

WATER CONSERVATION (KAWARAU) ORDER 1997

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MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 17th day of March 1997

Present:

His Excellency the Governor-General in Council

PURSUANT to sections 214 of the Resource Management Act 1991, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, makes the following order.

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ORDER

1. Title and commencement---(1) This order may be cited as the Water Conservation (Kawarau) Order 1997.

(2) This order comes into force on the 28th day after the date of its notification in the Gazette.

2. Interpretation---In this order, unless the context otherwise requires,---

``Act'' means the Resource Management Act 1991:

``Preserved waters'' means the waters set out in Schedule 1 of this order:

``Protected waters'' means the waters set out in Schedule 2 of this order.

3. Preservation in natural state---(1) It is declared that the waters described in Schedule 1 contain one or more of the following outstanding amenity and intrinsic values which are afforded by waters in their natural state:

(a) Natural and physical qualities and characteristics that contribute to---

(i) People's appreciation of pleasantness of waters:

(ii) Aesthetic coherence:

(iii) Cultural and recreational attributes:

(b) Biological and genetic diversity of ecosystems:

(c) Essential characteristics that determine the ecosystem's integrity, form, functioning, and resilience.

(2) Because of the outstanding amenity and intrinsic values recognised in subclause (1), these outstanding values shall be sustained.

(3) Because of the outstanding amenity and intrinsic values recognised in subclause (1), it is declared that the water bodies set out in Schedule 1 are outstanding in their natural state.

(4) Because the water bodies set out in Schedule 1 are recognised to be outstanding in their natural state, they must be preserved as far as possible in their natural state.

(5) Except as provided in clauses 5 and 6 of this order, the exercise by a regional council of its functions and powers under section 30 (1) (e) and (f) of the Act (as they relate to water) are restricted or prohibited so as to retain the preserved waters as far as possible in their natural state.

4. Protection of characteristics---(1) It is declared that the waters set out in Schedule 2 which are no longer in their natural state contain one or more amenity and intrinsic values which warrant protection because they are considered outstanding.

(2) Because of the outstanding amenity and intrinsic values recognised in subclause (1), these outstanding values shall be sustained.

(3) Because of the outstanding amenity and intrinsic values recognised in subclause (1), it is declared that the water bodies described in Schedule 2 contain one or more of the following outstanding characteristics, as set out in Schedule 2:

(a) As a habitat for terrestrial and aquatic organisms:

(b) As a fishery:

(c) For its wild, scenic, and other natural characteristics:

(d) For scientific values:

(e) For recreational, or historical purposes:

(f) For significance in accordance with tikanga Maori.

(4) Because of the outstanding characteristics specified in subclause (3), the characteristics of the waters, as set out in Schedule 2, are protected.

(5) Except as provided in this order the exercise by a regional council of its functions and powers under section 30 (1) (e) and (f) of the Act (as they relate to water) are restricted or prohibited as set out in Schedule 2.

5. Exemptions---The restrictions and prohibitions in clauses 3 (5) and 4 (5) and Schedule 2 do not limit the regional council's functions or powers to grant a resource consent or to make a rule for any part of the preserved waters or protected waters for all or any of the following purposes:

- (a) Maintenance or protection of any network utility operation (as defined in section 166 of the Act) or any public or private road or any bridge:
- (b) Maintenance of soil conservation and river protection works:
- (c) Research into, protection of, enhancement of, or restoration of, values and characteristics for which the water bodies are being preserved or protected, as the case may be:
- (d) On the same or similar conditions for any lawful use of water being undertaken immediately before the date on which this order came into force.

6. Further exemptions---(1) This clause applies to---

- (a) The Dart River mainstem from Lake Wakatipu to its confluence with the Beans Burn; and
- (b) The Rees River mainstem from Lake Wakatipu to its confluence with Hunter Stream.

(2) The restrictions and prohibitions in clause 4 (5) and Schedule 2 do not limit the regional council's functions and powers to grant a resource consent or to make a rule for the waters referred to in subclause (1) for all or any of the following purposes:

- (a) The construction, maintenance, and protection of roads and bridges:
- (b) Any exercise of the powers of a Catchment Board under the Soil Conservation and Rivers Control Act 1941:
- (c) Any exercise of the powers of a River Board or local authority under the River Boards Act 1908:
- (d) Any exercise of the powers of a Land Drainage Board or local authority under the Land Drainage Act 1908.

