

its successors and assigns unless the context requires a different construction), to use and occupy all those parts of the foreshore and land below low-water mark at Huntly, Taupiri, and Hamilton, in the Waikato River, as shown on plans marked M.D. 6956, 6954, and 6955 respectively, approved on the thirteenth day of July, one thousand nine hundred and thirty-one, and deposited in the office of the Marine Department at Wellington, for the purpose of the erection of wharves, sheds, and breastwork (hereinafter referred to as "the said structures") as shown on the said plans, such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the Schedule hereto.

#### SCHEDULE.

##### 1. In these conditions the terms—

- "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 parts of the foreshore and land below low-water mark adjacent thereto necessary for the maintenance of the said structures at the sites shown on the plans marked M.D. 6956, 6954, and 6955 respectively.

3. In consideration of the concessions and privileges granted by this Order in Council the company shall pay to the Minister the sum of £1 and thereafter an annual sum of £15 in advance, payable on the 1st day of April in each year, the first of such payments to be paid on the company being supplied with a copy of this Order in Council.

4. His Majesty or the Governor-General, and all persons in the Government service acting in the execution of their duties, shall at all times have free ingress, passage, and egress into, through, over, and out of the said structures without payment.

5. All persons shall, at all reasonable times, upon payment of proper dues, have free and full liberty to use the said structures, and all rights of ingress and egress thereon and therefrom.

6. The company shall maintain the above-mentioned structures in good order and repair, and shall at all times exhibit therefrom and maintain at the company'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. Any person authorized by the Minister may at all reasonable times, enter upon the said structures and view the state of repair thereof; and upon such Minister leaving at or posting to the last-known registered office of the company in New Zealand a notice in writing of any defect or want of repair in such structures requiring the company within a reasonable time, to be therein prescribed, to repair the same, the company shall with all reasonable speed cause such defect to be removed or such repairs to be made.

8. Nothing herein contained shall authorize the company 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 made thereunder and that are now or may hereafter be in force.

9. The master of each vessel discharging ballast at the said structures 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 rights, powers, and privileges conferred by or under this Order in Council shall continue in force for fourteen years from the 1st day of April, 1940, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority; and the company shall not assign, charge, or part with any such right, power, or privilege without the written consent of the Minister first obtained.

11. The said rights, powers, and privileges may be at any time resumed by the Governor-General, and the company may be required to remove the said structures at the company's own cost, without payment of any compensation whatever, on giving to the company 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 registered office of the company in New Zealand.

12. The company shall be liable for any injury which the said structures may cause any vessel or boat to sustain through any default or neglect on the company's part.

##### 13. In case the company shall—

- (1) Commit or suffer a breach of the conditions hereinbefore set forth, or any of them;
- (2) Cease to use or occupy the said structures for a period of thirty consecutive days;
- (3) Fail to pay the sums specified in clause 3 of these conditions; or
- (4) Be in any manner wound up or dissolved—

then, and in any of the said cases, this Order in Council and every license, right, power, or privilege thereby conferred may be revoked and determined by the Governor-General in Council without any notice to the company or other proceedings whatsoever; and publication in the *Gazette* of an Order in Council containing such revocation shall be sufficient notice to the company 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.

14. 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 company shall, if required by the Minister to do so, remove the said structures entirely from the sites, and restore the sites to their original condition within three months from the date of revocation or expiry, as the case may be; and, if the company fails so to do, the Minister may cause the said structures to be removed and the sites so restored, and may recover from the company the costs incurred by the said removal and restoration.

15. The occupation of the said structures shall be sufficient evidence of the acceptance by the company of the terms and conditions of this Order in Council.

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

*Licensing the Island Bay (Birkdale) Progressive League (Incorporated), to use and occupy a Part of the Foreshore and Land below Low-water Mark at Island Bay, Birkdale, Auckland Harbour, as a Site for a Wharf, and prescribing Dues for its Use.*

GALWAY, Governor-General.

#### ORDER IN COUNCIL.

At the Government House at Wellington, this 10th day of April, 1940.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

**P**URSUANT to the Harbours Act, 1923, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, doth hereby license and permit the Island Bay (Birkdale) Progressive League (Incorporated) (hereinafter called "the licensees," which term shall include their successors and assigns unless the context requires a different construction), to use and occupy a part of the foreshore and land below low-water mark at Island Bay, Birkdale, Auckland Harbour, as shown on plans marked M.D. 4111 and 5959 and deposited in the office of the Marine Department at Wellington, for the purpose of erecting and maintaining thereon a wharf as shown on the said plans, such license to be held and enjoyed by the licensees 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 licensees for the use of the said wharf.

#### FIRST SCHEDULE.

##### 1. In these conditions the terms—

- "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 plans marked M.D. 4111 and 5959.