

Reprint 3 September 2007

National Water Conservation (Lake Ellesmere) Order 1990
(SR 1990/155)

Note

This order is administered in the Ministry for the Environment.

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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1 Title and commencement

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

2 Interpretation

- (1) In this order, unless the context otherwise requires,—
Act means the Water and Soil Conservation Act 1967
Lake Ellesmere means that variable body of water commonly known as Lake Ellesmere, otherwise known as Waihora, located at and about map reference NZMS 262 13:468714, and having an area of about 20,000 hectares
Lake level means the water level measured in calm conditions by the recorder at Taumutu (map reference NZMS 260 M37:599064) maintained by the Canterbury Regional Council 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.a.s.l. means the elevation in metres above 1988 mean sea level at the Port of Lyttelton.

3 Outstanding features

- It is hereby declared that Lake Ellesmere provides an outstanding wildlife habitat.

4 Restriction on lake openings and closings

- (1) Subject to subclause (2) of this clause, because of the outstanding features specified in clause 3 of this order, a water right shall not be granted under section 21 of the Act and a

general authorisation shall not be made under section 22 of the Act allowing Lake Ellesmere to be artificially opened to the sea or artificially closed from the sea.

(2) A water right 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 the 1st day of August and ending with the 31st day of March next following; or
 - (ii) Exceeds 1.13 m.a.s.l. during any period commencing on the 1st day of April and ending with the 31st day of July next following;
- (b) To allow the lake to be artificially opened to the sea at any time during any period commencing on the 15th day of September and ending with the 15th day of October next following
- (c) 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 the 1st day of October and ending with the 31st day of March next following.

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

- (1) Subject to subclauses (2) to (4) of this clause, because of the outstanding features specified in clause 3 of this order, a water right shall not be granted under section 21 of the Act and a general authorisation shall not be made under section 22 of the Act allowing the damming, stopbanking, polderisation, or drainage of any part of Lake Ellesmere where the lake bed is below 1.13 m.a.s.l. in elevation.

(2) A water right 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 Lake Ellesmere specified in clause 3 of this order.

(3) A water right may be so granted for any stopbanks, drains, and other uses of water which existed on the 27th day of June 1986.

(4) A water right 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 the 27th day of June 1986.

6 Restriction on grant of water rights

- (1) A water right shall not be granted under section 21 of the Act and a general authorisation shall not be made under section 22 of the Act in respect of the waters of 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 water right to be so granted for research into, and enhancement of, wildlife habitats.

7 Scope of this order

- Nothing in this order shall be construed as limiting the effect of the second proviso to section 21(1) 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.

MARIE SHROFF,
Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in Gazette: 5 July 1990.