

An application for a
National Water
Conservation Order

in respect of

LAKE

WAIRARAPA

NEW ZEALAND ACCLIMATISATION SOCIETIES

INTRODUCTION

Lake Wairarapa and its associated marshlands, swamps and lagoons, has long been recognised as a highly productive wetland ecosystem by conservation interests and recreational hunters. However over the past twenty years the extent of the associated wetlands has been greatly reduced by land drainage, and conversion to pastoral farmland. While the majority of the indigenous peripheral wetlands still remaining are now either fully protected, or in the process of being fully protected by formal reserve status, the lake that comprises the most integral part of this outstanding wetland complex has no formal protection.

The Lake Wairarapa wetland complex meets six of the eight criteria set down by the International Union for the Conservation of Nature and Natural Resources (IUCN) that signify wetlands of international importance. Any one of these criteria is considered sufficient to warrant a wetland being accorded this distinction.

The passing of the Water and Soil Conservation Amendment Act 1981 has made it possible for this outstanding wildlife habitat and recreational hunting area to be given statutory protection for all time. The size of Lake Wairarapa, the nature and productivity of the habitat it provides, and its geographic position in relation to the few remaining large fresh water wetland complexes elsewhere in New Zealand, require that it receive nothing less than the formal protective status possible under this particular statute.

The following formal application for a National Water Conservation Order for Lake Wairarapa covers an area of approximately 7,800 hectares falling entirely within the district administered by the Wellington Acclimatisation Society. This application has been made by the New Zealand Acclimatisation Societies with the support of the Department of Internal Affairs and the Royal Forest and Bird Protection Society, both of which will be providing substantive evidence in support of the proposed National Water Conservation Order in due course.

FORMAL APPLICATION

WATER AND SOIL CONSERVATION ACT 1967: APPLICATION BY THE WELLINGTON
ACCLIMATISATION SOCIETY, THE COUNCIL OF NORTH ISLAND ACCLIMATISATION
SOCIETIES AND THE NATIONAL EXECUTIVE OF NEW ZEALAND ACCLIMATISATION
SOCIETIES PURSUANT TO SECTION 20.A FOR A NATIONAL WATER CONSERVATION ORDER

TO: The Minister of Works and Development

1. THE WELLINGTON ACCLIMATISATION SOCIETY, THE COUNCIL OF NORTH ISLAND
ACCLIMATISATION SOCIETIES, AND THE NATIONAL EXECUTIVE OF NEW ZEALAND
ACCLIMATISATION SOCIETIES (hereafter collectively referred to as the
Applicant) being statutory bodies specifically constituted under
the Wildlife Act 1953 which all individually have functions, powers
and duties related to and affected by aspects of water conservation
HEREBY SEVERALLY APPLY for the making of a NATIONAL WATER CONSERVATION
ORDER in respect of Lake Wairarapa on the terms specified below.

2. THE APPLICANT FURTHER APPLIES FOR the said Order to be made on
the following terms:-
 - (a) The Order to be applied to Lake Wairarapa (approximate map
reference NZMS 260 Sheet S27 985 975) and all rivers and
streams contributing water to it, hereinafter referred to
as LAKE WAIRARAPA and generally shown in Figure 1 of this
application;

 - (b) The Order to preserve, pursuant to Section 20.D.2, LAKE WAIRARAPA
as far as possible in its natural state;

 - (c) The Order to protect, pursuant to Section 20.D.2, the outstanding
recreational and wildlife habitat features of LAKE WAIRARAPA.

 - (d) The Order to provide, pursuant to Sections 20.D.3. a. and b,
for the retention in its natural (present) state of the
quantity and level of natural water in Lake Wairarapa, and

the quantity and rate of flow of natural water in its contributing rivers and streams, because of the value of these waters for recreational and wildlife habitat purposes;

