

Licensing the Great Barrier Island County Council to use and occupy Parts of the Foreshore and Land below Low-water Mark in Tryphena Harbour, Great Barrier Island, as a Site for a Wharf, and prescribing Dues to be charged and taken for the use of the said Wharf.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of October, 1935.

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 license and permit the Great Barrier Island County Council (hereinafter called "the Council," which term shall include 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 in Tryphena Harbour, Great Barrier Island, shown on plan marked M.D. 7376, and deposited in the office of the Marine Department at Wellington, for the purpose of the use of the wharf as shown on the said plan for a term of fourteen years computed from the date hereof, such license to be held and enjoyed by the Council upon and subject to the terms and conditions set forth in the Schedule hereto, and doth hereby prescribe that the dues prescribed to be charged and taken for the use of the wharves at Port Fitzroy and Whangaparapara by Order in Council dated the eleventh day of April, one thousand nine hundred and twenty-four, shall apply to the said wharf.

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.
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 with such wharf in good order and repair.
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 master 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 account of the receipts and expenditure on account of such wharf and premises, and shall cause such account 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 date hereof, 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.

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

Licensing A. W. Bryant, Ltd., of Auckland, to occupy Part of the Land below Low-water Mark at Whangapoua for the Purpose of taking Sand.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of October, 1935.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS there being no Harbour Board empowered to grant the license hereinafter mentioned, A. W. Bryant, Ltd., of Auckland (which, with its successors and assigns, is hereinafter called "the company"), has applied to the Governor-General in Council for a license under the Harbours Act, 1923 (hereinafter called "the said Act"), to use and occupy parts of the land below low-water mark as specified in the Schedule No. 1 hereto for the purpose of taking away the sand deposited thereon; and, in accordance with the provisions of the said Act, has deposited a plan in the office of the Marine Department at Wellington (marked M.D. 6775) showing, coloured red, the area of land below low-water mark intended to be occupied for such purpose: