
Report of Independent Commissioner

Wairarapa International Dark Sky Reserve – Outdoor Artificial Lighting Plan Change

Recommendation to South Wairarapa District Council and Carterton District Council

25 May 2021

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SCHEDULE OF APPENDICES

- **APPENDIX 1:** Recommended amendments to Plan Change provisions
- **APPENDIX 2:** Commissioner recommendations on relief sought in submissions

INTERPRETATION

This report uses the following abbreviations and acronyms.

TERM	MEANS
the Act	Resource Management Act 1991
Councils	South Wairarapa District Council & Carterton District Council
NZCPS	New Zealand Coastal Policy Statement 2010
Plan	Wairarapa Combined District Plan
Plan Change	Wairarapa International Dark Sky Reserve – Outdoor Artificial Lighting Plan Change
RMA	Resource Management Act 1991
RPS	Regional Policy Statement for the Greater Wellington Region 2013
s42A Report	Report prepared pursuant to s42A of the RMA (dated 17 May 2021)

South Wairarapa & Carterton District Councils Recommendation of Independent Commissioner

Proposal Description:

Wairarapa International Dark Sky Reserve – Outdoor Artificial Lighting Plan Change

Independent Commissioner:

JC Jones

Summary of Decision:

The proposed plan change has been advanced by the Councils in support of an application from the Wairarapa Dark Sky Association to the International Dark Sky Association for part of the region to be certified as an International Dark Sky Reserve. The plan change includes policies, rules and other methods to control outdoor lighting throughout the two districts to minimise effects on the darkness of the night sky.

Ten submissions were received on the proposal, all of which were in support – albeit some submitters have sought amendments to the proposed rules and methods. The Councils' reporting officer and submitters have been able to resolve the few issues in contention through informal discussions such that all parties are amenable to the proposal being determined without a hearing.

I am satisfied that the proposed plan change, as amended through the dialogue between the parties, meets the relevant requirements of the RMA. I have concluded that the amended proposal will better implement the objectives of the operative District Plan and achieve the objective of the plan change in a more efficient manner than the notified proposal. The amended proposal will also better implement relevant higher order regional and national policy direction, and better achieve the sustainable management purpose of the RMA.

Having considered all relevant matters under the RMA, and based on the evidence gathered by the Council in preparing the plan change, the submissions received, and the s42A Report, I recommend that:

- the plan change be approved, subject to the further amendments as indicated in **Appendix 1**;
- the submissions be accepted, accepted in part or rejected to the extent described in this report and summarised in **Appendix 2**; and
- the Councils give notice of their decision on submissions to the plan change pursuant to Clause 10 of the First Schedule of the RMA.

1.0 Introduction

*“But out in the distance there's a glow
That nobody sees, so nobody knows...”*

*If the evening ever comes, maybe it'll set things right
'Cause in the dark even the blind can feel a speck of light”*

- Eric Bachmann

Plan Change context & purpose

- 1.1 The words above are from the song *Big Darkness* by Crooked Fingers. In their original context, the lyrics lament the pitfalls of a dead-end town in America and the effect this has on the town's people. Considered in the context of this plan change, the words represent a very different prospect – that of communities who want to celebrate big darkness and the associated benefits to be realised from it.
- 1.2 The plan change has been brought about to support an application from the Wairarapa Dark Sky Association to the International Dark Sky Association for part of the region to be certified as an International Dark Sky Reserve. In particular, controls on outdoor lighting have been identified as necessary to minimise outdoor lighting pollution.
- 1.3 The Councils have reviewed the operative Plan and found that the provisions that control light emissions in the districts do not specifically address light pollution that affects the clarity and brightness of the night sky. The provisions also do not meet the International Dark Sky requirements for dark sky reserve accreditation.
- 1.4 The purpose of the plan change as expressed in the public notice is accordingly to review the Plan's issues, objectives, policies, rules, methods and assessment criteria to:
 - a. manage new lighting within the districts to minimise adverse effects from light pollution to protect the brightness and clarity of the night sky;
 - b. manage new lighting to ensure that the requirements for obtaining international dark sky reserve status can be met;
 - c. clearly signal to the community that the clarity and brightness of the night sky are important features of the Wairarapa and should be protected;
 - d. allow for outdoor artificial lighting when the type and characteristics of lighting used will not have adverse effects on the brightness and clarity of the night sky;
 - e. ensure that Plan provisions are sufficiently clear and direct, to assist decision-makers assessing and determining applications for lighting; and
 - f. ensure provisions clearly articulate Councils' expectations in relation to lighting.

- 1.5 The plan change has an extensive background. It has been the subject of a section 32 report¹, consultation with stakeholders, and, of course, the public notification and submission process, culminating in my recommendation.

Report purpose

- 1.6 The purpose of this report is to outline my recommendation to the Councils on the proposed change to the Wairarapa Combined Plan relating to the Wairarapa Dark Sky Reserve and associated controls on outdoor lighting.
- 1.7 The decision to approve the plan change, approve it with amendments or decline it ultimately rests with the Councils.