- (e) The Order to provide, pursuant to Section 20.D.3.d, for a minimum lake level to be sought for LAKE WAIRARAPA of 10.0 metres above datum on the Wairarapa Catchment Board Gauge at Western Lake, below which no artificial draw down of water shall be permitted;
- (f) The Order to provide, pursuant to Section 20.D.3.d, for a maximum lake level to be sought for LAKE WAIRARAPA of 10.3 metres above datum on the Wairarapa Catchment Board Gauge at Western Lake.
- (g) The Order to prohibit, pursuant to Section 20.D.4, the grant of any water rights to dam or divert water, or associated with embankments, polders or other works, which would interfere with the natural distribution of water within the area of LAKE WAIRARAPA defined by a contour of 10.3 metres above datum on the Wairarapa Catchment Board Gauge at Western Lake;
- (h) The Order to provide, pursuant to Section 20.D.3.d, for a prohibition on the granting of any right under Section 21 or 23 of the Act to dam any of the contributing rivers and streams of Lake Wairarapa.
- (i) The Order to impose, pursuant to Section 20.D.4:
 - (i) A condition, restricting the power of the Wairarapa Catchment Board and Regional Water Board and the Authority to grant any water right in accordance with Sections 21, 23 and 24 of the Act in respect of the waters of LAKE WAIRARAPA, and on the power of the Board to make a general authorisation in accordance with Section 22 of the Act in respect of the waters of LAKE WAIRARAPA, which contravenes any of the terms of this application;
 - (ii) And furthermore without restricting the generality of (i) above, a condition requiring the Wairarapa Catchment Board to operate the Lake Wairarapa Barrage Gate on the East-West Access Road in accordance with the terms of Sections 2.e. and 2.f. of this application, and in recognition of the recreational and wildlife habitat values of LAKE WAIRARAPA;

- (iii) Such further conditions, restrictions or prohibitions as may be appropriate to ensure the protection and preservation of the outstanding recreational and wildlife habitat features of LAKE WAIRARAPA.
3. THE APPLICANT FURTHER APPLIES FOR a special exemption to be made from the operation of the Order that allows the issue of any right in respect of natural water to any landowner whose property adjoins LAKE WAIRARAPA, for the purposes of domestic or stock water supply.
4. THE APPLICANT (and each of them) undertakes to supplement the information contained in this application in such a manner as may be required by the Minister pursuant to Section 20.A.2 of this Act.

DATED at Wellington this 19th day of October 1984

THE WELLINGTON ACCLIMATISATION SOCIETY
THE COUNCIL OF NORTH ISLAND ACCLIMATISATION SOCIETIES
THE NATIONAL EXECUTIVE OF NEW ZEALAND ACCLIMATISATION SOCIETIES

