



Water Conservation (Rangitata River) Order 2006

Dame Sian Elias, Administrator of the Government

Order in Council

At Wellington this 19th day of June 2006

Present:

The Hon Dr Michael Cullen presiding in Council

Pursuant to section 214 of the Resource Management Act 1991, Her Excellency the Administrator of the Government, acting on the advice and with the consent of the Executive Council, makes the following Order.

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Order

1 Title

This order is the Water Conservation (Rangitata River) Order 2006.

2 Commencement

This order comes into force on the 20th working day after the date of its notification in the Gazette.

3 Interpretation

In this order, unless the context otherwise requires:

Act means the Resource Management Act 1991.

Biomass in relation to weed or periphyton means “of the exposed substrata (tops and sides of stones) averaged over the full width of a channel run or reach”.

Calculated River Depletion Effect means the effect on river flows resulting from the pumping of water from groundwater wells in proximity to the river and its tributaries and calculated using the methods developed by Jenkins (1977) and Hunt (2003) or such other method as Canterbury Regional Council approves from time to time.

Klondyke means the site of the water level recorder on the Rangitata River at or about NZMS 260 J36:666149.

Minimum flow means the flow, as measured at Klondyke, at which all abstraction shall cease.

Reasonable mixing means the mixing that occurs:

- (a) within a maximum radius of 200 metres from a discharge into a still water body; or
- (b) within a maximum distance of 100 metres downstream from a discharge into the river including all tributaries (both named and un-named on the NZMS 260 maps) and in particular including the Ealing Springs and McKinnons Creek.

River means the mainstem of those waters identified in the Schedules to this Order. The mainstem shall be the river with that name on the NZMS 260 series

topographical maps between specified lower and upper limits as defined by map references in the Schedules to this Order.

Tributaries means all the tributaries of the rivers or sections of rivers identified in Schedules 1, 2 and 3.

4 Outstanding Characteristics and features

The waters specified in either Schedule 1, 2 or 3 include or contribute to, to the extent identified in Schedule 1, 2 or 3, the following outstanding characteristics, features, and values:

- (a) amenity and intrinsic values;
- (b) habitat for terrestrial and aquatic organisms;
- (c) fishery values;
- (d) wild, scenic and other natural characteristics;
- (e) scientific and ecological values;
- (f) recreational, historical, spiritual or cultural characteristics;
- (g) significance in accordance with tikanga Maori.

5 Waters to be retained in natural state

Because of the outstanding characteristics, features, and values identified in clause 4, the quality, quantity, level and rate of flow of the waters specified in Schedule 1 are to be retained, as far as possible, in their natural state.

6 Waters to be protected

Because of the outstanding characteristics, features, and values identified in clause 4, the waters specified in Schedule 2 are to be protected in accordance with the relevant conditions in clauses 8 to 11, as specified in Schedule 2.

7 Waters to be protected as contributing to outstanding features

Because of their contribution to outstanding characteristics and features identified in clause 4, the waters specified in Schedule 3 are to be protected in accordance with the relevant conditions in clauses 8 to 11, as specified in Schedule 3.

8 Restrictions on damming of waters

- (1) No resource consent may be granted or rule included in a regional plan authorising the damming of the waters specified in Schedules 1 and 2. For the purposes of this clause, damming does not include any intake or deflection structure that does not—
 - (a) prevent the passage of any salmon; or
 - (b) reduce the use of the waters for rafting or canoeing; or
 - (c) reduce the aquatic bird habitat; or

- (d) intrude visually to the extent that it reduces wild and scenic values.
- (2) No resource consent may be granted or rule included in a regional plan authorising the damming of the waters specified in Schedule 3, whenever that Schedule refers to this clause, if that will cause, either by itself or in combination with any other existing consents as at 1 January 2000, or rules—
 - (a) material alteration of the naturally occurring sediment delivery to the mainstem Rangitata River; or
 - (b) reduction of the aquatic bird habitat.
- (3) Subclauses (1) and (2) do not apply to the maintenance authorised by the Canterbury Regional Council of existing rock weirs and river works to the same level and extent as occurring as at 1 January 2000 or to the placing of raw rock works and the carrying out of river engineering works necessary for flood and asset protection purposes.