Report outline

- 1.8 As I discuss in further detail below, this plan change has followed a somewhat unorthodox process in that no formal hearing of submissions has been held. While uncommon, this process is expressly allowed for under the RMA in circumstances where all submitters have indicated they do not wish to be heard or have withdrawn a previously expressed desire to be heard².
- 1.9 The upshot of the process adopted is that all parties to the plan change – being the submitters and the planning advisor for the Councils – have expressed their comfort with the plan change being approved subject to a small number of amendments that address the relief sought by some submitters. The parties have agreed to dispense with the hearing on the basis that the plan change is amended accordingly.
- 1.10 This agreed process has enabled me to adopt a considerably more concise report format than I would normally use for a plan change hearing, and that format is organised as follows:

Section 1: Introduction

Section 1 provides a factual basis for the report, including a brief description of the plan change purpose and my role.

Section 2: Overview of plan change, notification and submissions

Section 2 summarises the plan change provisions as notified and provides a brief factual summary of the process leading to this decision report, including notification, submissions and subsequent exchanges between the parties.

Section 3: Outline of statutory considerations

Section 3 provides a brief summary of the statutory matters that must be considered when determining a plan change.

Section 4: Evaluation

Section 4 includes my evaluation of the submissions received, and of amendments to the notified provisions arising from submissions

Section 5: Recommendations

The final brief section of the report formally records my recommendations to the Councils.

¹ Section 32 of the RMA sets out the requirements for preparing and publishing reports that evaluate the appropriateness of a plan change.

² RMA, Schedule 1, Clause 8C

Cross referencing plan change documents and s42A Report

- 1.11 For the sake of brevity, I have taken the opportunity at several junctures in this report to cross reference and/or adopt material set out in the plan change document, the associated s32 RMA report and the s42A Report prepared by Ms Debbie Donaldson, the Councils' Consultant Planner of Kahu Environmental.
- 1.12 Those documents and others referenced below are held on Council file and should be read in conjunction with this report for completeness.

Comments on the parties' participation to date

- 1.13 As a final point in this preliminary section, I would like to record my appreciation to all parties for working in a timely and collaborative manner. Not only have the parties' efforts enabled the hearing to be dispensed with, the results of their collective efforts have greatly assisted my understanding of key issues and my evaluation of the proposed amendments.

2.0 Plan change overview, notification & submissions

Proposed amendments & notification

- 2.1 The proposal is comprehensively described in the s32 Report that accompanied the notified plan change. Detailed summaries of the proposal have been provided in a Summary/FAQ document provided on the Council website, and again in Ms Donaldson's s42A Report.
- 2.2 Reference should be made to those documents, which I will not repeat in detail here – apart from the following summary of proposed amendments to the Plan extracted from the s42A Report:

19 Proposed changes to the WCDP include:

- *Amendments to the Significant Resource Management Issues in Chapter 19 – General Amenity Values³.*
- *Amendments to policies within Chapter 19 – General Amenity Values. The proposed changes ensure that the effects of lighting on amenity are distinguished from the effects of lighting on the night sky. The proposed policies also highlight the importance of the night sky as an amenity value within the Dark Sky Management Area⁴.*
- *Amendments to the Methods and Anticipated Environmental Outcomes within Chapter 19 – General Amenity Values⁵.*
- *New rules within Chapter 21 – District Wide Land Use Rules, to introduce performance standards for outdoor artificial lighting within the Dark Sky Management Area to manage:*
 - *The light colour temperature of lights⁶;*
 - *Shielding and tilting of lights⁷; and*
 - *Provide an exemption to the light colour temperature and shielding and tilting performance standards, where lighting is controlled by motion sensors with limited duration⁸.*
- *New rules within Chapter 21 – District Wide Land Use Rules, to introduce performance standards within the Dark Sky Management Area to manage outdoor sports lighting at recreational facilities, in particular:*
 - *The light colour temperature of lights⁹;*
 - *The design of lighting in accordance with Australian Standard AS 2560 Guide to sports lighting¹⁰;*
 - *The luminous intensity from light fittings¹¹;*
 - *Hours of operation of outdoor sports lighting¹²; and*
 - *Provide controls for outdoor sports lighting, including automatic curfew controls, local control and training/competition lighting¹³.*

³ Significant Resource Management Issue 19.2.4

⁴ Policy 19.3.2(e) and (f)

⁵ Method 19.3.4(g) and Anticipated Environmental Outcome 19.4(c)

⁶ Rule 21.1.11(a)(ii)

⁷ Rule 21.1.11(a)(iii)

⁸ Rule 21.1.11(a)(iv)

⁹ Rule 21.1.11(b)(i)

¹⁰ Rule 21.1.11(b)(ii)

¹¹ Rule 21.1.11(b)(iii)

¹² Rule 21.1.11(b)(iv)

¹³ Rule 21.1.11(b)(v) and (vi)

- *Amendments to the Assessment Criteria contained within Chapter 22.1.17 – Artificial Light and Chapter 22.2.10 – Signs.*
- *It is proposed that the amended performance standards will only apply to the South Wairarapa and Carterton Districts and as such a 'Dark Sky Management Area' has been identified that extends over the South Wairarapa and Carterton Districts. This area is identified in the 'Dark Sky Management Area' Map to be included in the Plan as Appendix 15.*
- *Amendments to the definitions contained within Chapter 27 – Definitions.*

