

From: [Keri Johnston](#)
To: [Plan Hearings](#)
Subject: Orakipaoa Water Users - Plan Change 7 Hearing Evidence
Date: Friday, 17 July 2020 9:44:13 am
Attachments: [image002.png](#)
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[Appendix B - Orakipaoa Water Users Mapping.pdf](#)
[Orakipaoa Water Users Connelly and Lister Evidence Plan Change 170720.pdf](#)
[Orakipaoa Temuka Statement of Evidence Keri Johnston July 2020 FINAL.pdf](#)


Please find this attached.

Kind regards,

Keri



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**BEFORE INDEPENDANT HEARING COMMISSIONERS
APPOINTED BY THE CANTERBURY REGIONAL COUNCIL**

UNDER: the Resource Management Act 1991

IN THE MATTER OF: Proposed Plan Change 7 to the Canterbury
Land and Water Regional Plan – Section 14:
Orari-Temuka-Opihi-Pareora

**STATEMENT OF EVIDENCE OF SIMON CONNOLLY AND DAVID LISTER
ON BEHALF OF
THE ORAKIPAOA WATER USERS**

INTRODUCTION

Simon Connolly

1. My name is Simon Connolly (Raki Paua Farm Ltd) and with my wife and two children, we own a farm in the Milford. My family have been cropping farmers at this location for 52 years, growing carrots and potatoes for processing, specialist seeds (radish, spinach and brassica's), wheat and barley.
2. The land is very fertile and holds moisture exceptionally well which enables us to grow our crops with efficient fertiliser and water. We have a consent to take just 38l/s from Burkes and Orakipaoa Creek via surface water and a shallow bore. This is used over the entire area of 127ha. The full rate is only used at key times during the irrigation season. This is not a lot of water for the area, but it is crucial for strategic watering of crops at critical times, when required. Without the ability to demonstrate to our clients who purchase our crops that we can reliably irrigate, we would not be able to approve and retain these "contracts to grow" that make our farm financially viable.

David Lister

3. My name is David Lister (Lister Springvale Dairy Ltd). My family has been farming at Milford since 1935, and my father, Sid Lister, is one of New Zealand's pioneers of irrigation. The farm is now 164ha and milking cows. The farm was converted to dairy in 2005. We hold resource consent CRC150514 which authorises a take of 58 L/s from a shallow bore.

Orakipaoa Water Users

4. A list of all of the water users consents are attached in **Appendix A**. A map is also attached which shows the location of the water users within the Orakipaoa catchment, and also the proposed High Naturalness Waterbodies (HNW) boundary (**Appendix B**).
5. There are also takes from shallow groundwater located upstream of the HNW boundary. We are aware that those takes could be considered to have an impact the HNW catchment downstream. Those takes as we understand, are included in the proposed allocation and minimum flow regime. We are anticipating that Environment Canterbury (ECan) at the time those consents are being renewed, will attempt to treat them the same as those located directly within the HNW zone. All of the consents have variable expiry dates ranging from 2022 to 2040.
6. Many of the users have been fencing large portions of the stream from stock, especially dairy farms. In areas, stream edges have also been planted to improve the ecosystem and water quality. The Burkes Creek minimum flow site is now monitored in real time with telemetry and we have an active water users group up and running.
7. The focus of our evidence is on *14.8 - High Naturalness Waterbodies (HNW)* and *Rule 14.5.4 - Take and Use Surface Water*.
8. Our water users group worked together to submit on the Zone Implementation Programme Addendum (ZIPA). The users were extremely disappointed that during the development and consultation phase of the ZIPA, we were not advised, that the creek was to be classified at High Naturalness. There needs to be a clear understanding of the values and why Orakipaoa Creek should have this classification. The best chance of protecting and enhancing this creek is to have the surrounding farmers engaged

and supportive of such change, and there is a real desire from the group to understand and work with local runanga.

9. Nevertheless, the final ZIPA did include feedback from the Orakipaoa water users group and the ZIPA recommended the following to be included in Plan Change 7 (PC7). The ZIPA recommendation addresses the water users group concerns, which is about providing certainty that existing consent holders are able to renew their water permits on essentially the same terms and conditions. This is crucial to our farming operations and knowing when our consents are up for renewal, that this is achievable.
10. The final ZIPA released in December 2018 included the following recommendation on page 24, addressing our concerns:

4.5.4 Recommendation: High Naturalness Waterbodies

- I. *The Orari upper catchment and its tributaries (for its high degree of naturalness, high amenity values and very high water clarity), and Milford Lagoon (Opihi Lagoon) and Orakipaoa Creek (for their cultural and ecological significance) are classified as 'High Naturalness Waterbodies' for inclusion in the OTOP sub-region section of the Land and Water Regional Plan.*
 - II. *The policy and rule framework for High Naturalness Waterbodies recognises the value of, and investment in, existing irrigation infrastructure when considering resource consent applications that will replace an existing resource consent for the same activity on essentially the same terms and conditions.*
11. Reviewing the S32 and S42A reports, they appear to have ignored the ZIPA recommendation and are reliant upon the general rules of the LWRP. The Officers also focus on the part of our submission about whether the Orakipaoa should be a High Naturalness Waterbody rather than the relief sought in the recommendations. Commissioners did question the Officers on this and the Response to Hearing Commissioners continues to ignore the relief sought in our submission, in particular the amendment to Rule 14.5.4 which is not discussed by report writers at all. The Councils legal team are now looking to us to demonstrate whether the policy recommendation is within the Council jurisdiction. We never intended engaging legal representation but potentially now have no choice but to do so.
 12. However, we will now simply set out what our submission sought and why.
 13. We sought to include a policy in Section 14.8 to accompany the table that we consider gives effect to the intention of the ZIPA recommendation for HNW. Whether the policy is located here or in the policy section of PC7 with reference to HNW, it should be located where most appropriate (by the experts), as long as the intent is achieved.