each by its authorised agent

WILLIAM BRYCE JOHNSON



William Bryce Johnson
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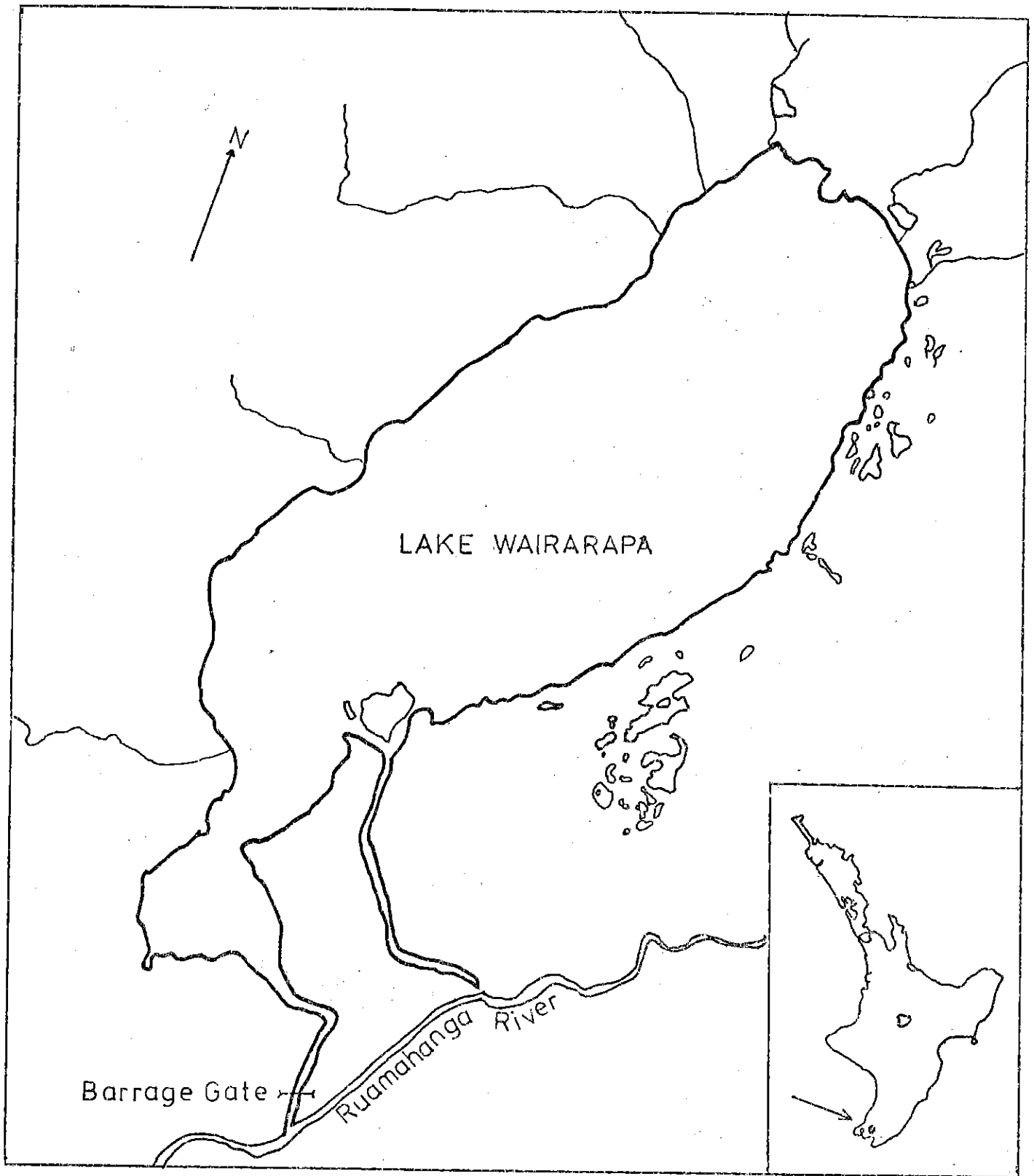


FIGURE 1: LAKE WAIRARAPA

1. GENERAL INTENTION OF THE APPLICATION

- 1.1 The formal application seeks to protect Lake Wairarapa in its natural (present) state, and ensure that the rivers and streams that contribute water to it are allowed to do so in their present manner. The present Lake Wairarapa wetland complex (the lake itself plus its associated wetlands) is dependent upon the quantity, quality and rate of flow of these inflows.
- 1.2 The application has been made to protect the wildlife habitat values of Lake Wairarapa, and the associated recreational values that relate to the statutory interests of the applicant. However the applicant is aware that both scientific and other recreational values exist for the lake and it is anticipated that these will become evident following the calling for of submissions and objections to the application in accordance with Section 20.F.2 of the Act.
- 1.3 To achieve the desired level of protection the applicant has stipulated two specific lake levels at which certain restrictions and prohibitions become operative. The upper lake level figure of 10.3 metres describes the lake edge within which no flood protection works are to be permitted. The lower lake level figure of 10.0 metres dictates the level below which artificial draw-down of the lake by use of the barrage gate on the East-West Access Road is not to be permitted. The application also requires the Wairarapa Catchment Board to manage the lake levels in a manner that duly recognises the recreational and wildlife habitat values of the lake.
- 1.4 Finally, and in recognition of the immediate and justifiable needs of adjoining landowners, the applicant has requested that a special provision be made to allow water rights to be issued to such persons for domestic or stock water supply.

2. STATUS OF THE APPLICANT

2.1 THE WELLINGTON ACCLIMATISATION SOCIETY is a body corporate specifically constituted by and under the Wildlife Act 1953. The Society's general powers and functions are set out in Section 30 of the Wildlife Act 1953 and (inter alia) include:-

- (a) The protection and preservation ... of all wildlife absolutely protected under the Act.
- (b) The protection and preservation ... of game and the prevention of any unnecessary diminution in the numbers of game or of any species of game.
- (c) All such functions and responsibilities in relation to freshwater fisheries as are imposed on (it) by the (now) Fisheries Act 1983 and regulations thereunder.