- 2.3 The plan change was supported by a suite of technical and research resources, including:
- a. an Issues & Options paper prepared by Perception Planning;
 - b. a report prepared by Stephenson & Turner Lighting, which included a review of existing provisions against the requirements of the International Dark Sky Association requirements, and technical advice on plan amendments necessary to comply with those requirements;
 - c. a stocktake of outdoor lighting currently available at retail outlets which meet the proposed requirements; and
 - d. results of preliminary consultation.
- 2.4 The supporting information for the plan change also outlines a range of benefits to be realised through implementation of the proposal and the associated dark sky reserve status. For example, the proposal is anticipated to facilitate an increase in tourism interest to the region, with economic benefits flowing from that.
- 2.5 The s32 Report envisages that winter tourism in particular will be enhanced with dark sky reserve status, noting that winter tourism in Aoraki increased 41% in the period 2010-2019 following dark sky reserve status being awarded there.
- 2.6 Economic projections obtained by the Councils forecast an additional \$190M in tourist expenditure within the first decade of dark sky reserve status in the Wairarapa – though it is unclear whether these estimates will remain valid following the Covid-19 pandemic.
- 2.7 The s32 Report notes that the proposal is also anticipated to enhance cultural values, in particular the relationship that Māori have with the night sky as taonga.
- 2.8 Council's supporting documents also identify that preserving the darkness of the night sky ensures future generations will be able to make use of a common and universal heritage shared with forebears. Evidence is also cited that reducing artificial light pollution has benefits for flora and fauna. The dark sky is also identified in the s32 Report as an essential component for human health associated with sleep cycles and associated biological functions.
- 2.9 These benefits are uncontested in the evidence and submissions before me.

Submissions

- 2.10 Following the collation of all supporting information and Council authorisation, the application was publicly notified on 30 September 2020, with the period for receiving submissions closing on 30 October.
- 2.11 Ten submissions were subsequently received, with four being in full support and six supporting the plan change in principle, subject to amendments.

- 2.12 A summary of submissions was prepared and notified on 11 November 2020. Two of the original submitters made further submissions before the closing date of 25 November.
- 2.13 The submissions in full support of the proposal provided the following reasons for their support:
- a. the plan change will help minimise lighting impacts on the natural environment in the South Wairarapa District¹⁴.
 - b. the proposal is a prerequisite for Wairarapa Dark Sky Association's (WDSA) key goal of achieving International Dark Sky Reserve status for the Wairarapa - without this Plan Change the criteria applied by the International Dark Sky Association for accrediting the Wairarapa as a reserve would not be met¹⁵.
 - c. GWRC currently runs free stargazing and bushwalk nights promoting dark skies as a public service – and the proposed changes and the proposed Dark Sky Reserve will ensure that the park continues to be able to run these events in the future and will protect the Taonga which is the night sky¹⁶.
 - d. the Plan Change will also help new astronomy businesses take a foot hold in the Wairarapa, and for established ones to continue to grow, providing new jobs and boosting the economy¹⁷;
 - e. darker skies have been proven to aid better quality sleep, healthier body routines and increase wellbeing - avoiding blue and white light at night is vital for humans and the environment¹⁸; and
 - f. the plan change strikes an appropriate balance between supporting the use of artificial light at night when needed for the purposes of safety or recreation and limiting the inappropriate use of artificial light in circumstances when light does not increase safety or have a specific functional purpose¹⁹.
- 2.14 The scope of submissions seeking amendments to the proposal included:
- a. exceptions applied to the new controls on colour temperature and light output for outdoor lighting under Rule 21.1.11(a), to enable night-time works to be safely undertaken by infrastructure providers where necessary²⁰;
 - b. similar exceptions to be applied to lighting required under civil aviation rules or to lighting that ensures safe navigation of ships at sea²¹;
 - c. exception also for lighting from or mounted to moveable vehicles²²; and
 - d. relaxation of controls on outdoor lighting associated with recreational facilities, including increased permitted limits on light temperature and an earlier finish time for the night time control period on light emission²³.

¹⁴ Greater Wellington Regional Council (S4/001, S4/002 and S4/003)

¹⁵ Wairarapa Dark Sky Association (S9/001) and Alan and Joyanne Stevens (S10/001)

¹⁶ Greater Wellington Regional Council (S4/001, S4/002 and S4/003)

¹⁷ Under the Stars NZ Ltd (S6/001)

¹⁸ Under the Stars NZ Ltd (S6/001)

¹⁹ Wairarapa Dark Sky Association (S9/001)

²⁰ Powerco (S1/001), Waka Kotahi (S5/002) & further submissions by Waka Kotahi (FS1/001) & Genesis (FS2/001)

²¹ Genesis (S2/002, S2/003), Maritime NZ (S3/001, S3/002), & further submission by Genesis (FS2/002, FS2/004)

²² South Wairarapa District Council (S8/001), & further submission by Genesis (FS2/003)

²³ Wairarapa Sports Artificial Surface Trust (S7/001, S7/002, S7/003)