9 Restrictions on alteration of river flows and form

- (1) No resource consent may be granted or rule included in a regional plan that will cause the material alteration of the channel cross-section, or meandering pattern, or braided river channel characteristics of the form of any river specified in Schedule 2.
- (2) The restriction in subclause (1) does not apply in respect of dams, weirs, roads, fords, bridges, or fish passes authorised at the date this order comes into force.
- (3) No resource consent may be granted or rule included in a regional plan—
 - (a) authorising the abstraction of water from any part of the Rangitata River (including any and all calculated river depletion effects resulting from the taking of water from hydraulically connected groundwater sources as calculated in accordance with subclause (9)) specified in items 1, 2 and 3 of Schedule 2 and item 1 of Schedule 3 that will cause, either by itself or in combination with any other existing consents or rules, decrease of the naturally occurring instantaneous flow of water at Klondyke by more than 2% when the naturally occurring flow at Klondyke is less than or equal to 110 m³/s; or
 - (b) authorising the abstraction of water that will cause, either by itself or in combination with any other existing consents (including any and all calculated river depletion effects resulting from the taking of water from hydraulically connected groundwater sources as calculated in accordance with subclause (9)) or rules, decrease of the naturally occurring instantaneous flow of water in any river specified in item 2 of Schedule 3 by more than 15% when the naturally occurring flow at Klondyke is less than or equal to 110 m³/s; or
 - (c) authorising the abstraction of water that will cause, either by itself or in combination with any other existing consents (including any and all calculated river depletion effects resulting from the taking of water from

- hydraulically connected groundwater sources as calculated in accordance with subclause (9)) or rules, total abstraction from all parts of the Rangitata River specified in Schedules 1, 2 or 3 to exceed a maximum of 33 m³/s unless the naturally occurring flow at Klondyke exceeds 110 m³/s at which point the maximum may be extended from 33 m³/s to 33 m³/s plus any naturally occurring flow in excess of 110 m³/s; or
- (d) if the effect is that the number of take sites (excluding groundwater take sites) authorized to take more than 100 l/s at each site from those parts of the Rangitata River specified in items 4 and 5 of Schedule 2 is greater than a maximum of four.
- (4) For the period from 15 September to 14 May in the following year, there shall be a flow management regime in respect of the main stem of the Rangitata River (including any and all calculated river depletion effects resulting from the taking of water from hydraulically connected groundwater sources as calculated in accordance with subclause (9)) comprising—
- (a) a minimum flow of 20 m³/s; and
- (b) when the flow at Klondyke is greater than 20 m³/s but less than 40 m³/s all flow in excess of 20 m³/s is available to be taken; and
- (c) when the flow at Klondyke is greater than 40 m³/s but less than 66 m³/s, up to 33 m³/s may be taken on the basis of a 1: 1 sharing between in-stream retention and water abstraction; and
- (d) when the flow at Klondyke is greater than 66 m³/s and less than 110 m³/s no more than 33 m³/s shall be taken.
- (5) For the period 15 May to 14 September each year, there shall be a flow management regime in respect of the main stem of the Rangitata River (including any and all calculated river depletion effects resulting from the taking of water from hydraulically connected groundwater sources as calculated in accordance with subclause (9)) comprising—
- (a) a minimum flow of 15 m³/s; and
- (b) when the flow at Klondyke is greater than 15 m³/s and less than 30 m³/s all flow in excess of 15 m³/s is available to be taken; or
- (c) when the flow at Klondyke is greater than 30 m³/s and less than 66 m³/s, up to 33 m³/s may be taken, on the basis of a 1: 1 sharing between in-stream retention and water abstraction
- (d) when the flow at Klondyke is greater than 66 m³/s and less than 110 m³/s no more than 33 m³/s shall be taken.
- (6) All applications for water permits to take groundwater shall be assessed as if:
- (a) all surface abstractions and abstractions of hydraulically connected groundwater sources as calculated in accordance with subclause (9) are being fully exercised; and

