

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 Council shall, if required by the Minister so to do, remove the said jetty 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 jetty to be removed and the site so restored and may recover from the Council the cost incurred by the said removal and restoration.

SECOND SCHEDULE.

REGULATIONS.

1. No person shall fish off the said jetty at Mount Pleasant, Sumner Harbour, hereinbefore referred to.
2. No person shall ride a bicycle on the said jetty.
3. Any person committing a breach of these regulations is liable to a fine not exceeding £5.

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

Licensing Adolphus Loughlin O'Brien and Eugene Gerald O'Brien to use and occupy a Part of the Foreshore and Land below Low-water Mark of Omaha Bay, Waiheke Island, as a Site for a Wharf.

GALWAY, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 21st day of January, 1937.

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 Adolphus Loughlin O'Brien and Eugene Gerald O'Brien (hereinafter called "the licensees," which term shall include their executors, administrators, 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 shown on plan marked M.D. 5597, 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 nineteenth day of December, one thousand nine hundred and thirty-six, 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 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 that part of the foreshore and land below low-water mark necessary for the maintenance of the wharf as shown on plan M.D. 5597.
3. In consideration of the concessions and privileges granted by this Order in Council, the licensees shall pay to the Minister the sum of £1, and thereafter an annual sum of £2 in advance, payable on the 1st day of April in each year, the proportionate part of such annual rental in respect of the period from the 19th day of December, 1936, until the 31st day of March following to be paid on the licensees being supplied with a copy of this Order in Council.
4. All persons shall at all reasonable times, and upon payment of the proper dues, have free and full liberty to use the said wharf and all rights of ingress and egress thereto 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, over, and out of the said wharf without payment.

6. The licensees shall maintain the above-mentioned wharf in good order and repair, and shall at all times exhibit therefrom, and maintain at the licensees' own cost, suitable and necessary lights: 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 licensees in New Zealand a notice in writing of any defect or want of repair in such wharf, 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.

8. 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.

9. The master of each vessel 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 by the Minister or by any person appointed by the Minister for that purpose.

10. The rights, powers, and privileges conferred by this Order in Council shall continue in force for fourteen years from the 19th day of December, 1936, 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 wharf at the licensees' own cost, without payment of any compensation whatever, on giving to the licensee 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 wharf 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 wharf for a period of thirty consecutive days;
 - (3) Fail to pay the sums specified in clause 3 of these conditions; or
 - (4) Become bankrupt or be brought under the operation of any law for the time being in force relating to bankruptcy—

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 licensees or other proceedings whatsoever; and publication in the *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 rights and privileges thereby 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 wharf 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 wharf to be removed and the site so restored, and may recover from the licensees the costs incurred by the said removal and restoration.

15. The occupation of the wharf shall be deemed to be an acceptance by the licensees of the conditions of this Order in Council.

SECOND SCHEDULE.

BERTHAGE.

EVERY person who shall use the said wharf with any vessel shall pay for the use thereof as follows, that is to say—
For every vessel a sum of 1d. per ton on the gross tonnage of such vessel per day for each day or part of a day a vessel shall occupy a berth alongside the wharf, or alongside any vessel lying at the wharf, or shall lie off the said wharf with a line attached thereto.