

Licensing Leo Austin Walsh, Vivian Claud Walsh, and Reuben Arthur Dexter to use and occupy a Part of the Foreshore and Land below Low-water Mark at Kohimarama, Hauraki Gulf, as a Site for a Slipway and Aviation-ground.

JELlicoe, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 29th day of October, 1924.

Present :

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS by Order in Council dated the fifteenth day of December, one thousand nine hundred and nineteen, and published in the *New Zealand Gazette* No. 1, of the eighth day of the following month, Leo Austin Walsh, Vivian Claud Walsh, and Reuben Arthur Dexter (who with their executors, administrators, and assigns are hereinafter referred to as "the licensees"), were licensed to use and occupy a part of the foreshore and land below low-water mark at Kohimarama, Hauraki Gulf, as shown on plan marked M.D. 4742, and deposited in the office of the Marine Department at Wellington, in order to carry out the duties of an aviation-school, and maintain thereon a slipway constructed in accordance with plan marked M.D. 4728 so deposited as aforesaid for a term of five years computed from the twelfth day of August, one thousand nine hundred and nineteen: And whereas the said license having expired, the licensees have made application for a fresh license under the Harbours Act, 1923 (hereinafter called "the said Act"), for a further term of five years computed from the twelfth day of August, one thousand nine hundred and twenty-four: And whereas it is expedient that a license should be granted and issued to the licensees under the said Act, for the purpose aforesaid, on the terms and conditions hereinafter 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 said Act, and of all other powers and authorities enabling him in that behalf, and acting by and with the advice and consent of the Executive Council of the said Dominion, doth hereby approve of the purpose or object for which the said license is required by the licensees 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 licensees to use and occupy that part of the foreshore and land below low-water mark adjacent thereto, as shown in red on plan marked M.D. 4742 so deposited as aforesaid, for the purpose of maintaining the slipway thereon; such license to be held and enjoyed by the licensees upon and subject to the terms and conditions set forth in the Schedule hereto.

SCHEDULE.

1. In these conditions the term—
 - "Foreshore" means such part 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, as shown in red on plan marked M.D. 4742.
3. In consideration of the concessions and privileges granted by this Order in Council, the licensees shall pay to the Minister the sum of £2 10s., and thereafter an annual sum of £2 10s. in advance, payable on the 1st day of April in each year, the proportionate part of such rental in respect of the period from the date hereof until the 31st day of March following to be paid on the licensees being supplied with a copy of this Order in Council.
4. The licensees shall erect at high-water mark at the points marked "A" and "B" on the plan marked M.D. 4742 notice-boards with the following notice on both sides:—

NOTICE.

DANGER.

PERSONS are warned against passing this notice while a RED FLAG is flying from the flagpole in the Aviation School grounds.

By order of the Marine Department.

5. Preparatory to flights, and during flights and landing of seaplanes, the licensees shall cause a red flag to be flown from the flagpole at the hangar.

6. 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, over, and out of the said slipway without payment.

7. The licensees shall maintain the above-mentioned slipway in good order and repair, and shall at all times exhibit therefrom, and maintain at the licensees' 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.

8. Any person authorized by the Minister may, at all reasonable times, enter upon the said slipway and view the state of repair thereof; and upon such Minister leaving at or posting to the last known address of the licensees in New Zealand a notice in writing of any defect or want of repair in such slipway requiring the licensees, within a reasonable time, to be therein prescribed, to repair the same, the licensees shall with all convenient speed cause such defect to be removed or such repairs to be made.

9. Nothing herein contained shall authorize the licensees 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.

10. The rights, powers, and privileges conferred by or under this Order in Council shall continue to be in force for five years from the 12th day of August, 1924, unless in the meantime such rights, powers, and privileges shall be altered, modified, or revoked by competent authority; and the licensees 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, and the licensees may be required to remove the slipway at the licensees' cost, without payment of any compensation whatever, on giving to the licensees 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 licensees in New Zealand.

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

13. In case the licensees 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 slipway for a period of thirty days;
- (3.) Become bankrupt, or be in any manner brought under the operation of any Act for the time being in force relating to bankruptcy; 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 thereby conferred, may be revoked and determined by the Governor-General in Council, without any notice to the licensees 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 licensees, 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 licensees shall, if required by the Minister so to do, remove the said slipway entirely from the site and restore the site to its original condition within three months from the date of revocation or expiry, as the case may be; and, if the licensees fail so to do, the Minister may cause the said slipway to be removed and the site so restored, and may recover the costs incurred by the said removal and restoration from the licensees.

F. D. THOMSON,
Clerk of the Executive Council.