



WATER CONSERVATION (KAWARAU) ORDER 1997

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.

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.

SCHEDULES

cl. 2

SCHEDULE 1

WATERS TO BE PRESERVED

All map references NZMS 1

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

SCHEDULE 1—*continued*
WATERS TO BE PRESERVED—*continued*

Waters	Outstanding amenity and intrinsic values
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
WATERS TO BE PROTECTED

All map references NZMS 1

Waters	Outstanding Characteristics	Restrictions and Prohibitions
Kawarau River mainstem from Scrubby Stream to Lake Wakatipu control gates (S133:940715 to S132:615707)	<ul style="list-style-type: none"> (c) wild and scenic characteristics; (c) natural characteristics, in particular the return flow in the upper section when the Shotover River is in high flood; (d) scientific values, in particular the return flow in the upper section when the Shotover River is in high flood; (e) recreational purposes, in particular rafting, jetboating, and kayaking. 	<ul style="list-style-type: none"> (i) no damming allowed; (ii) water quality to be managed to Class CR standard.
Nevis River mainstem gorge from Nevis Crossing to Kawarau River confluence (S133:877677 to S133:847538)	<ul style="list-style-type: none"> (c) wild characteristics; (e) recreational purposes, in particular fishing and kayaking. 	<ul style="list-style-type: none"> (i) no damming allowed unless a rule in a plan or condition in any water permit granted makes provision for river flows to be provided at sufficient levels to enable kayaking to be undertaken in the gorge at times stated in the plan or permit, and the extent of any impounded water is not beyond S143:836485; (ii) fish passage to be maintained; (iii) water quality to be managed to Class CR, Class F, and Class FS standards.

SCHEDULE 2—*continued*
WATERS TO BE PROTECTED—*continued*

Waters	Outstanding Characteristics	Restrictions and Prohibitions
Nevis River mainstem above Nevis Crossing to source (S138:847538 to S142:673213)	(c) scenic characteristics; (e) recreational purposes, in particular fishing.	(i) no damming allowed unless a rule in a plan or condition in any water permit granted makes provision for river flows to be provided at sufficient levels to enable kayaking to be undertaken in the gorge at times stated in the plan or permit, and the extent of any impounded water is not beyond S143:836485; (ii) fish passage to be maintained; (iii) water quality to be managed to Class F and Class FS standards.
Shotover River mainstem (at or about S132:645720 to S114:542262)	(c) wild and scenic characteristics; (c) natural characteristics, in particular the high natural sediment 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.	(i) no damming allowed; (ii) water quality to be managed to Class CR standard.

SCHEDULE 2—*continued*
WATERS TO BE PROTECTED—*continued*

Waters	Outstanding Characteristics	Restrictions and Prohibitions
Dart River mainstem from Lake Wakatipu to confluence with Beans Burn (at or about S122:291916 to S113:226162)	(a) habitat for wildlife; (c) scenic characteristics; (c) natural characteristics, in 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.	(i) no damming allowed; (ii) braiding of water to be maintained.
Rees River mainstem from Lake Wakatipu to confluence with Hunter (at or about S123:301915 to S114:363204)	(a) habitat for wildlife; (c) scenic characteristics; (g) significance in accordance with tikanga Maori, in particular sites at the mouth of the river.	(i) no damming allowed; (ii) braiding of water to be maintained.
Diamond Lake, Diamond Creek, and Reid Lake (at or about S122:290050; S122:299036 to S123:305987)	(a) habitat for wildlife and quinnat salmon; (b) fishery.	(i) no damming allowed; (ii) fish passage to be maintained; (iii) water quality to be managed to Class F and Class FS standards.

SCHEDULE 2—*continued*
 WATERS TO BE PROTECTED—*continued*

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

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.

MARIE SHROFF,
 Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the order, but is intended to indicate its general effect.

This order, which comes into force on the 28th day after the date of its notification in the *Gazette*, declares—

- (a) The waters described in Schedule 1 (the waters in the upper reaches of the Dart River and some of its tributaries, parts of the Route Burn, the upper reaches of the Rees River and some of its tributaries, the upper reaches of the Greenstone and Caples Rivers, Lochnagar and Lake Creek, and the Nevis wetland) are to be preserved as far as possible in their natural state because of the outstanding amenity and intrinsic values of the waters:
- (b) The characteristics of the waters described in Schedule 2 (the waters in parts of the Kawarau River, Nevis River, Shotover River, lower reaches of the Dart River and Rees River, Diamond Lake, Diamond Creek, Reid Lake, Lake Wakatipu, and parts of the Lochy and Von Rivers) are to be protected because of the outstanding intrinsic and amenity values specified in that Schedule.

The order specifies how the waters are to be preserved or protected. The order also specifies the limitations of the protection or preservation.

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

Date of notification in *Gazette*: 20 March 1997.

This order is administered in the Ministry for the Environment.