

LAKE WANAKA PRESERVATION BILL

EXPLANATORY NOTE

THE purpose of this Bill is to provide, as far as possible, for the preservation of the normal water levels and shoreline of Lake Wanaka, and to maintain and improve its water quality.

Clause 1 relates to the Short Title.

Clause 2 is the interpretation clause.

Clause 3 declares that the Bill shall bind the Crown.

Clause 4 declares the purposes of the Bill. These are—

- (a) To prevent the lake water from being impounded or controlled by, or, as far as possible, obstructed by, any works. "Works" is defined in *clause 2*.
- (b) To prevent the natural flow of water between the outlet of the lake which forms the source of the Clutha River and the confluence of that river with the Cardrona River from being controlled or obstructed by any works except in an emergency. "Emergency" is defined in *clause 2*.
- (c) To preserve, as far as possible, the water levels and shoreline of the lake in their natural state. "Natural state" is defined in *clause 2*.
- (d) To maintain and, as far as possible, improve the quality of water in the lake.

Clause 5 provides for the Minister for the Environment to appoint Guardians of Lake Wanaka, and sets out their functions.

Clause 6: Subclause (1) provides that, notwithstanding anything to the contrary in any other Act, no person shall impound or control the lake water by any works; and, no person shall build, construct, or erect any works which are capable of increasing or decreasing the flow of 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 except in an emergency.

Subclause (2) provides that any emergency works undertaken are to be of a temporary nature only.

Subclause (3) takes into account the fact that the confluence of the Hawea River and the Clutha River is slightly upstream from the confluence of the Cardrona River and the Clutha, and the prohibition against affecting the water flow between Lake Wanaka and the Cardrona may, without the subclause, be construed as a prohibition against any works affecting the Hawea River.

Clause 7 preserves certain rights and powers which are in existence as at the commencement of the Bill, and provides that the holder of any rights or powers shall, when exercising them, have regard to the purposes of the Bill.

Clause 8: Subclause (1) provides that the National Water and Soil Authority shall give effect to the policy of the Government in respect of the lake and its tributaries.

Subclause (2) requires the Authority to carry out certain functions in respect of the lake.

Clause 9 provides that the administering body of a public reserve which is adjacent to or in the vicinity of the lake, shall also give effect to the policy of the Government in respect of the lake and its tributaries.

Clause 10 provides that a copy of every policy direction made under *clauses 8 or 9* shall be laid before Parliament.

Clause 11 provides that no approval for any harbour works or structures around the lake shall be given without the prior consent of the Minister for the Environment. In considering whether or not to give his consent, the Minister shall have regard to the purposes of the Bill, and to any advice given to him by the Guardians of Lake Wanaka.

Clause 12 provides that nothing in any enactment of the General Assembly of New Zealand shall derogate from the provisions of the Bill without that enactment expressly so providing.

Hon. Mr Walding

LAKE WANAKA PRESERVATION

ANALYSIS

Title	8: National Water and Soil Conservation Authority to implement policy of the Government
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A BILL INTITULED

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

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Lake Wanaka Preservation Act 1973.

10 **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: 5

“Works” means any dam, weir, gate, lock, boom, excavation, structure, or other works. 10

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: 15
- (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: 20
- (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 for the Environment may, on such terms and conditions as he may from time to time specify, appoint such persons as he thinks fit to be the Guardians of Lake Wanaka. 25

(2) The functions of the Guardians of Lake Wanaka shall be— 30

- (a) Generally, to report and make recommendations to the Minister for the Environment 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 for the Environment may from time to time specify; and 35
- (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: 40

5 (ii) To consult the National Water and Soil Conservation Authority from time to time on those functions of the Authority which may affect the lake, and to advise the Minister for the Environment of any such consultation and its outcome:

(iii) To give advice to the Minister for the Environment on any matter referred to him under subsection (1) of section 11 of this Act.

10 **6. Lake levels not to be controlled**—(1) Notwithstanding anything to the contrary in the Public Works Act 1928, the Water and Soil Conservation Act 1967, the Electricity Act 1968, or any other Act, or section 7 of this Act,—

15 (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:

20 (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.

25 (2) Where, under subsection (1) of this section, 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.

30 (3) Nothing in paragraph (b) of subsection (1) of this section 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.

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
40 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. National Water and Soil Conservation Authority to implement policy of the Government—(1) In the exercise of its functions under the Water and Soil Conservation Act 1967 in respect of the lake and its tributaries, the National Water and Soil Conservation Authority 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 for the Environment. 5

(2) The National Water and Soil Conservation Authority shall also, as soon as possible pursuant to the Water and Soil Conservation Act 1967, and having regard to the purposes of this Act,— 10

- (a) Initiate measures to have the water in the lake declared of national importance; and 15
- (b) Fix a minimum standard of quality for the water in the lake.

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 and Domains Act 1953) 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. 20

(2) In the exercise of its functions, the administering body (within the meaning of the Reserves and Domains Act 1953) 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 Lands or, when directed to do so by that Minister, by the Director-General of Lands. 25 30

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 of this Act shall be laid before Parliament as soon as practicable after it has been made. 35

11. Harbour works on lake restricted—(1) The Minister of Transport shall not approve any plan deposited pursuant to section 178 of the Harbours Act 1950 in respect of any harbour works or other structure to be undertaken or constructed on, in, over, through, or across the lake without first referring the matter to the Minister for the Environment for his approval.

(2) When considering any matter referred to him under subsection (1) of this section, the Minister for the Environment shall have regard to—

- (a) The purposes of this Act; and
- (b) Any advice concerning the matter which may be given to him by the Guardians of Lake Wanaka.

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.