Pre-hearing Procedural Matters

- 2.15 Upon my engagement, I issued a minute²⁴ to set out a process for potential informal issue resolution between the parties before any hearing arrangements were to be made. Given the low number of submissions received, the broad general (or conditional) support for the proposal, and the willingness signalled in submissions for pre-hearing discussions, I proposed that Ms Donaldson engage with each submitter with a view of narrowing issues in contention.
- 2.16 Ms Donaldson duly spoke with all submitters apart from those that supported the plan change and did not wish to be heard. Ms Donaldson prepared a detailed written record of each discussion and attached that to a cover memo to me dated 4 May 2020. In the memo, Ms Donaldson expressed that the scale and significance of concerns by submitters on the Plan Change were minor and could be resolved through minor amendments to the proposed rules. She attached a suite of associated amendments and provided reasons for adopting those changes.
- 2.17 Ms Donaldson's memo also clarified that all submitters confirmed in writing that they would be happy to dispense with the hearing on the basis of the discussions with her, including agreed amendments.
- 2.18 After reviewing Ms Donaldson's memo, I issued a second minute to confirm that the hearing could be dispensed with subject to final confirmation of the parties.²⁵ The process I proposed at that time was:
- a. firstly, to enable all submitters the opportunity to view *all* amendments proposed by Ms Donaldson and to confirm whether they remain happy to proceed without a hearing in light of those changes;
 - b. secondly, to ask Ms Donaldson to provide her s42A report one week after that; and
 - c. finally, to allow for my consideration of the amended proposal.
- 2.19 No submitters expressed any concerns about Ms Donaldson's memo within the timeframe stipulated in Minute 2 (or subsequently) and accordingly, I concluded that the matter would be determined without need for a hearing.
- 2.20 Following the circulation of Ms Donaldson's s42A report, Genesis Energy noted to the Councils that one of the amendments agreed with Ms Donaldson had been inadvertently omitted from the amended provisions. Ms Donaldson subsequently acknowledged that omission and reissued her s42A report with a correction made.
- 2.21 Having reviewed Ms Donaldson's final report, I was satisfied that I had all information necessary to complete my deliberations and deliver my recommendation to the Councils. I issued Minute 3 on 24 May confirming as much to all parties.

s42A report

- 2.22 Ms Donaldson's report set out the following matters:
- a. overview of the proposed plan change;
 - b. statutory considerations relevant to the determination of plan changes;
 - c. a discussion of submissions received, including recommended changes to the notified provisions arising from the submissions;

²⁴ Minute 1 dated 6 April 2021

²⁵ Minute 2 dated 5 May 2021

- d. an evaluation of the additional amendments under s32AA of the RMA; and
 - e. updated recommendations on the substance of relief sought by various submitters.
- 2.23 The recommended changes to the notified provisions addressed the key issues raised in the submissions from Genesis Energy, Waka Kotahi, Maritime New Zealand, Powerco the Wairarapa Sports Artificial Surface Trust and South Wairarapa District Council – being each of the submitters who conditionally supported the proposal subject to amendments being adopted.
- 2.24 The changes were limited to the Outdoor Artificial Light rules under 21.1.11 in the Plan, and collectively:
- a. expanded the exceptions for outdoor lighting limits to:
 - i. exempt night-time works for the construction, maintenance and upgrading of network utilities and energy generation facilities undertaken by a network utility operator or wind energy facility operator from complying with the maximum colour temperature standard and the maximum light output standard;
 - ii. exempt lighting on existing buildings or structures erected or maintained pursuant to civil aviation or maritime transport legislation from complying with the same standards;
 - iii. exempt lighting from, or mounted to, moveable vehicles from all standards for outdoor lighting; and
 - b. relaxed the standards for outdoor lighting at recreation facilities by:
 - i. increasing the maximum colour temperature from 4,000 to 5,700 Kelvin; and
 - ii. reducing the night-time period for limiting outdoor lighting by one hour (the period no ceases at 6am instead of 7am as notified).
- 2.25 Hereafter, I refer to the above as the “**agreed amendments**”.
- 2.26 Ms Donaldson concluded that the agreed amendments would better implement the relevant objectives and policies in the Plan than the notified provisions, having evaluated the agreed amendments under s32AA of the RMA.
- 2.27 I expand upon these points subsequently.

3.0 Statutory considerations

- 3.1 The relevant statutory matters for determining plan change proposals are well set out in section 3 of Ms Donaldson's s42A Report.
- 3.2 As noted by Ms Donaldson' the Environment Court has provided the following comprehensive summary of these matters in *Colonial Vineyard Ltd v Marlborough District Council*²⁶:

A. General requirements

1. *A district plan (change) should be designed to accord with — and assist the territorial authority to carry out — its functions so as to achieve the purpose of the Act.*
2. *The district plan (change) must also be prepared in accordance with any regulation (there are none at present) and any direction given by the Minister for the Environment.*
3. *When preparing its district plan (change) the territorial authority must give effect to any national policy statement or New Zealand Coastal Policy Statement.*
4. *When preparing its district plan (change) the territorial authority shall:*
 - (a) *have regard to any proposed regional policy statement;*
 - (b) *give effect to any operative regional policy statement.*
5. *In relation to regional plans:*
 - (a) *the district plan (change) must not be inconsistent with an operative regional plan for any matter specified in section 30(1) or a water conservation order; and*
 - (b) *must have regard to any proposed regional plan on any matter of regional significance etc.*
6. *When preparing its district plan (change) the territorial authority must also:*
 - *have regard to any relevant management plans and strategies under other Acts, and to any relevant entry in the Historic Places Register and to various fisheries regulations to the extent that their content has a bearing on resource management issues of the district; and to consistency with plans and proposed plans of adjacent territorial authorities;*
 - *take into account any relevant planning document recognised by an iwi authority; and*
 - *not have regard to trade competition or the effects of trade competition;*
7. *The formal requirement is that a district plan (change) must also state its objectives, policies and the rules (if any) and may state other matters.*

B. Objectives [the section 32 test for objectives]

8. *Each proposed objective in a district plan (change) is to be evaluated by the extent to which it is the most appropriate way to achieve the purpose of the Act.*

C. Policies and methods (including rules) [the section 32 test for policies and rules]

9. *The policies are to implement the objectives, and the rules (if any) are to implement the policies;*
10. *Each proposed policy or method (including each rule) is to be examined, having regard to its efficiency and effectiveness, as to whether it is the most appropriate method for achieving the objectives of the district plan taking into account:*
 - (i) *the benefits and costs of the proposed policies and methods (including rules); and*

²⁶ ENV-2012-CHC-108,[2014] NZEnvC 55

- (ii) the risk of acting or not acting if there is uncertain or insufficient information about the subject matter of the policies, rules, or other methods; and
- (iii) if a national environmental standard applies and the proposed rule imposes a greater prohibition or restriction than that, then whether that greater prohibition or restriction is justified in the circumstances.