2.2 THE COUNCIL OF NORTH ISLAND ACCLIMATISATION SOCIETIES is a body corporate specifically constituted by the Council of North Island Acclimatisation Societies Regulations 1959 (1959/73) (being regulations made pursuant to Section 72 of the Wildlife Act 1953).

The functions and powers of the Council are set out in Regulation 5 and (inter alia) include:-

- (i) To deal with matters arising under the Wildlife Act 1953, (now) Fisheries Act 1983, or any other Act, or any regulations made under any such Act, which are of common interest to acclimatisation societies in the North Island:
- (ii) In matters of common interest to those societies to provide a liaison with the Departments of the Government of New Zealand charged with the administration of the Acts mentioned in paragraph (a) of this regulation:

(iii) To expend in the interests of freshwater fisheries money paid to the Council under any Act or regulations relating to freshwater fisheries:

(iv) Generally to promote the interests of acclimatisation societies in the North Island.

2.3 THE NATIONAL EXECUTIVE OF ACCLIMATISATION SOCIETIES is a body specifically constituted by the Minister of Internal Affairs in exercise of his general power pursuant to Section 41 of the Wildlife Act 1953.

The functions and powers of the National Executive are set out in paragraph 7 of The National Executive Authority 1979 as follows:-

(i) To co-ordinate promote and represent the national interests of the South Island Council and the North Island Council.

In view of the statutory and regulatory provisions referred to above the applicants (and each of them) have powers functions and duties which relate to or could be affected by any aspect of water conservation and are thus qualified to apply for a Water Conservation Order pursuant to Section 20A of the Water and Soil Conservation Act 1967.

3. MULTIPLE USE AND WATER RESOURCE MANAGEMENT

The multiple water use concept, promoted in the Water and Soil Conservation Act 1967, is supported by the New Zealand Acclimatisation Societies. However translation of this concept by water managers into water resource management practices has been the cause of considerable concern to this organisation. In the case of land management practices by landowners adjacent to lakes little consideration has generally been given to the effects of such activities on the ecology of the total lake complex. The encroachment of drained and developed land around lake margins has restricted natural water distribution and storage, and significantly altered water quality.

Ecological values supported by this finite natural water resource have therefore suffered a cumulative down-grading both regionally and nationally.

The significance of the 1981 Amendment to the Water and Soil Conservation Act (1967) to this organisation is therefore twofold. Firstly, it demonstrates Government's commitment to recognise and sustain the amenity afforded by waters in their natural state. Secondly, it provides a mechanism whereby the regional or national perspective becomes an essential component of water resource management decisions made by either regional water boards or the National Water and Soil Conservation Authority. The 1981 Amendment appears therefore to represent a move towards a national water resource management policy, a development which the acclimatisation societies fully endorse.

4. TREATMENT OF THIS APPLICATION AS A NATIONAL WATER CONSERVATION ORDER

In seeking to protect the recreational and wildlife values associated with Lake Wairarapa the Applicant believes this application warrants treatment as a national water conservation order for the following reasons:-

- 4.1 Section 20.D.2 of the Act requires that those features worthy of protection by a national water conservation order must be "outstanding". While the term 'outstanding' is given no specific interpretation under the Act it is the Applicant's case that 'national significance' can, for the purpose of this application, be held to be adequate justification for the values under consideration also being 'outstanding'. The section titled SUPPORTING EVIDENCE FOR A NATIONAL WATER CONSERVATION ORDER FOR LAKE WAIRARAPA will establish the national significance of the recreational and wildlife values associated with the lake.
- 4.2 The degree of protection available under the Act is tied to the status of the water conservation order obtained. It is the Applicant's view that such an association illogically complicates the interpretation of the Act and the implications this has for this application must be considered.

The Crown has shown considerable interest in recent years in reducing the size of Lake Wairarapa by establishing dykes (polders) within the lake to enable reclamation of land at present covered by lake water. Such a proposal is no longer being actively promoted but could be re-opened in future. It is therefore important to give immediate consideration at a national level to the preservation of the lake, so that the purposes of the 1981 amendment may be considered and dealt with, before they are compromised by any development proposals. Lake Wairarapa is one of the few remaining large and shallow freshwater lakes in New Zealand suitable for total protection, and such protection is possible only by way of a National Water Conservation Order.