- (b) the Rangitata River flow never exceeds 110 m³/s at Klondyke.
- (7) No resource consent may be granted or rule included in a regional plan that will cause, either by itself or in combination with other existing consents (including any and all calculated river depletion effects resulting from the taking of water from hydraulically connected groundwater sources as calculated in accordance with subclause (9)) or rules, reduction of the naturally occurring instantaneous flow in McKinnons Creek at Wallaces Bridge (map reference NZMS 260 K38:887716) below a minimum flow of 300 l/s.
- (8) The restrictions in subclauses (3) to (6) do not apply in respect of any waters specified in item 3 of Schedule 3 that are not hydraulically connected to the Rangitata River or its tributaries.
- (9) If the calculated river depletion effect—
- (a) from groundwater abstraction is equal or greater than 90% of the bore pump rate after seven days continuous steady pumping, then:
- (i) it shall be managed as though it is a surface water abstraction; and
- (ii) the maximum instantaneous pumping rate from the bore shall be included in the surface water allocation total.
- (b) from groundwater abstraction is less than 90% of the bore pump rate after seven days continuous steady pumping but greater than or equal to 50% of the bore pump rate after 150 days continuous steady pumping, then:
- (i) it shall be managed so that any calculated river depletion effect which is greater than 5 l/s is subject to surface water allocation rules; and
- (ii) the effect on river flow after 150 days of pumping at the continuous rate required to deliver the seasonal volume shall be included in the surface water allocation total.
- (c) is less than 50% but greater than or equal to 25% of the pump rate after 150 days continuous steady pumping, then:
- (i) the abstraction should not be subject to any surface water restriction rules; and
- (ii) the effect on river flow after 150 days of pumping at the continuous rate required to deliver the seasonal volume shall be included in the surface water allocation total for those consents where the effect is greater than 5 l/s.
- (10) The restrictions in subclauses (3) to (5) do not apply in respect of a take of water for the purpose of a fish bypass system and which is discharged back into the Rangitata River within 2500 metres downstream of the point of abstraction.

10 Requirement to maintain fish passage

- (1) No resource consent may be granted or rule included in a regional plan relating to the waters identified in Schedule 2, authorising an activity that will adversely affect the passage of salmon, where Schedule 2 identifies salmon passage or salmon spawning as an outstanding characteristic or contributing to an outstanding characteristic.
- (2) No resource consent in relation to an intake site may be granted, or rule included in a regional plan, for the waters specified in Schedule 2 authorising an activity unless that resource consent provides for fish exclusion or a fish bypass system to prevent fish from being lost from the specified waters.

11 Restrictions on alteration of water quality

- (1) No resource consent may be granted or rule included in a regional plan authorising a discharge into any of the waters identified in Schedules 2 or 3 at any time, if, after allowing for reasonable mixing of the discharge with the receiving waters, the discharge will alter the natural temperature of the receiving water by more than 3 degrees Celsius provided that:
 - (a) the alteration does not increase the water temperature to more than 12 degrees Celsius during the months May to September (inclusive); and
 - (b) the alteration does not increase the water temperature to more than 20 degrees Celsius during the months October to April (inclusive).
- (2) No resource consent may be granted or rule included in a regional plan authorising a discharge into any of the waters identified in Schedule 2 or Schedule 3, unless, after allowing for reasonable mixing of the discharge with the receiving waters, any change in the acidity or alkalinity in the receiving waters, attributable to that discharge, maintains the pH within the range of 6 to 9 units.
- (3) No resource consent may be granted or rule included in a regional plan authorising a discharge into any of the waters identified in Schedule 2 or Schedule 3, unless, after allowing for reasonable mixing of the discharge with the receiving waters—
 - (a) there will be no undesirable biological growths attributable to the discharge;
 - (b) in particular there will be no:
 - (i) bacterial and/or fungal slime growths that are visible to the naked eye; and/or
 - (ii) maximum biomass cover of streams or river beds by:
 - (A) periphyton as filamentous growths (longer than 20 mm) exceeding 30%; and/or biomass exceeding 120 mg/m² as chlorophyll a, and/or biomass exceeding 35 g/m² ash free dry weight, as area of exposed substrate (i.e., tops and sides of visible stones); and/or