D. Rules

- 11. In making a rule the territorial authority must have regard to the actual or potential effect of activities on the environment.
- 12. Rules have the force of regulations.
- 13. Rules may be made for the protection of property from the effects of surface water, and these may be more restrictive than those under the Building Act 2004.
- 14. There are special provisions for rules about contaminated land.
- 15. There must be no blanket rules about felling of trees in any urban environment.

E. Other statutes:

- 16. Finally territorial authorities may be required to comply with other statutes.

F. (On Appeal)

- 17. On appeal the Environment Court must have regard to one additional matter — the decision of the territorial authority.

3.3 The report section that follows considers each of these matters in turn, to the extent relevant.

3.4 An important distinction to also clarify here is that the aspects of the matters above that derive from s32 RMA have already been assessed by the Councils in preparing the s32 Report that accompanied the notified plan change. The relevant surrogates for my report are derived from s32AA, which states (my emphasis):

32AA Requirements for undertaking and publishing further evaluations

- (1) A further evaluation required under this Act—
 - (a) is required only for any changes that have been made to, or are proposed for, the proposal since the evaluation report for the proposal was completed (the changes); and
 - (b) must be undertaken in accordance with section 32(1) to (4); and
 - (c) must, despite paragraph (b) and section 32(1)(c), be undertaken at a level of detail that corresponds to the scale and significance of the changes; and
 - (d) must—
 - (i) be published in an evaluation report that is made available for public inspection at the same time as the approved proposal (in the case of a national policy statement or a New Zealand coastal policy statement or a national planning standard), or the decision on the proposal, is notified; or
 - (ii) be referred to in the decision-making record in sufficient detail to demonstrate that the further evaluation was undertaken in accordance with this section.
- (2) To avoid doubt, an evaluation report does not have to be prepared if a further evaluation is undertaken in accordance with subsection (1)(d)(ii).
- (3) In this section, **proposal** means a proposed statement, national planning standard, plan, or change for which a further evaluation must be undertaken under this Act.

3.5 In relation to the emphasised clauses above:

- a. my evaluation of the provisions addresses the amendments arising since notification;
- b. the level of detail required is commensurate with the low scale & significance of changes arising, as appraised by Ms Donaldson; and

- c. the requisite evaluation is contained in this report with reference to Ms Donaldson's evaluation – rather within a separate stand-alone s32AA evaluation report.

4.0 Evaluation

Overview

- 4.1 Here I iteratively step through each of the relevant matters identified in section 3 above.
- 4.2 Overall, I have adopted Ms Donaldson's proposed amendments and the corresponding evaluation of the relevant statutory matters as set out in the s32A Report or her s42A Report.
- 4.3 For those reasons and as I elaborate below, I consider that the plan change as amended in **Appendix 1** is more appropriate than the notified proposal.
- 4.4 I also adopt Ms Donaldson's findings that the scale and significance of amendments arising since notification are both low, such that my evaluation can be correspondingly high-level.

General requirements

Councils' functions

- 4.5 The Councils' functions are set out in s31 of the RMA. Of particular relevance here is the function relating to the establishment, implementation, and review of objectives, policies, and methods to achieve integrated management of the effects of the use, development, or protection of land and associated natural and physical resources of the District²⁷.
- 4.6 The plan change includes provisions to achieve integrated management of land use and development effects, and the agreed amendments comprise methods with a particular focus on integrating the proposed controls on lighting with controls on energy generation activities, infrastructure activities, and recreation activities.
- 4.7 The proposal – as altered by the agreed amendments – will accordingly assist the Councils to carry out their functions for the purposes of achieving the Act's sustainable management purpose.

Regulations

- 4.8 There are no regulations or Ministerial directions relevant to this proposal.

New Zealand Coastal Policy Statement

- 4.9 As noted in the s32 Report, part of the proposed dark sky reserve is located in the 'coastal environment' as defined in the NZCPS – and the NZCPS is relevant for those parts of the districts.
- 4.10 Policy 13 of the NZCPS identifies that the natural character of the coastal environment may include the natural darkness of the night sky. The policy also directs how the natural character of the coastal environment is to be preserved and protected from inappropriate subdivision, use and development.
- 4.11 I am satisfied that the plan change has been prepared to implement this policy and its overarching objectives to the extent relevant. The agreed amendments will not alter that finding.

²⁷ s31(1)(a)

- 4.12 In reaching that view, I note that the agreed amendments include relaxations for limited activities to comply with proposed outdoor lighting limits, including activities and structures for the express purposes of ensuring maritime safety.
- 4.13 Consistent with Ms Donaldson's evaluation in her s42A Report, I observe that the NZCPS is not disabling of use and development in the coastal environment. To the contrary, Objective 6 of the NZCPS enables people and communities to provide for their social, economic and cultural well-being and their health and safety through such activities. The objective adds that:
- a. use and development in appropriate places and forms and within appropriate limits are not precluded;
 - b. some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities – including for example, maritime navigation aids, established energy generation facilities and other significant infrastructure;
 - c. functionally, some uses and developments can only be located on the coast or in the coastal marine area; and
 - d. the coastal environment contains renewable energy resources of significant value.
- 4.14 The agreed amendments are appropriate in this context, and again, I consider the plan change will give effect to the NZCPS with those amendments adopted.

