

Vesting the Management of the Wharf at Whitford, Turanga Creek, in the Manukau County Council and prescribing Dues for the Use of same.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 25th day of October, 1939.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

PURSUANT to the Harbours Act, 1923, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby vest in the Manukau County Council (hereinafter called "the Council" which term shall include its successors and assigns unless the context requires a different construction), the management of the wharf at Whitford, Turanga Creek, as shown on plan M.D. 3699, approved on the nineteenth day of September, one thousand nine hundred and eleven, and deposited in the office of the Marine Department at Wellington, for the purpose of the use of the wharf for a term of fourteen years computed from the fifteenth day of October, one thousand nine hundred and thirty-nine, such license to be held and enjoyed by the Council upon and subject to the terms and conditions set forth in the First Schedule hereto, and doth prescribe that the dues and rates set forth in the Second Schedule hereto shall be charged and taken by the Council for the use of the said wharf.

FIRST SCHEDULE.

1. In these conditions the term—
 - "Foreshore" means such parts of the bed, shore, or banks of a tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides;
 - "Low-water mark" means low-water mark at ordinary spring tides;
 - "Minister" means the Minister of Marine as defined by the Shipping and Seamen Act, 1908, and includes any officer, person, or authority acting by or under the direction of such Minister.
2. The concessions and privileges conferred by this Order in Council shall extend and apply only to the part of the foreshore and land below low-water mark adjacent thereto necessary for the maintenance of the said wharf, at the site shown on the plan marked M.D. 3699.
3. In consideration of the concessions and privileges granted by this Order in Council, the Council shall pay to the Minister an annual rental of 1s., payable on demand, such rent to date from the date of this Order in Council.
4. All persons shall, at all reasonable times, upon payment of proper dues, have free and full liberty to use the said wharf and all rights of ingress and egress thereon and therefrom.
5. His Majesty or the Governor-General, and all officers in the Government service, acting in the execution of their duty, shall at all reasonable times have free ingress, passage, and egress into, through, over, and out of the said wharf without payment.
6. The Council shall maintain the above-mentioned wharf in good order and repair; and shall at all times exhibit therefrom and maintain at the Council's own cost suitable and necessary lights for the guidance of vessels: Provided that no light shall be exhibited until after it has been approved of by the Minister.
7. All dues and rates received on account of the said wharf by the Council shall be applied to keeping the said wharf and all erections on or in connection therewith in good order and repair and for the renewal or the extension of the said wharf when such is found necessary.
8. Any person authorized by the Minister may at all reasonable times enter upon the said wharf and view the state of repair thereof, and upon the Minister leaving at or posting to the last-known address of the Council in New Zealand a notice in writing of any defect or want of repair in such wharf requiring the Council within a reasonable time, to be therein prescribed, to make good or repair the same, the Council shall, with all convenient speed, cause such defect to be removed or such repairs to be made.
9. The masters of all vessels discharging ballast at the said wharf shall have all such ballast taken away and deposited above high-water mark, or at such place as may be approved of by the Minister, or by any person appointed by the Minister for that purpose.
10. The Council shall not erect, or suffer to be erected, on the said wharf any building or structure whatever, except with the consent of the Minister.

11. The Council shall keep a separate bank account for all receipts and expenditure in respect of the said wharf, and shall cause an account of such receipts and expenditure to be balanced to the 31st day of March in every year, and shall send a copy of such account when balanced to the Minister, and shall supply any particulars in reference thereto as may be required by the Minister.

12. The Council shall appoint all officers necessary for the working and management of the said wharf.

13. Nothing herein contained shall authorize the Council to do or cause to be done anything repugnant to or inconsistent with any law relating to the Customs, or any regulation of the Minister of Customs, or with any provisions of the Harbours Act, 1923, or its amendments, or any regulations thereunder, and that are now or may hereafter be in force.

14. The rights, powers, and privileges hereby conferred shall continue to be in force for fourteen years from the 15th October, 1939, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority, and the Council shall not assign, charge or part with any such right, power, or privilege without the previous written consent of the Minister first obtained.

15. The rights, powers, and privileges conferred under or by virtue of this Order in Council may be at any time resumed by the Governor-General, without payment of any compensation whatever, on giving to the Council three calendar months' previous notice in writing. Any such notice shall be sufficient if given by the Minister and delivered at or posted to the last-known address of the Council in New Zealand.

16. The Council shall be liable for any injury which the said wharf may cause any vessel or boat to sustain through any default or neglect on the part of the Council.

17. In case the Council shall—

(1) Commit or suffer a breach of the conditions hereinbefore set forth, or any of them; or

(2) Cease to use or occupy the said wharf for a period of thirty consecutive days—

then, and in either of the said cases, this Order in Council and every license, right, power, or privilege may be revoked and determined by the Governor-General in Council without any notice to the Council or any other proceedings whatsoever; and publication in the *Gazette* of an Order in Council containing such revocation shall be sufficient notice to the Council and to all persons concerned or interested, that this Order in Council and the license, rights, and privileges thereby granted and conferred have been revoked and determined.

18. In the event of this Order in Council being revoked for any reason whatsoever, or upon the expiry of the period for which the license is granted, the Council shall, if required by the Minister so to do, remove the said wharf entirely from the site and restore the site to its original condition within three months from the date of the revocation or expiry, as the case may be, and if the Council fails so to do, the Minister may cause the said wharf to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the Council.

SECOND SCHEDULE.

DUES AND RATES.

<i>Wharfage.</i>	£ s. d.
On every ordinary passenger or cargo steamship or auxiliary vessel over 5 tons register using the wharf, per quarter or part of a quarter ..	1 17 6
On every steamer 5 tons or under, per day or part of a day ..	0 3 6
On every sailing-vessel or auxiliary sailing-vessel over 5 tons, per day or part of a day ..	0 5 0
On every sailing-vessel or auxiliary sailing-vessel 5 tons or under, per day or part of a day ..	0 2 6
On every excursion steamer, per day or part of a day ..	0 5 0
On every motor-launch, on regular service, per quarter or part of a quarter ..	1 5 0
On every excursion motor-launch, per day or part of a day ..	0 3 6

Passenger Wharfage.

For every passenger landed on the Whitford Wharf from any vessel or by means of a boat or other tender from any vessel lying away from such wharf, the sum of 3d. shall be paid, and the owner of the vessel from which the passenger is landed shall pay such charges to the Manukau County Council immediately on the landing of such passenger. The master of any such vessel landing passengers as aforesaid shall furnish to the Council a certified statement of the number of passengers so landed.

C. A. JEFFERY,
Clerk of the Executive Council.