

**Version
as at 24 August 2023**



Lake Wanaka Preservation Act 1973

Public Act 1973 No 107
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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Department of Conservation.

An Act to make provision for the preservation of the normal water levels and shoreline of Lake Wanaka, and the maintenance and improvement of its water quality

1 Short Title

This Act may be cited as the Lake Wanaka Preservation Act 1973.

2 Interpretation

In this Act, unless the context otherwise requires,—

emergency means an emergency declared by the Guardians of Lake Wanaka under this Act

lake means Lake Wanaka

natural state, in relation to the water levels of the lake, means the levels the water in the lake attains naturally from time to time without control or obstruction by or through the agency of any person; and, in relation to the shoreline of the lake, means the natural contours of the shoreline formed from time to time by the water levels of the lake, or formed from time to time by natural changes to the shore of the lake

works means any dam, weir, gate, lock, boom, excavation, structure, or other works.

3 Act to bind the Crown

This Act shall bind the Crown.

4 Purposes of Act

The purposes of this Act are—

- (a) to prevent the water in the body of the lake from being impounded or controlled by, or, as far as possible, obstructed by, any works except in an emergency:
- (b) to prevent the natural rate of flow of lake water between the outlet of the lake which forms the source of the Clutha River and the confluence of that river and the Cardrona River from being varied or controlled by any works except in an emergency:
- (c) to preserve, as far as possible, the water levels of the lake and its shoreline in their natural state:
- (d) to maintain and, as far as possible, to improve the quality of water in the lake.

5 Guardians of Lake Wanaka

- (1) The Minister of Conservation may, on such terms and conditions as the Minister may from time to time specify, appoint such persons as the Minister thinks fit to be the Guardians of Lake Wanaka.
- (1A) The persons appointed to be Guardians must include a person nominated by Te Rūnanga o Ngāi Tahu (as established under section 6 of Te Runanga o Ngai Tahu Act 1996).
- (2) The functions of the Guardians of Lake Wanaka shall be—
 - (a) generally, to report and make recommendations to the Minister of Conservation on any matter affecting the purposes of this Act, on the use of the lake for recreational purposes, and on any other matter concerning the lake which the Minister of Conservation may from time to time specify; and
 - (b) in particular—
 - (i) to declare as an emergency any state of affairs existing when the lake water appears likely to attain such a level as to cause loss or damage to human life, livestock, or property by flooding:
 - (ii) to consult the Otago Regional Council from time to time on those functions of the Otago Regional Council which may affect the lake, and to advise the Minister of Conservation of any such consultation and its outcome:
 - (iii) to give advice to the Minister of Conservation on any matter referred to the Minister under subsection (1) of section 11:
 - (iv) to participate in the process under the Spatial Planning Act 2023 for preparing the regional spatial strategy that relates to Lake Wanaka in a manner that is consistent with the other functions of the Guardians.

Section 5(1): amended, on 16 December 1988, by section 2(a) of the Lake Wanaka Preservation Amendment Act (No 2) 1988 (1988 No 195).

Section 5(1): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 5(1A): inserted, on 22 October 1998, by section 275(1) of the Ngāi Tahu Claims Settlement Act 1998 (1998 No 97).

Section 5(2)(a): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 5(2)(b)(ii): amended, on 1 November 1989, pursuant to Part II of the Local Government (Otago Region) Reorganisation Order 1989 (*Gazette* 1989, p 2408).

Section 5(2)(b)(ii): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 5(2)(b)(iii): amended, on 16 December 1988, by section 2(b) of the Lake Wanaka Preservation Amendment Act (No 2) 1988 (1988 No 195).

Section 5(2)(b)(iii): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 5(2)(b)(iv): inserted, on 24 August 2023, by section 75 of the Spatial Planning Act 2023 (2023 No 47).

6 Lake levels not to be controlled

- (1) Notwithstanding anything to the contrary in the Public Works Act 1981, the Natural and Built Environment Act 2023, the Electricity Act 1992, or any other Act, or section 7 of this Act,—
 - (a) no person shall, except for the duration of an emergency, impound or control the water in the body of the lake by any works:
 - (b) no person shall, except for the duration of an emergency, build, construct, erect, or excavate any works which could measurably increase or decrease the natural rate of flow of lake water between the outlet of the lake which forms the source of the Clutha River and the confluence of that river and the Cardrona River.
- (2) Where, under subsection (1), any works are built, constructed, erected, or excavated for the duration of an emergency, then forthwith on the abatement of that emergency, those works shall be removed or, as the case may require, filled.
- (3) Nothing in paragraph (b) of subsection (1) shall be construed to affect the control of Lake Hawea, the Hawea River, or any works existing at the commencement of this Act between Lake Hawea and the confluence of the Hawea River and the Clutha River.