Regional Policy Statement

- 4.15 The RPS was made operative in 2013. As noted in the s32 Report, the RPS contains objectives and policies to preserve and protect habitats and features, including the natural character of the coastal environment. The RPS also contains objectives and policies that recognise the need for Councils to work with local iwi authorities for the benefit of the region. The plan change has been designed to give effect to these and other relevant provisions in the RPS.
- 4.16 There are also provisions in the RPS relating to renewable energy generation and regionally significant infrastructure. The agreed amendments are directly relevant to RPS Policy 39 which requires that plan change decisions have particular regard to:
- a. the social, economic, cultural and environmental benefits of energy generated from renewable energy resources and/or regionally significant infrastructure; and
 - b. protecting regionally significant infrastructure from incompatible subdivision, use and development occurring under, over, or adjacent to the infrastructure; and
 - c. the need for renewable electricity generation facilities to locate where the renewable energy resources exist; and
 - d. significant wind and marine renewable energy resources within the region
- 4.17 In my evaluation, the agreed amendments will better implement this direction in the RPS without undermining the other relevant aims and directions in the RPS.
- 4.18 There is no proposed RPS that I must have regard to.

Regional Plans

- 4.19 There are operative and proposed Regional Plans for the Wellington Region.

- 4.20 I am satisfied that the plan change – as altered by adopting the agreed amendments – will not be inconsistent with any operative regional plan.
- 4.21 I have also considered the matters of regional significance under the Proposed Natural Resources Plan, which is under appeal before the Environment Court at present. Those include regionally significant infrastructure, sites and areas of significance to mana whenua, natural wetlands, and freshwater bodies. The plan change does not create any conflict with respect to those matters of regional significance.

Other general matters

- 4.22 My understanding is that there are no relevant management plans and strategies under other Acts, nor any relevant planning document recognised by any iwi authority.
- 4.23 Trade competition effects have not been considered.
- 4.24 The plan change has stated objectives, policies, rules and other matters, and these are discussed further immediately below.

Objectives

- 4.25 The proposed plan change did not amend any existing objectives in the Plan or introduce any new objectives. For such proposals, the RMA identifies that the purpose of the Plan change comprises the ‘objectives’ for the purposes of assessing the proposal against the RMA’s sustainable management purpose in Part 2.²⁸
- 4.26 In the s32 Report, the Council has found the purpose of the plan change to be consistent with Part 2, and there are no changes to the objectives arising from submissions such that I need to consider this relationship any further.

Policies, rules & other methods

Policies

- 4.27 The plan change proposed one amendment to an existing policy and the inclusion of a new policy. As notified, these provisions read:

19.3.2GAV1 Policies

...

(e) Manage the intensity, location and direction of artificial lighting to avoid light spill and glare onto adjoining sites and roads., ~~and to protect the clarity and brightness of the night sky.~~

(f) Within the Dark Sky Management Area, manage the light colour temperature, shielding and hours of operation of outdoor artificial lighting to mitigate skyglow to protect the clarity and brightness of the night sky.

- 4.28 The Councils concluded in the s32 Report that these provisions are the most appropriate to give effect to the settled objectives of the Plan and to the objectives comprising the plan change purpose.
- 4.29 No submissions were made on these policy provisions, no further amendments have been proposed to them, and accordingly, the Council’s assessment stands in this respect.

²⁸ Sections 32(6)(b) & 32(1)(a)

Rules & other methods

- 4.30 The proposed rules are to implement the policies, and the appropriateness of each rule is to be evaluated in that context. This evaluation is to consider costs, benefits, efficiency and effectiveness. The environmental effects of all proposed rules are also to be considered, and the agreed amendments are central to this evaluation.
- 4.31 There are no national environmental standards relevant such that any consideration of those regulations need be given here. The subject matter of the policies and methods is well understood and there is no corresponding need to carry out any risk assessment of including them or otherwise in the Plan.
- 4.32 Overall, I adopt Ms Donaldson's evaluation of the agreed amendments as voiced in sections 6 & 7 of her s42A Report. I emphasise in particular that:
- a. providing an exception for night-time works associated with the construction, maintenance and upgrading of essential network utilities and wind energy generation facilities is appropriate and unlikely to result in effects that are either enduring or that undermine the objective of the plan change;²⁹
 - b. those exceptions will also better enable the operative Plan aims in Objectives 16.3.1 and 16.3.4 to be achieved by facilitating the efficient development, maintenance and operation of network utilities, and encouraging energy efficiency and the generation of energy from renewable sources;³⁰
 - c. providing exceptions for existing lighting for the purpose of ensuring aviation and maritime safety will appropriately provide for people's health and safety;³¹
 - d. the relaxation in maximum colour temperature to 5,700 Kelvin for recreational activities will provide greater access to cost-effective lighting products for recreational facilities, whilst remaining within the limits required by the International Dark Sky Association for dark sky accreditation;³²
 - e. reducing the overnight period for limiting lighting from recreational activities by one hour is unlikely to have any material adverse effect or undermine the plan change objective;³³ and
 - f. both relaxations for lighting from recreational activities will enable the plan change aims to be met, whilst also enhancing the proposal's implementation of the general amenity outcomes sought in Objective 19.3.1.³⁴
- 4.33 In all of the above respects the settled objectives of the Plan will be more efficiently and effectively implemented, the proposed objective will be more efficiently implemented with no relative reduction in efficacy and the anticipated environmental effects associated with the revised plan limits will be appropriate.
- 4.34 The net effect of the agreed amendments will be a plan change that better achieves integrated management of the use and development of land and associated natural and physical resources in the South Wairarapa and Carterton Districts.

