

**Reprint  
as at 22 September 2011**



**National Water Conservation (Te  
Waihora/Lake Ellesmere) Order  
1990**

(SR 1990/155)

Order name: amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Paul Reeves, Governor-General

**Order in Council**

At Wellington this 2nd day of July 1990

Present:

His Excellency the Governor-General in Council

Pursuant to section 20D of the Water and Soil Conservation Act 1967, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following order.

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

**This order is administered by the Ministry for the Environment.**

## Contents

	Page
1 Title and commencement	2
2 Interpretation	2
3 Outstanding features	3
4 Restriction on lake openings and closings	3
5 Right to dam or to drain land not to be granted	4
6 Restriction on grant of water rights	5
7 Scope of this order	6

## Order

### 1 Title and commencement

- (1) This order may be cited as the National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990.
- (2) This order shall come into force on the 28th day after the date of its notification in the *Gazette*.

Clause 1(1): amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

### 2 Interpretation

In this order, unless the context otherwise requires,—

**Act** means the Resource Management Act 1991

**lake level** means the water level measured in calm conditions as determined by taking the mean average of the level recorded by the Canterbury Regional Council at its water level recorder at or about Nutts Cut (map reference NZTopo50 BX24: 682 557) and either one of the levels recorded by the Canterbury Regional Council at its manual or telemetered records at or about Taumutu (map reference NZTopo50 BY23: 498 443 or NZTopo50 BY23: 499 448):

provided that the Canterbury Regional Council may, at its discretion and when necessary due to windy conditions, estimate the reading which would have been obtained in calm conditions

**m.s.l.** means the elevation in metres above 1937 Lyttelton vertical datum

**Te Waihora/Lake Ellesmere** means that variable body of water commonly known as Lake Ellesmere, otherwise known as Te Waihora, located at and about map reference Infomap 242–3 170°20', 43°4', and having an area of about 20 000 hectares.

Clause 2 **Act**: amended, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 2 **Lake Ellesmere**: revoked, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 2 **lake level**: substituted, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 2 **m.a.s.l.**: revoked, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 2 **m.s.l.**: added, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 2 **Te Waihora/Lake Ellesmere**: added, on 22 September 2011, by clause 5 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

### **3 Outstanding features**

It is hereby declared that Te Waihora/Lake Ellesmere has or contributes to the following outstanding amenity or intrinsic values which warrant protection:

- (a) habitat for wildlife, indigenous wetland vegetation and fish; and
- (b) significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries.

Clause 3: substituted, on 22 September 2011, by clause 6 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

### **4 Restriction on lake openings and closings**

- (1) Subject to subclause (2), because of the outstanding features specified in clause 3, a resource consent shall not be granted under sections 9, 12 and 14 of the Act allowing Te Wai-

hora/Lake Ellesmere to be artificially opened to the sea or artificially closed from the sea.

- (2) A resource consent may be so granted—
- (a) to allow the lake to be artificially opened to the sea whenever the lake level—
    - (i) exceeds 1.05 m.a.s.l. during any period commencing on 1 August and ending with 31 March next following; or
    - (ii) exceeds 1.13 m.a.s.l. during any period commencing on 1 April and ending with 31 July next following;
  - (b) to allow the lake to be artificially opened to the sea at any time during any period commencing on 15 September and ending with 15 October next following;
  - (c) to allow the lake to be artificially opened to the sea at any time during the period commencing on 1 April and ending with 15 June next following;
  - (d) to allow the lake to be artificially closed from the sea whenever the lake level is below 0.6 m.a.s.l. during any period commencing on 1 October and ending with 31 March next following.

Clause 4(1): amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 4(1): amended, on 22 September 2011, by clause 7(1) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 4(2): amended, on 22 September 2011, by clause 7(2) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 4(2)(c): inserted, on 22 September 2011, by clause 7(3) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 4(2)(d) paragraph number: substituted, on 22 September 2011, by clause 7(4) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

## **5 Right to dam or to drain land not to be granted**

- (1) Subject to subclauses (2) to (4), because of the outstanding features specified in clause 3, a resource consent shall not be granted under sections 9, 13 and 14 of the Act allowing the

damming, stopbanking, polderisation, or drainage of any part of Te Waihora/Lake Ellesmere where the lake bed is below 1.20 m.s.l. in elevation.