(3) The purposes in subclause (2) include---

- (a) The undertaking of work necessary to prevent or control soil erosion and flooding affecting properties adjacent to the above water bodies including work in the riverbed such as (but not by way of limitation) the diversion of water and damming of water to construct river training works, groynes, and other flood protection works:
- (b) The maintenance of existing flood protection and erosion control works both in and adjacent to the above water bodies:
- (c) Action taken in accordance with section 330 of the Resource

Management Act 1991 to carry out any of the works referred to in paragraphs (a) and (b).

7. Provisions for Nevis River---The regional council may grant a resource consent or make a rule in a plan for hydro-electric development in respect of the Nevis River if that resource consent or rule complies with the restrictions and prohibitions set out in Schedule 2.

8. Existing permits may be replaced---The restrictions and prohibitions in clauses 3 (5) and 4 (5) and Schedule 2 do not limit the regional council's functions in respect of any part of the preserved or protected waters to replace any existing resource consent or grant any resource consent in substitution for an expiring resource consent if the new resource consent is granted on substantially the same terms and conditions as the existing or expiring resource consent.

9. Lake Dunstan not affected---Nothing in this order affects the levels of Lake Dunstan or the operation of the Clyde power station.

10. Scope---Nothing in this order limits the effect of sections 14 (3) (b) and 14 (3) (e) of the Act relating to the use of water for an individual's reasonable domestic needs, the reasonable needs of an individual's animals for drinking water, and for fire-fighting purposes.

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SCHEDULES

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SCHEDULE 1

Cl. 2

Waters to be Preserved

All map references NZMS 1

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Waters | Outstanding  
| amenity  
| and intrinsic  
| values

Dart River mainstem above the Beans Burn confluence to source (S113:226162 to S114:465360):	a, b, c, e, f
All tributaries of the Dart River within the boundaries of the Mount Aspiring National Park, excluding Route Burn, but including the sections of the Rock Burn and Beans Burn within the boundary of the Mount Aspiring National Park:	a, b, c, e, f
Parts of tributaries of the Dart River not within the Mount Aspiring National Park; Rock Burn (S113:237131 to S113:234129); Beans Burn (S113:226162 to S113:221170):	a, b, c, e, f
Route Burn from confluence with Dart River to source, and all its tributaries, including Left Branch and North Branch (S122:245058 to S122:125093 and S113:135145):	a, b, c, d, e, f
Rees River mainstem about Hunter Stream confluence to source (S114:363204 to S114:451273):	a, b
All tributaries of the Rees River within the boundaries of the Mount Aspiring National Park:	a, b
Greenstone River mainstem from Lake Wakatipu to source, including Lake McKellar and its tributaries (S122:292812 to S122:112927 and S122:084929):	a, d, f
Caples River mainstem from Greenstone River confluence to source (S122:260812 to S122:128960 and S122:135901):	a, d, f
Lochnagar and Lake Creek (at or about S114:490230; and S114:526193 to S114:503230):	f
Nevis wetland (all water bodies upstream of S143:768240 on a tributary of Roaring Lion Creek).	f

Key:

Amenity values:

- (a) Natural and physical qualities and characteristics that contribute to people's appreciation of pleasantness of waters:
- (b) Natural and physical qualities and characteristics that contribute to aesthetic coherence:
- (c) Natural and physical qualities and characteristics that contribute to cultural attributes:

(d) Natural and physical qualities and characteristics that contribute to recreational attributes.

Intrinsic values:

(e) Biological and genetic diversity of ecosystems:

(f) Essential characteristics that determine the ecosystem's integrity, form, functioning, and resilience.

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SCHEDULE 2

Cl. 2

Waters to be Protected

All map references NZMS 1

Waters Prohibitions	Outstanding Characteristics	Restrictions and
Kawarau River mainstem from Scrubby allowed;	(c) wild and scenic characteristics;	(i) no damming
Stream to Lake Wakatipu control gates to be managed to Class (S133:940715 to S132:615707)	(c) natural characteristics, in particular the return flow in the upper section when the Shotover River is in high flood;	(ii) water quality CR standard.
Nevis River mainstem gorge from Nevis allowed unless a rule in a	(c) wild characteristics;	(i) no damming
Crossing to Kawarau River confluence condition in any water permit (S133:877677 to S133:847538) provision for river provided at sufficient kayaking to be	(e) recreational purposes, in particular fishing and kayaking.	plan or granted makes flows to be levels to enable undertaken in