Other statuses

- 4.35 There are no other status that need be complied with.

²⁹ Per s42A Report, para 49

³⁰ Per s42A Report, para 128

³¹ Per s42A Report, para 85

³² Per s42A Report, para 108

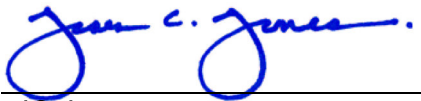
³³ Per s42A Report, para 110

³⁴ Per s42A Report, para 134

5.0 Recommendation

- 5.1 For the reasons set out above, I recommend that:
- a. the plan change be approved, subject to the further amendments as indicated in **Appendix 1**;
 - b. the submissions be accepted, accepted in part or rejected to the extent described in this report and summarised in **Appendix 2**; and
 - c. the Councils give notice of their decision on submissions to the plan change pursuant to Clause 10 of the First Schedule of the RMA.

DATED AT WELLINGTON THIS 25th DAY OF MAY 2021



JC Jones
Independent Commissioner

APPENDIX 1
Recommended amendments to plan change provisions

Dark sky reserve – outdoor lighting plan change

Amendments to notified provisions recommended by Commissioner

Proposed plan change provisions to be retained as notified

The proposed changes to the following chapters in the plan change are recommended to be **retained as notified**:

- Chapter 4 – Rural Zone;
- Chapter 6 – Commercial Zone;
- Chapter 7 – Industrial Zone;
- Chapter 19 – Industrial Zone;
- Chapter 22 – Assessment Criteria; and
- Chapter 27 – Definitions.

Proposed plan change provisions to be amended in response to submissions

The proposed changes to the notified provisions in Chapter 21 (District Wide Land Use Rules) are recommended to be **amended as set out in the annotated provisions below**.

Red text represents notified amendments to be retained, and green text represents additional changes to notified provisions in response to submissions. Additions are shown as underlined and deletions are shown as ~~struck through~~.

21.1.11 ~~Glare and Outdoor~~ Artificial Light

- (a) The emission of outdoor artificial light (including glare) meets the following standards:

(i) A maximum artificial light level of 8 lux (lumens per square metre) measured at 1.5m above ground level at the site boundary.

(ii) Within the Dark Sky Management Area identified within Appendix 15, all outdoor lighting shall have a colour temperature of light emitted of 3000K Kelvin or lower.

(iii) Within the Dark Sky Management Area identified within Appendix 15, all outdoor lighting with a light output of 500 lamp lumens or greater shall be shielded or tilted so as to not emit any light at or above a horizontal plane measured at the light source.

Exceptions:

(iv) Lighting controlled by motion-activated switches limiting the duration of illumination to less than five (5) minutes after activation are exempt from complying with standards (ii) and (iii) above.

(v) Night-time works for the construction, maintenance and upgrading of network utilities and energy generation facilities undertaken by a network utility operator or wind energy facility operator are exempt from complying with standards (ii) and (iii) above.

(vi) Lighting on existing buildings or structures erected or maintained pursuant to civil aviation or maritime transport legislation are exempt from complying with standards (ii) and (iii) above.

(vii) Lighting from or mounted to moveable vehicles.

(b) Outdoor Sports Lighting at Recreation Facilities

Within the Dark Sky Management Area identified within **Appendix 15**, the emission of light from outdoor sports lighting at Recreational Facilities which meets the following standards:

- (i) All outdoor sports lighting shall have a colour temperature of light emitted of ~~4000K~~ 5700K Kelvin or lower.
- (ii) Outdoor sports lighting shall be designed to the illumination levels recommended in Australian Standard AS 2560 Guide to sports lighting, all parts. Maximum permitted illumination level is to be that recommended for “Level 3” competition standard. The lighting designs initial levels shall not exceed the recommended average service illuminance level by more than 50% and shall meet the recommended uniformity.
- (iii) Luminous intensity from any light source for any viewing angles at 1.5m height, at a distance of 45m beyond the field shall not exceed 1000 candela.
- (iv) Outdoor sports lighting shall not operate between 10pm and ~~7~~6am.
- (v) All outdoor sports lighting shall provide the following controls:
 - (1) Automatic curfew controls to ensure the lighting is off between 10pm and ~~7~~6am.
 - (2) Local control to turn lights on and off.
 - (3) If the lighting has a lighting level for competition, it shall also have a selectable lower lighting level for training.