- (2) A resource consent to polderise for fish-farming or for research into fisheries may be so granted if there is no significant impact on the outstanding features of Te Waihora/Lake Ellesmere specified in clause 3.
- (3) A resource consent may be so granted for any stopbanks, drains, and other uses of water which existed on 27 June 1986.
- (4) A resource consent may be so granted for works associated with the maintenance of those outlets of rivers, streams, and drains, and of those stopbanks, which existed on 27 June 1986.

Clause 5(1): amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(1): amended, on 22 September 2011, by clause 8(1) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(1): amended, on 22 September 2011, by clause 8(2) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(2): amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(2): amended, on 22 September 2011, by clause 8(3) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(3): amended, on 22 September 2011, by clause 8(3) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 5(4): amended, on 22 September 2011, by clause 8(3) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

## **6 Restriction on grant of water rights**

- (1) A resource consent shall not be granted under sections 9, 12, 13 and 14 of the Act in respect of the waters of Te Waihora/Lake Ellesmere if the effect of such a right or authorisation would be that the provisions of this order could not be observed without those provisions being changed or varied.
- (2) Notwithstanding anything in this order, it shall be lawful for a resource consent to be so granted for research into and en-

hancement of, habitat for wildlife, indigenous wetland vegetation and fish, and significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries.

Clause 6(1): amended, on 22 September 2011, by clause 4 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 6(1): amended, on 22 September 2011, by clause 9(1) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Clause 6(2): substituted, on 22 September 2011, by clause 9(2) of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

## **7 Scope of this order**

Nothing in this order shall be construed as limiting the effect of sections 14(3)(b) and (e) of the Act relating to the use of water for domestic needs, for the needs of animals, and for or in connection with fire-fighting purposes.

Clause 7: amended, on 22 September 2011, by clause 10 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

Marie Shroff,  
Clerk of the Executive Council.

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## **Explanatory note**

*This note is not part of the order, but is intended to indicate its general effect.*

This order declares that Te Waihora/Lake Ellesmere provides or contributes to an outstanding habitat for wildlife, indigenous wetland vegetation and fish, and significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries.

The order also includes various provisions to preserve and protect the habitat of wildlife, indigenous wetland vegetation and fisheries,

Reprinted as at **National Water Conservation (Te  
22 September 2011 Waihora/Lake Ellesmere) Order 1990**

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and significance in accordance with tikanga Māori in respect of Ngāi Tahu history, mahinga kai and customary fisheries.

Explanatory note: substituted, on 22 September 2011, by clause 11 of the National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order 2011 (*Gazette* 2011, p 3823).

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Issued under the authority of the Acts and Regulations Publication Act 1989.  
Date of notification in *Gazette*: 5 July 1990.

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**Contents**

- 1 General
  - 2 Status of reprints
  - 3 How reprints are prepared
  - 4 Changes made under section 17C of the Acts and Regulations  
Publication Act 1989
  - 5 List of amendments incorporated in this reprint (most recent  
first)
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**Notes****1 General**

This is a reprint of the National Water Conservation (Te Waihora/Lake Ellesmere) Order 1990. The reprint incorporates all the amendments to the order as at 22 September 2011, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

**2 Status of reprints**

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

**3 How reprints are prepared**

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked



are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

#### **4 Changes made under section 17C of the Acts and Regulations Publication Act 1989**

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted. A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
  - indentation
  - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)

- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
  - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
  - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)
- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

**5** *List of amendments incorporated in this reprint  
(most recent first)*

National Water Conservation (Te Waihora/Lake Ellesmere) Amendment Order  
2011 (*Gazette* 2011, p 3823)

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