Section 6(1): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 6(1): amended, on 1 April 1992, pursuant to section 173(1) of the Electricity Act 1992 (1992 No 122).

Section 6(1): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 6(1): amended, on 1 February 1982, pursuant to section 248(1) of the Public Works Act 1981 (1981 No 35).

7 Existing rights to remain

Where, at the commencement of this Act, there exists any right or power vested, authorised, or conferred by or granted pursuant to any other Act which will allow the holder to take water from the lake, or discharge water or any other substance (whether dissolved or suspended in water or not) into the lake, or disturb or alter the shoreline of the lake, then that right or power shall continue and may be exercised in the same manner and to the same extent as if this Act had not been passed, but the holder shall, in so exercising the right or power, have regard to the purposes of this Act.

8 Otago Regional Council to implement policy of the Government

- (1) In the exercise of its functions under the Natural and Built Environment Act 2023 in respect of the lake and its tributaries, the Otago Regional Council shall have regard to the purposes of this Act and shall give effect to the policy of the

Government in relation to those functions as communicated to it from time to time in writing by the Minister of Conservation.

(2) *[Repealed]*

Section 8 heading: amended, on 1 November 1989, pursuant to Part II of the Local Government (Otago Region) Reorganisation Order 1989 (*Gazette* 1989, p 2408).

Section 8(1): amended, on 24 August 2023, by section 805(1) of the Natural and Built Environment Act 2023 (2023 No 46).

Section 8(1): amended, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

Section 8(1): amended, on 1 November 1989, pursuant to Part II of the Local Government (Otago Region) Reorganisation Order 1989 (*Gazette* 1989, p 2408).

Section 8(1): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 8(2): repealed, on 1 April 1988, by section 3(2) of the Lake Wanaka Preservation Amendment Act 1988 (1988 No 68).

9 Reserve and Domain Boards to implement policy of the Government

(1) This section shall apply to a public reserve (within the meaning of the Reserves Act 1977) which adjoins, is adjacent to, or is in the vicinity of the shore of the lake, or is on or is an island in the lake.

(2) In the exercise of its functions, the administering body (within the meaning of the Reserves Act 1977) of a public reserve to which this section applies shall have regard to the purposes of this Act, and shall give effect to the policy of the Government in relation to a public reserve to which this section applies as communicated to the administering body from time to time in writing by the Minister of Conservation or, when directed to do so by that Minister, by the Director-General of Conservation.

Section 9(1): amended, on 1 April 1978, pursuant to section 125(1) of the Reserves Act 1977 (1977 No 66).

Section 9(2): amended, on 1 April 1987, by section 65(1) of the Conservation Act 1987 (1987 No 65).

Section 9(2): amended, on 1 April 1978, pursuant to section 125(1) of the Reserves Act 1977 (1977 No 66).

10 Communications of Ministers to be laid before Parliament

A copy of every communication made under subsection (1) of section 8 or subsection (2) of section 9 shall be laid before Parliament as soon as practicable after it has been made.

11 Harbour works on lake restricted

No regional council shall grant a resource consent under the Resource Management Act 1991 authorising any activity in relation to the lake that is referred to in section 13 or section 14 of that Act without first—

- (a) seeking the advice of the Guardians of Lake Wanaka on the proposed activity concerned, and considering all advice received from them within a reasonable time of its being sought; and
- (b) having regard to the purposes of this Act.

Section 11: replaced, on 1 October 1991, by section 362 of the Resource Management Act 1991 (1991 No 69).

12 No derogation from provisions of Act

No provision of any Act shall derogate from the provisions of this Act unless that provision expressly so provides.

Notes

1 *General*

This is a consolidation of the Lake Wanaka Preservation Act 1973 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

Spatial Planning Act 2023 (2023 No 47): section 75

Natural and Built Environment Act 2023 (2023 No 46): section 805(1)

Ngāi Tahu Claims Settlement Act 1998 (1998 No 97): section 275(1)

Electricity Act 1992 (1992 No 122): section 173(1)

Resource Management Act 1991 (1991 No 69): section 362

Local Government (Otago Region) Reorganisation Order 1989 (*Gazette* 1989, p 2408): Part II

Lake Wanaka Preservation Amendment Act (No 2) 1988 (1988 No 195)

Lake Wanaka Preservation Amendment Act 1988 (1988 No 68)

Conservation Act 1987 (1987 No 65): section 65(1)

Public Works Act 1981 (1981 No 35): section 248(1)

Reserves Act 1977 (1977 No 66): section 125(1)