APPENDIX 2

Summary of recommendations on submissions & further submissions

Summary of Commissioner recommendations on submissions and further submissions

Submitter	Sub. Point # ³⁵	Plan section	Provision	Commissioner recommendation on submission	Further Submission Point Number	Further Submitter	Commissioner recommendation on further submission
Powerco Limited							
Powerco Limited	S1/001	Chapter 21- District Wide Land Use Rules	21.1.11(a)	Accept in part Exception has been added to rule 21.1.11(a) to exempt night-time works for the construction, maintenance and upgrading of network utilities and energy generation facilities undertaken by a network utility operator or wind energy facility operator from complying with standards for maximum colour temperature and maximum light output.	FS1/001	Waka Kotahi NZ Transport Agency	Accept in part
					FS2/001	Genesis Energy Limited	Accept in part
Genesis Energy Limited							
Genesis Energy Limited	S2/004	All of Plan	Other	Accept See paras 64 – 89 of s42A Report			
Genesis Energy Limited	S2/003	Chapter 22 - Assessment Criteria	22.1.17 - Outdoor Artificial Light	Reject See paras 64 – 89 of s42A Report			
Genesis Energy Limited	S2/002	Chapter 21- District Wide Land Use Rules	21.1.11 - Outdoor Artificial Light	Accept in part Exception has been added to rule 21.1.11(a) to exempt lighting on existing buildings or structures erected or maintained pursuant to civil aviation or maritime transport legislation from complying with			

³⁵ Submission point number is as per the summary of submissions and the s42A Report.

Submitter	Sub. Point # ⁸⁵	Plan section	Provision	Commissioner recommendation on submission	Further Submission Point Number	Further Submitter	Commissioner recommendation on further submission
Maritime New Zealand							
Maritime New Zealand	S3/002	Chapter 27 - Definitions	27 - Definitions	Reject See paras 64 – 89 of s42A Report	FS2/004	Genesis Energy Limited	Reject
Maritime New Zealand	S3/001	Chapter 21- District Wide Land Use Rules	21.1.11(a)(iv)	Accept in part Exception has been added to rule 21.1.11(a) to exempt lighting on existing buildings or structures erected or maintained pursuant to civil aviation or maritime transport legislation from complying with standards for maximum colour temperature and maximum light output.	FS2/002	Genesis Energy Limited	Accept in part
Greater Wellington Regional Council							
Greater Wellington Regional Council	S4/002	Chapter 21- District Wide Land Use Rules	21.1.11(a)(ii)	Accept			
Greater Wellington Regional Council	S4/003	Chapter 21- District Wide Land Use Rules	21.1.11(a)(iv)	Accept			

Submitter	Sub. Point # ⁸⁵	Plan section	Provision	Commissioner recommendation on submission	Further Submission Point Number	Further Submitter	Commissioner recommendation on further submission
Greater Wellington Regional Council	S4/001	Chapter 21- District Wide Land Use Rules	21.1.11(a)(iii)	Accept			
Waka Kotahi/NZ Transport Agency							
Waka Kotahi/NZ Transport Agency	S5/002	Chapter 21- District Wide Land Use Rules	21.1.11(a)	Reject See paras 54 – 62 of s42A Report			
Waka Kotahi/NZ Transport Agency	S5/001	Chapter 19- General Amenity Values	19.3.4(g)	Accept in part Exception has been added to rule 21.1.11(a) to exempt night-time works for the construction, maintenance and upgrading of network utilities and energy generation facilities undertaken by a network utility operator or wind energy facility operator from complying with standards for maximum colour temperature and maximum light output.			
Waka Kotahi/NZ Transport Agency	S5/003	Chapter 22 - Assessment Criteria	22.1.11 - Outdoor Artificial Light	Accept See paras 64 – 89 of s42A Report			
Under the Stars NZ Ltd							

Submitter	Sub. Point # ⁸⁵	Plan section	Provision	Commissioner recommendation on submission	Further Submission Point Number	Further Submitter	Commissioner recommendation on further submission
Under the Stars NZ Ltd	S6/001	All of Plan	Other	Accept See Section 5 of s4ZA Report			
Wairarapa Sports Artificial Surface Trust							
Wairarapa Sports Artificial Surface Trust	S7/002	Chapter 21- District Wide Land Use Rules	21.1.11(b)(iv)	Accept in part Relaxations have been adopted to rule 21.1.11(b) to the standards for maximum colour temperature and night-time period limiting outdoor lighting associated with recreational activities.			
Wairarapa Sports Artificial Surface Trust	S7/003	Chapter 21- District Wide Land Use Rules	21.1.11(b)(v)	Accept in part Relaxations have been adopted to rule 21.1.11(b) to the standards for maximum colour temperature and night-time period limiting outdoor lighting associated with recreational activities.			
Wairarapa Sports Artificial Surface Trust	S7/001	Chapter 21- District Wide Land Use Rules	21.1.11(b)(i)	Accept in part Relaxations have been adopted to rule 21.1.11(b) to the standards for maximum colour temperature and night-time period limiting outdoor lighting associated with recreational activities.			

Submitter	Sub. Point # ⁵⁵	Plan section	Provision	Commissioner recommendation on submission	Further Submission Point Number	Further Submitter	Commissioner recommendation on further submission
South Wairarapa District Council							
South Wairarapa District Council	S8/001	Chapter 21- District Wide Land Use Rules	21.1.11(a)	Accept Exception has been added to rule 21.1.11(a) to exempt lighting from or mounted to moveable vehicles.	FS2/003	Genesis Energy Limited	Accept
Wairarapa Dark Sky Association							
Wairarapa Dark Sky Association	S9/001	All of Plan change	Other	Accept See Section 5 of s42A Report			
Alan & Joyanne Stevens							
Alan & Joyanne Stevens	S10/001	All of Plan change	Other	Accept See Section 5 of s42A Report			