

ing southerly along the eastern boundary of the said part Section 328 to the northern boundary of the New Plymouth - Wellington railway; thence westerly along that boundary and its production to the western side of Oturi Road; thence northerly along that side to the northern boundary of the said railway west of Oturi Road; thence generally westerly along that boundary to its intersection with the southern boundary of Lot 4, D.P. 1827, being a point on the boundary of the Waverley Town District aforesaid; thence easterly along that boundary to the point of commencement.

T. J. SHERRARD, Clerk of the Executive Council.
(I.A. 176/28)

Licensing Hydraulic Sand Dredging Ltd. to Take Material from the Foreshore and Land Below Low-water Mark in Porirua Harbour

BERNARD FERGUSSON, Governor-General
ORDER IN COUNCIL

At the Government Buildings at Wellington this 9th day of December 1963

Present:

THE RIGHT HON. KEITH HOLYOAKE, C.H., PRESIDING IN COUNCIL
PURSUANT to the Harbours Act 1950, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby grants Hydraulic Sand Dredging Ltd. (hereinafter called the Company, which term shall include its successors or assigns unless the context requires a different construction) the exclusive right to dredge sand, shingle, silt, and other like material (hereinafter referred to as material), from all those areas of foreshore and land below low-water mark described in the First Schedule hereto, subject to the terms and conditions set out in the Second Schedule hereto.

FIRST SCHEDULE

ALL those areas of foreshore and land below low-water mark in Porirua Harbour cross hatched and marked "A", "B", and "C" on plan marked M.D. 11621 deposited in the office of the Marine Department at Wellington.

SECOND SCHEDULE

1. In these conditions the term:
 - "Foreshore" means such parts of the bed, shore, or banks of the Porirua Harbour 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 in the Shipping and Seamen Act 1952, and includes any officer, person, or authority acting by or under the direction of such Minister.
2. The rights, powers, and privileges conferred by this licence shall:
 - (a) Extend and apply only to such parts of the foreshore and land below low-water mark specified in the First Schedule hereto as are necessary for the purpose of this licence;
 - (b) In respect of area "C" be subject to licences and permits granted, deemed to be, or that may be, granted to any person pursuant to sections 162, 164, or 165 (3) of the Harbours Act 1950.
3. The Company shall:
 - (a) Commence its dredging operations hereunder on area "A"; and
 - (b) Accept directions by the Ministry of Works from time to time as to the points and depths of dredging on areas "A", "B", and "C".
4. In consideration of the rights, powers, and privileges conferred by this licence, the Company shall pay to the Minister:
 - (a) A deposit of £100 per annum to be applied as hereinafter provided, the first of such payments to be made three months after the date of commencing dredging operations and subsequent payments on the 1st day of September in each year of the term of this licence, and
 - (b) A royalty at the rate of 6d. per cubic yard on all marketable material which is actually sold.
5. If in any year of the term of this licence the Company fails to dredge any material the deposit hereinbefore referred to shall be appropriated by the Minister as if flat rent in respect of that year; but if during any year the Company dredges any material the said deposit shall be applied during the last quarter of that year as royalty prepaid and as to any balance towards the deposit for the next year, but so that the minimum annual amount payable as royalty and/or flat rent in each year of the term of this licence shall be £100.
6. The Company shall keep a strictly accurate record of all material dredged whether from above or below low-water mark and of all material sold and shall submit same for inspection, within seven days after the end of June, September, December, and March, to the Marine Department at Wellington, and shall within the same time pay to the Department the amount of any royalty due.

7. All persons in the service of the Government acting in the execution of their duties shall at all reasonable times have the right to inspect the workings, plant, and dumps being operated by the Company.

8. Nothing herein contained shall be deemed to authorise the Company to do or suffer or cause to be done anything in breach of or repugnant to or inconsistent with any law relating to the Customs or any regulation of the Minister of Customs or any provisions of the Harbours Act 1950, or its amendments, or any regulation including the General Harbour Regulations 1954 that are now or may hereafter be in force in respect of the Porirua Harbour, and the Company shall at all times strictly observe all such laws and regulations.

9. The Company shall place and maintain in position at all times such buoys and/or markers as may be required by the Marine Department for outlining the areas specified in the First Schedule hereto during dredging operations.

10. If at any time any area of foreshore or land below low-water mark should, in the opinion of the Minister, be dredged in preference or priority to that delineated in the First Schedule hereto the Minister may direct the Company accordingly and the Company shall without delay comply with such direction.

11. Any historical relics, Maori artifacts, or items of archaeological interest dredged, unearthed, or found by the Company in connection with its dredging operations shall remain the property of the Crown and be handed in to the Marine Department.

12. Before commencing dredging operations the Company shall give public notice in a newspaper circulating in the district of its intention to do so and shall give the Marine Department at least two weeks' written notice of the date on which it proposes to commence dredging operations.

13. If at any time during the term of this licence less than 5,000 cu. yd. of material have been dredged during the preceding six months, this licence may be cancelled by one week's notice to the Company.

14. (a) The rights, powers, and privileges conferred by this licence shall be deemed to have terminated on the 1st day of March 1964 if no material has been dredged by the Company hereunder before that date, but otherwise shall continue in force for a term of five years from the date on which the Company commences dredging operations unless in the meantime the licence or any of such rights, powers, and privileges are altered, modified, or revoked by competent authority.

(b) If the Company shall, throughout such term of five years, faithfully observe and perform all and singular the conditions hereof and shall during the last year of such term apply for a renewal of this licence, then, on payment to the Minister of a sum of £2 10s.; the Governor-General shall, by Order in Council, grant to the Company a licence for a further term of five years on the terms and conditions hereof (except this present right of renewal) or as altered or modified by competent authority.

15. The Company shall not assign, charge, or part with this licence or with the rights, powers, or privileges hereby conferred, or any of them, without the written consent of the Minister first obtained, which consent it shall be in the absolute discretion of the Minister to grant unconditionally or to grant subject to such conditions as he thinks fit or to refuse.

16. If at any time, in the opinion of the Minister, the dredging of material pursuant to this licence causes or aggravates, or is likely to cause or aggravate, sea erosion, he may require the Company to discontinue the dredging of material from all or any part of the foreshore and land below low-water mark included in this licence, or may regulate the removal of it, and the Company shall without delay comply with any such requisition or regulation.

17. The Company shall not commit or suffer to be committed unnecessary waste or damage in or on the said foreshore and land below low-water mark or any part thereof in exercise of the rights, powers, and privileges hereby granted.

18. Neither the granting of this licence nor anything herein contained shall affect the liability of the Company for any injury to persons or damage to property arising out of the Company's operations under this licence and the Company shall indemnify Her Majesty the Queen and the Minister against liability for any such injury or damage.

19. In case the Company or any permitted assign shall:

(a) Commit or cause or suffer to be committed a breach of the conditions hereinbefore set forth, or any of them, or fail to comply with any direction, requisition, or regulation hereunder;

(b) Enter into any voluntary or compulsory liquidation, or if any receiver be appointed on behalf of debenture holders or otherwise, or become bankrupt or make a composition with his creditors or in any manner be brought under the operation of any Act for the time being in force relating to bankruptcy;

(c) Make default for a period of 30 days after due date, in payment of any sum of money payable to the Minister hereunder;

then and in any such case this licence may be determined by the Minister by one week's written notice to the Company.

20. Whenever any power may be exercised or any notice given or act or thing done or performed by the Minister in respect of this licence it shall be sufficient if such power is exercised, notice given, or act or thing done by someone acting by or under the special or general direction of the Minister.