In considering whether to grant or refuse applications for replacement of existing consents, the consent authority will:

- a) *consider whether all reasonable attempts to meet the efficiency expectations of this Section have been undertaken;*
- b) *recognise the value of the investment of the existing consent holder; and*
- c) *maintain the inclusion of the consent, if granted, in any allocation limits and priority bands on the water body concerned.*

14. Furthermore, we asked for an addition to Rule 14.5.4 to further provide for renewals in HNW. This recommendation has been ignored in the S32 report, S42A report and the Officers Response to Commissioners (change requested in **bold** text):

*3. Unless it is associated with the artificial opening of a hapua, lagoon or coastal lake to the sea, the take is not from a wetland, hapua or a high naturalness waterbody listed in **Section 14.8 unless replacing a lawfully established take, in accordance with 2 a)***

15. We are now aware that this proposed amendment should also be applied to hydraulically connected groundwater as there are several of these takes within the catchment that may be impacted, if ECan take the position that they are impacting the HNW, even when outside the location defined.
16. The S42 report (paragraph 14.26) notes that there does not appear to be acknowledgement of existing water takes that may be affected by the quite directive Policy 4.6 (of the LWRP). In the same paragraph, it also states that deep groundwater is available in the T allocation block which is intended to allow people to swap from surface water or hydraulically connected groundwater to deep groundwater.
17. However, the T allocation block has been removed from plan in the Section 42 report (refer to Table 14(zb) in Appendix E, Part 1 of the S42 report). In doing this, the allocation for the Orari-Opihi Groundwater Allocation Zone has been increased back to its original limit of 71.1 million cubic metres per year. This disconnect has been noted by the Commissioners, and the S42 Officer did respond, however, the response assumes that deep groundwater is an alternative for us.
18. The realities of getting deep groundwater are discussed by David Lister below:

“There have been several unsuccessful attempts by local farmers to source deep groundwater. Including myself when I recently drilled spending \$86,000 to develop just the bore, and only obtain 25l/s at 117 metres deep which was not sufficient or desirable. This was near Rise Road.

I then went on to drill a second well some 100 metres from the first attempt, to locate 50l/s at 55 metres deep, at a further cost of \$52,000. We now have an application in process with ECan, and between the assessments required, application and ECan fees, we have now spent another \$30,000 and we have not yet achieved the desired result. Locating the bore is also critical to ensure it is far enough away from waterbodies and neighbouring bores so they are not affected. This quite simply not viable for many of the water users group to spend such money in hope of firstly sourcing suitable water and then making it through the complex, costly and changing consenting process.

The wells have to be sufficiently deep, usually greater than 50 metres deep and we would need to prove they are not hydraulically connected to avoid being included within the Orakipaoa allocation and minimum flow regimes, or that for the Opihi River depending on the location of the bore and property. On that basis groundwater is not a simple solution but we do need it as an alternative.

I have a consent application in process with ECan at the moment for a deep bore. This week, my consultant was told that the Orari-Opihi Groundwater Allocation Zone was over-allocated under both the LWRP and PC7, yet Appendix 5 of the ECan Resource Consent Inventory has the allocation at

41.79 million cubic metres per year if hydraulically connected groundwater takes are discounted correctly. This is incredibly frustrating.”

19. The reason for us asking for these changes to the HNW policies and rules is because we are aware that if changes are not made to the general rules, then it is unlikely that we will be able to renew our consents.
20. Our consultants, Irricon Resource Solutions, have advised us that they have another client (Rooney Farms) in the HNW for the Orari River and they have not yet been able to renew the consent under these general rules because of Policy 4.6 of the LWRP. We understand that Rooney Farms will be presenting evidence on this.
21. In conclusion we are seeking that PC7 gives us the relief that we are seeking, which is certainty of renewing our existing water permits given the Orakipaoa is now to be classified as an HNW.

Date 17 July 2020

Simon Connolly and David Lister

Appendix A

Consent	Holder	Flowrate	Duration
CRC081419	PW & JM Darby	3 l/s	2040
CRC102917	GP Leonard	66.8 l/s	2040
CRC150514	DJ Lister	58 l/s	2034
CRC992275	Raki Paua Farm	38 l/s	2040
CRC992568	PM&SJ Goodwin	32 l/s	2040
CRC121816	Springfield Partnership	26 & 60l/s (two bores)	2022
CRC171536	Darby/Wells	19l/s	2027