- (B) periphyton as diatoms or mats (more than 3 mm average thickness) exceeding 60%; and/or biomass exceeding 200 mg/m² as chlorophyll a, and/or biomass exceeding 35 g/m² ash free dry weigh, as area of exposed substrate (i.e., tops and sides of visible stones).
- (c) aquatic organisms shall not be rendered unsuitable for human consumption through the accumulation of contaminants; and/or
- (d) the water is not made unsuitable for contact recreation by:
 - (i) the presence of contaminants; or
 - (ii) a single sample of bacterial values exceeds 550 *E. coli* per 100 ml.
- (4) No resource consent may be granted or rule included in a regional plan authorising a discharge into any of the waters identified in Schedule 2 or Schedule 3 if, after allowing for reasonable mixing with the receiving waters, the discharge will reduce the concentration of dissolved oxygen below 80% of saturation.

12 Scope of order

- (1) This order does not limit section 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.
- (2) This order does not restrict or prevent the grant of water or discharge permits to the Department of Conservation or rules being included in a regional plan that will permit minor water uses if those minor uses are necessary for conservation purposes for the management of land administered by the Department.
- (3) This order does not restrict or prevent the grant of resource consents for the purpose of—
 - (a) research into, and enhancement of, fisheries and wildlife habitats; or
 - (b) hydrological or water quality investigations; or
 - (c) the construction, removal, maintenance or protection of any road, ford or bridge, or the maintenance and protection of any network utility operation (as defined in section 166 of the Act); or
 - (d) the construction and maintenance of soil conservation and river protection works undertaken pursuant to the Soil Conservation and Rivers Control Act 1941.
 - (e) extraction of gravel for commercial purposes where the extraction does not cause the material alteration of the channel cross section, or meandering pattern, or braided river characteristics of the subject water body.
- (4) This order does not prevent the granting of further resource consents for the Rangitata Diversion Race on similar terms and conditions to those imposed on the resource consents held on the date this order comes into force including a stepped flow regime.

13 Exemptions

Nothing in this order prevents the grant of a resource consent that would otherwise contravene the conditions set out in Clauses 8 to 11 if—

- (a) a consent authority is satisfied that—
 - (i) there are exceptional circumstances justifying the grant of the permit; or
 - (ii) the permit is for a discharge that is of a temporary nature; or
 - (iii) the permit is for a discharge that is associated with necessary construction and maintenance work relating to works and structures not otherwise prohibited by this Order; and
- (b) the exercise of any such resource consent would not compromise the preservation and protection of the outstanding characteristics and features identified for the waters specified in the Schedules.

Schedule 1

Waters to be retained in natural state

All map references are to NZMS 260 series

Item	Waters	Outstanding characteristics or features	Conditions to apply
1	Clyde River and all tributaries	Amenity and intrinsic values Indigenous plant communities Wild and scenic and other natural characteristics Significance for Ngai Tahu	Natural state
2	Havelock River and all tributaries	Amenity and intrinsic values Indigenous plant communities Wild and scenic and other natural characteristics Significance for Ngai Tahu	Natural state

Schedule 2

Protected waters

All map references are to NZMS 260 series

Item	Waters	Outstanding Characteristics or Features	Conditions to apply
1	Rangitata River main stem from confluence with Clyde and Havelock Rivers to the top of the gorge (at or about J36:636174) "upper Rangitata"	Waters in a natural state Amenity and intrinsic values Habitat for aquatic birds Aquatic macro-invertebrates Salmon spawning and salmon passage Salmon fishing Wild, scenic and other natural characteristics Indigenous plant communities Spiritual, cultural and historical values Rafting, canoeing and jet-boating Significance for Ngai Tahu Scientific - braided river	Clauses 6, 8(1), 8(3), 9(1), 9(3)a and c, 9(4), 9(5), 9(10), 10, and 11.
2	Rangitata River main stem from the top of the gorge (at or about J36:636174) to the water level recorder at Klondyke (at or about J36:666149) "the gorge"	Waters in a natural state Amenity and intrinsic values Wild, scenic and other natural characteristics Indigenous plant communities Rafting, canoeing Significance for Ngai Tahu	Clauses 6, 8(1), 8(3), 9(1), 9(3)a and c, 9(4), 9(5), 9(10), 10, and 11