- 4.3 The national significance of the recreational and wildlife values for which protection is sought, and indeed the extent of the possible Crown interest in the reclamation of lake bed, make it entirely appropriate that decisions relating to the allocation of this nationally important water resource be considered by the national water resource managers - the National Water and Soil Conservation Authority. Indeed a national overview in such matters as water resource conservation is the Authority's statutory responsibility.

5. SUPPORTING EVIDENCE FOR A NATIONAL WATER CONSERVATION ORDER FOR LAKE WAIRARAPA

The formal application for a National Water Conservation Order in respect of Lake Wairarapa has been made in favour of the recreational and wildlife habitat values of the lake, as they might relate to the statutory interests and responsibilities of the Applicant.

5.1 RECREATION

The recreational values for which protection through this particular application has been sought are those relating directly and indirectly to the wildlife habitat of Lake Wairarapa. However it should be noted that protection of the wildlife habitat does not automatically confer adequate protection on the perceived recreational values associated with that wildlife habitat - there is more to hunting and

bird-watching than shooting ducks and watching birds.

Application for protection of the recreational values associated with the wildlife habitat of Lake Wairarapa has therefore been made to recognise their related but independent status.

5.2 WILDLIFE

The wildlife values provided by Lake Wairarapa have been identified by the Wildlife Service of the Department of Internal Affairs as being of national and indeed international importance (Moore et al, 1984).

Eighty species of birds have been recorded from Lake Wairarapa and its associated wetlands between 1974 and 1983. Of these 80 species, 57 are birds found predominantly in wetlands. Twenty-four of the wetland bird species have resident populations at Lake Wairarapa and the remaining 33 species visit the wetlands for part of their life cycle (Moore loc.cit.) Apart from the Arctic migrants and the vagrants, the largest group of wetland birds are the 18 indigenous species, while a further 16 species are endemic. Only three are introduced species but these are waterfowl which are significant numerically. Thirteen species of Arctic migrant wading birds are regular summer residents at Lake Wairarapa.

As has been previously noted the Lake Wairarapa wetland complex meets six of the eight criteria set by the IUCN for identifying wetlands of international importance. Such wetlands need meet only one of these criteria to acquire this distinction. Of the 18 wetlands so identified on the New Zealand mainland (Owen, in Environmental Council (NZ) 1983) the Lake Wairarapa complex is the only one in the central and southern North Island. This geographic location also gives the complex a strategic importance as a staging area for wetland species moving between the North and South Island.

Protection of the wildlife values associated with Lake Wairarapa depend entirely upon the maintenance of habitat over the entire area of the lake. Specifically, that section of the lake comprising the eastern shallows from the Tauherenikau River mouth to Allsops Bay provides essential over-wintering (southern summer) grounds for a variety of trans-equatorial migrant wading birds, and habitat for a number of resident and internally migrant waders. This area also supports in excess of 20,000 waterfowl (Moore loc. cit.) principally mallard, grey and shoveler duck and black swan, for part or all of their annual cycle. However in excess of 50,000 waterfowl have been recorded in this section of the lake during peak waterfowl years.

Allsops Bay and the western portion of the lake is important for waterfowl breeding and brood rearing, feeding and moulting. This area is of particular importance to paradise shelduck, being the moulting area for the entire southern Wairarapa population of this species.

The deeper central part of Lake Wairarapa provides a secure moulting and refuge area for all waterfowl, and a feeding area for various species of shags and gulls.

6. CONCLUSION

In making this application for a National Water Conservation Order for Lake Wairarapa the Applicant seeks to establish adequate protection for its outstanding recreational and wildlife habitat values.

In so doing the Applicant is strongly of the view that any claim of common right to the natural waters of Lake Wairarapa must first lie with its present users, on behalf of the which the Applicant is an authorised agent. The recreational and wildlife habitat values of Lake Wairarapa are both in existence and in use, and in the absence of any justified need to the contrary for Lake Wairarapa water these values are well worthy of statutory protection for the benefit of this and future generations of New Zealanders.

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