage or deficiency of water from any cause whatsoever.

(14) (1) In the event of the Council being at any time desirous of obtaining a supply of water of a maximum quantity substantially greater than the quantity the conduit or conduits mentioned in Clause 3 of this Agreement are capable of delivering it shall give to the Minister six months' notice in writing of its desire to obtain such greater supply and specify therein the extent of such greater supply required and the Commonwealth will so far as it reasonably can but without being under any legal obligation so to do provide such greater supply.

(2) In the event of such greater supply being provided the Council shall in addition to the payment provided for in Clause 10 hereof pay to the Commonwealth at each time payment is made under Clause 11 hereof an amount at the rate of ten per centum per annum of the cost to the Commonwealth of providing such greater supply until such cost has been fully reimbursed to the Commonwealth together with interest thereon accruing from day to day on the amount for the time being not reimbursed at a rate which shall be the average annual effective rate of interest payable in respect to the loan from which funds for the work were provided after making allowance for all costs and charges incurred in raising such loan and all discounts on the flotation of such loan. Provided that should the work be carried out from moneys other than those secured by the issue of a loan the rate of interest shall be six per centum per annum.

(3) A certificate by the Treasurer of the Commonwealth stating the cost of providing such greater supply or the amount of such cost at any time not reimbursed to the Commonwealth and the rate of interest payable on loan moneys referred to in this Clause shall be accepted by the Council as conclusive evidence of the matter stated.

(15) The Council and the State shall jointly and severally indemnify and keep indemnified the Commonwealth and every officer and servant of the Commonwealth against all actions proceedings suits claims and demands which may be brought or made against them or any of them by reason of or arising out of the making of this Agreement or because of any matter or thing done or omitted to be done by them or any of them pursuant to this Agreement and from and against all costs charges and expenses which they or any of them may pay sustain or incur in settling or defending any such action proceeding suit claim or demand.

(16) The Council agrees to pay to the Colonial Treasurer for the time being of the State on behalf of the State the cost of the works mentioned in the Schedule hereto and interest thereon in manner provided for by Section three hundred and seventy-four of the *Local Government Act 1919* and to be bound by all and singular the provisions of the said Act in so far as such are applicable to works constructed by the Minister for Public Works under Section three hundred and seventy-three of the said Act.

(17) Upon the whole of the cost of the said works and interest thereon being paid by the Council to the Colonial Treasurer in accordance with the provisions hereinbefore referred to notice of such payment shall be given by the Colonial Treasurer to the Commonwealth and to the Council and the Colonial Treasurer shall cause to be done all such things as may be necessary to vest in the Council the said works.

(18) This Agreement as between the State and the Council shall cease and determine upon the date the said works are vested in the Council but as between the Commonwealth and the Council this Agreement shall continue in force for a period of ten years after the date of the notice referred to in Clause 17 hereof and after the expiration of such period of ten years this Agreement shall continue in force until determined by either the Commonwealth or the Council giving to the other twelve calendar months previous notice in writing of its intention to determine the Agreement but any such determination shall be without prejudice to the rights or remedies (if any) of either party which may have accrued or arisen in the meantime.

(19) Except where otherwise specifically provided herein if any question dispute or difference whatsoever shall arise between the parties to this Agreement or any two of them upon or in relation to or in connexion with the performance of any of the undertakings or agreements to be fulfilled any of the parties may give to both or either of the other parties as the case may be notice in writing of the existence of such question dispute or difference and the same shall be referred to the arbitration of the Chief Justice of the High Court of Australia or some person to be nominated by him. The award of the Arbitrator shall be final and binding on the parties to the question dispute or difference. Upon any or every such reference the costs of and incidental to the

reference and award respectively shall be in the discretion of the Arbitrator who may determine the amount thereof or direct the same to be taxed as between solicitor and client or as between party and party and shall direct by whom and to whom and in what manner the same shall be borne and paid.

(20) Any notice or other communication to be given by the Minister or the Commonwealth to the Council under this Agreement shall be deemed to have been duly given if signed by or on behalf of the Minister and sent in a prepaid letter addressed to the Town Clerk of the Municipality of Queanbeyan at the usual or last known address of the Town Clerk

(21) The word "Minister" in this Agreement means the Minister of State for Home and Territories of the Commonwealth for the time being or his successor in office the Minister of State for the Commonwealth for the time being administering the Seat of Government (Administration) Acts or the Member of the Federal Executive Council for the time being performing the duties of the Minister

(22) "Authorized Officer of the Commonwealth" in this Agreement means any person authorized by the Minister.

THE SCHEDULE REFERRED TO.

Construction of the following works in connexion with scheme of water supply to the Municipality of Queanbeyan :—

1. Meter.
2. Gravitation Main within Municipality
3. Service Reservoir
4. Service Main and Reticulation
5. Incidental Works

IN WITNESS whereof the Minister of State for Home and Territories of the Commonwealth of Australia for and on behalf of the Commonwealth and the Honorable George Warburton Fuller the Premier of the said State of New South Wales for and on behalf of the said State who have been respectively authorized to bind the Commonwealth and the Government of the said State respectively in the matters and to the extent in these presents set out have hereunto set their respective hands and seals and the Common Seal of the Council hath been hereunto affixed the day and year first before written

SIGNED SEALED AND DELIVERED }
by the Minister for Home and Terri- } G. F. PEARCE (L.S.)
tories aforesaid in the presence of— }
J. G. McLAREN.

SIGNED SEALED AND DELIVERED }
by GEORGE WARBURTON FULLER the } GEORGE W. FULLER (L.S.)
Premier of the State of New South }
Wales aforesaid in the presence of— }
F. C. G. TREMLETT, J.P.

THE COMMON SEAL of the Council of }
the Municipality of Queanbeyan was } J. G. HARRIS, Mayor.
hereunto affixed in pursuance of a }
Resolution of the Council passed on }
the nineteenth day of December One } J. H. HINCKSMAN, Town Clerk.
thousand nine hundred and twenty- }
four. }