Item	Waters	Outstanding Characteristics or Features	Conditions to apply
3	Unnamed tributaries of the Rangitata River and other water bodies adjacent to the Rangitata River joining the Rangitata River at or about J36:390316 and known as Brabazon Fan; J36:348379 and known as Black Mountain Stream; J36:414330 and known as Deep Creek (Mt Potts); J36:460242 and known as Deep Stream (Mesopotamia).	Contributes to salmon spawning and salmon passage Aquatic macroinvertebrates Salmon spawning	Clauses 6, 8(1), 8(3), 9(1), 9(3)a and c, 9(4), 9(5), 9(10), 10, and 11.
4	Rangitata River from map reference (at or about J36:666149) to SH 72 bridge at Arundel	Salmon fishing Salmon passage Water-based recreation Significance for Ngai Tahu Aquatic Macroinvertebrates Scientific - braided river	Clauses 6, 8(1), 8(3), 9(1), 9(3)c and d, 9(4), 9(5), 9(10), 10, and 11.
5	Rangitata River from SH 72 bridge at Arundel to coast	Aquatic bird habitat Salmon passage Salmon fishing Spiritual and cultural values Significance for Ngai Tahu	Clauses 6, 8(1), 8(3), 9(1), 9(3) c and d, 9(4), 9(5), 9(10), 10 and 11.

Item	Waters	Outstanding Characteristics or Features	Conditions to apply
		Aquatic macroinvertebrates Scientific - braided river	
6	Unnamed tributary known as Ealing Springs Stream joining Rangitata River at or about K37:824831	Salmon spawning Significance for Ngai Tahu	Clauses 6, 8(1), 8(3), 9(1), 9(3)c, 9(4), 9(5), 9(10), 10 and 11.
7	Unnamed tributary known as McKinnons Creek joining Rangitata River at or about K38 893702	Salmon spawning Significance for Ngai Tahu	Clauses 6, 8(1), 8(3), 9(1), 9(3)c, 9(4), 9(5), 9(7), 9(10), 10 and 11.

Schedule 3

Waters to be protected for their contribution to the above mentioned outstanding features

All map references are to NZMS 260 series

Item	Waters	To maintain	Conditions to apply
1	All tributaries of the Rangitata River from the Clyde/Havelock confluence to the water level recorder at Klondyke (at or about J36:666149) except those otherwise referred to in Schedules 1, 2 or 3.	Adequate water of sufficient quality for the outstanding aquatic bird habitat; braided river characteristics; salmon passage, spawning & juvenile habitat; salmon fishing; rafting and canoeing; aquatic macroinvertebrates; indigenous riverbed plants; and significance for Ngai Tahu	Clauses 7, 8(2), 8(3), 9(3)a and c, 9(4), 9(5) 9(10) and 11

Item	Waters	To maintain	Conditions to apply
2	All tributaries of the Rangitata River from the water level recorder at Klondyke (at or about J36:666149) to the sea except those otherwise referred to in Schedules 1, 2 or 3.	Adequate water of sufficient quality for the outstanding aquatic bird habitat; braided river characteristics; salmon passage; salmon fishery; water based recreation; aquatic macroinvertebrates; and significance for Ngai Tahu	Clauses 7, 8(2), 8(3), 9(3)b and c 9(4), 9(5), 9(10) and 11
3	Groundwater determined through application of Clause 9(9) to be hydraulically linked to: <ul style="list-style-type: none"> (a) the main river downstream from Klondyke (at or about J36:666149); (b) the unnamed tributary known as McKinnons Creek joining Rangitata River at or about K38:893702; (c) the unnamed tributary known as Ealing Springs Stream joining Rangitata River at or about K37:824831 	Adequate water in the Rangitata River and tributaries for the outstanding aquatic bird habitat; braided river characteristics; salmon fishery; rafting and canoeing; aquatic macro-invertebrates; and significance for Ngai Tahu	Clauses 7, 9(3)b and c, 9(4), 9(5), 9(6), 9(7), 9(8) and 9(9)

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This order is administered by the Ministry for the Environment.