

Licensing the Kauri Timber Company (Limited) to use and occupy a Part of the Foreshore of the Whitianga Harbour as a Wharf-site, and fixing Wharfage Dues.

JELlicoe, Governor-General.

ORDER IN COUNCIL.

At the Government Buildings at Wellington, this 10th day of January, 1921.

Present :

THE RIGHT HONOURABLE W. F. MASSEY, P.C., PRESIDING IN COUNCIL.

WHEREAS, there being no Harbour Board empowered to grant the license hereinafter mentioned, the Kauri Timber Company (Limited), of Auckland (hereinafter called "the company"), did, in the year one thousand nine hundred and one, apply to the Governor in Council for a license under the Harbours Act Amendment Act, 1883 (hereinafter called "the said Act"), to occupy a part of the foreshore and land below low-water mark adjacent thereto of Whitianga Harbour, Mercury Bay, in order to erect and maintain a wharf thereon; and, in accordance with the one-hundred-and-fifty-sixth section of the Harbours Act, 1878, deposited plans (two sheets) in the office of the Marine Department at Wellington (marked M.D. 2493), showing the place where it was intended to construct such wharf, the area of foreshore and land below low-water mark intended to be occupied for such purpose, and the manner in which it was proposed to carry out the work :

And whereas, it having been made to appear to the Governor in Council that the proposed work would not be or tend to the injury of navigation, and the said plans having been, prior to the making of the Order in Council granting the license, approved by the Governor in Council, a license under the said Act, for the purpose aforesaid, was, on the eighteenth day of December, one thousand nine hundred and one, granted and issued to the company, on the terms and conditions therein expressed, for a period terminating on the eighteenth day of December, one thousand nine hundred and fifteen :

And whereas by Order in Council dated the fourth day of January, one thousand nine hundred and sixteen, and published in the *New Zealand Gazette* No. 2, of the thirteenth day of the same month, the company was licensed to occupy the said part of the foreshore and land below low-water mark adjacent thereto for a further period of five years from the date of the expiry of the license first hereinbefore mentioned :

And whereas the company has made application for a license under the Harbours Act, 1908, to occupy the said foreshore and land below low-water mark for the purpose aforesaid for a further period of two years from the date of expiry of the hereinbefore-mentioned license of the fourth day of January, one thousand nine hundred and sixteen, and it is expedient to grant the same subject to the terms and conditions herein-after expressed :

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority vested in him by the Harbours Act, 1908, and of all other powers and authorities enabling him in that behalf, and by and with the advice and consent of the Executive Council of the said Dominion, doth hereby approve of the object for which the said license is required by the company as aforesaid; and, in further pursuance and exercise of the said power and authority, and with the like advice and consent as aforesaid, doth hereby license and permit the company to use and occupy that part of the foreshore, and land below low-water mark adjacent thereto, on which the wharf is erected, as shown on the plans so deposited as aforesaid, for the purpose of maintaining the said wharf thereon, such license to be held and enjoyed by the company upon and subject to the terms and conditions set forth in the First Schedule hereto; and further, with the like advice and consent as aforesaid, and in pursuance and exercise of the power conferred by the Harbours Act, 1908, doth hereby prescribe that the dues and rates set forth in the Second Schedule hereto shall be charged and taken for the use of the said wharf.

FIRST SCHEDULE.

1. In these conditions the term "Minister" means the Minister having charge of the Marine Department, 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, occupied by the said wharf, as shown on plans marked M.D. 2493.

3. In consideration of the concessions and privileges granted by this Order in Council, the company shall, on being supplied with a copy thereof, pay to the Minister the sum of £2 10s.,

and thereafter an annual sum of £10, dating from the eighteenth day of December, one thousand nine hundred and twenty, the first of such annual payments to be made on the company being supplied with a copy of this Order in Council.

4. All persons shall, at all reasonable times, upon payment of the 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 times have free ingress, passage, and egress into, through, and out of the said wharf without payment.

6. The company shall maintain the above-mentioned wharf in good order and repair, and shall at all times exhibit therefrom and maintain at its 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 wharf and view the state of repair thereof; and upon such Minister leaving at or posting to the last known address of the company in New Zealand a notice in writing of any defect or want of repair in such wharf, requiring it, within a reasonable time, to be therein specified, to repair the same, it shall with all convenient 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, 1908, or its amendments, or any regulations made thereunder, and that are now or may hereafter be in force.

9. The ballast of all vessels loading at the said wharf shall be taken away by the company 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 to be in force for two years from the eighteenth day of December, one thousand nine hundred and twenty, 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 previous written consent of the Minister first obtained.

11. The said rights, powers, and privileges may be at any time resumed by the Governor-General, 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 address of the company in New Zealand.

12. The company shall be liable for any injury which the said wharf may cause any vessel or boat to sustain through any default or neglect on its 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 wharf for a period of thirty days;
- (3.) Be in any manner wound up or dissolved; or
- (4.) Fail to pay the sums specified in clause 3 of these conditions,—

then and in any of the said cases this Order in Council, and every right, power, or privilege may be revoked and determined by the Governor-General in Council without any notice to the company or other proceeding whatsoever; and publication in the *New Zealand 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.

SECOND SCHEDULE.

THE dues and rates hereby prescribed shall apply to the wharf so constructed as aforesaid:—

On every vessel under 20 tons register lying alongside the wharf, for each day or part of a day ..	s. d.
On every vessel under 20 tons register, for every day or part of a day that such vessel lies alongside a vessel lying at the wharf ..	1 0
On every vessel under 20 tons register undergoing repairs or fitting out alongside the wharf, or lying off the wharf with a line attached thereto, per day or part of a day ..	0 6
On every vessel of 20 tons register and upwards lying alongside the wharf, per ton per day or part of a day ..	0 6
Minimum charge on every sailing-vessel of 20 tons register and upwards lying alongside the wharf, per day or part of a day ..	0 0½
Minimum charge on every sailing-vessel of 20 tons register and upwards lying alongside the wharf, per day or part of a day ..	1 0