the gorge at times			
plan or permit, and the			stated in the
impounded water is not			extent of any
S143:836485;			beyond
be maintained;			(ii) fish passage to
to be managed to			(iii) water quality
Class F, and Class FS			Class CR,
			standards.
Nevis River mainstem above Nevis Crossing allowed unless a rule in a	(c) scenic characteristics;		(i) no damming
to source (S133:847538 to S142:673213) condition in any water permit	(e) recreational purposes, in particular		plan or
provision for river	fishing.		granted makes
provided at sufficient			flows to be
kayaking to be			levels to enable
the gorge at times			undertaken in
plan or permit, and the			stated in the
impounded water is not			extent of any
S143:836485;			beyond
be maintained;			(ii) fish passage to
to be managed to			(iii) water quality
Class FS standards.			Class F and
Shotover River mainstem (at or about allowed;	(c) wild and scenic characteristics;		(i) no damming
S132:645720 to S114:542262) to be managed to Class	(c) natural characteristics, in		(ii) water quality
	particular the high natural sediment		CR standard.
	load and active delta at confluence		
	with Kawarau River;		
	(d) scientific value, in particular the		
	high natural sediment load and active		
	delta at confluence with Kawarau		
	River;		
	(e) recreational purposes, in particular		
	rafting, kayaking, and jetboating;		
	(f) historical purposes, in particular		
	goldmining.		
Dart River mainstem from Lake Wakatipu to allowed;	(a) habitat for wildlife;		(i) no damming
confluence with Beans Burn (at or about water to be maintained.	(c) scenic characteristics;		(ii) braiding of
S122:291916 to	(c) natural characteristics, in		
S113:226162)	particular natural turbidity;		

	(d) scientific value, in particular	
	natural turbidity;	
	(g) significance in accordance with	
	tikanga Maori, in particular sites at	
	the mouth of the river.	
Rees River mainstem from Lake Wakatipu to allowed;	(a) habitat for wildlife;	(i) no damming
confluence with Hunter water to be maintained.	(c) scenic characteristics;	(ii) braiding of
(at or about S123:301915 to S114:363204)	(g) significance in accordance with	
	tikanga Maori, in particular sites at	
	the mouth of the river.	
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Diamond Lake, Diamond Creek, and Reid allowed;	(a) habitat for wildlife and quinnat	(i) no damming
Lake (at or about S122:290050; be maintained;	salmon;	(ii) fish passage to
S122:299036 to S123:305987) to be managed to	(b) fishery.	(iii) water quality
Class FS standards.		Class F and

Waters Prohibitions	Outstanding Characteristics	Restrictions and
Lake Wakatipu (from outlet at control be maintained;	(b) fishery;	(i) fish passage to
gates (S132:615707) to confluences of to be managed to Class	(c) scenic characteristics;	(ii) water quality
Dart River (at or about S122:291916) Class F, and Class FS	(d) scientific value, in particular water	AE, Class CR,
and Rees River (at or about	clarity, and bryophyte community;	standards.
S123:301915) and including whole lake)	(e) recreational purposes, in particular	
	boating;	
	(g) significance in accordance with	
	tikanga Maori, in particular sites at	
	the head of the lake, and the legend	
	of the lake itself.	
Lochy River mainstem (S132:592511 to be maintained;	(b) fishery;	(i) fish passage to
S142:328409 and S142:307380) to be managed to Class	(e) recreational purposes, in particular	(ii) water quality
standards.	fishing.	F and Class FS
Von River mainstem (S132:353629 to be maintained;	(b) fishery;	(i) fish passage to
S141:288380 and S131:216620) to be managed to Class	(e) recreational purposes, in particular	(ii) water quality
standards.	fishing.	F and Class FS

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Key: Outstanding characteristics (S199 (2) (b) and (c) of Act):

(a) as habitat for terrestrial or aquatic organisms:

(b) as a fishery:

(c) for its wild, scenic or other natural characteristics:

(d) for scientific and ecological values:

(e) for recreational purposes:

(f) for historical purposes:

(g) for significance in accordance with tikanga Maori.

Restrictions and Prohibitions:

References to Classes are Water Quality Classes as in the Third Schedule of the Act.

SHROFF,  
Executive Council.

MARIE  
Clerk of the

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