IN THE MATTER AND IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of Hearing of Submissions and Further Submissions on the Proposed Gore District Plan

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Gore District Plan - Decisions on Submissions

Topic 27: Light

Hearings Panel Members

Cliff Bolger

Glenys Dickson

Date of Hearing
17 September 2024

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Appendix B. Plan Chapter (attached as a separate document)

1 Introduction

1.1 Scope of this Decision

1.1.1 This document details the evaluation and decisions of the Hearings Panel on the submissions and evidence considered in relation to the Light chapter. The Hearings Commissioners comprising the panel for this hearing were Commissioners Cliff Bolger and Glenys Dickson.

1.1.2 This Decision focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, the Panel has adopted the recommendations and the underlying evaluation contained in the Section 42A Report prepared by Victoria Woodbridge.

1.1.3 Attached is the updated provisions for the Light chapter, referencing changes authorised by this and other Decisions of the Hearings Panel. Changes made in response to submissions are shown in normal black font, with text either underlined for additions or as ~~strikethrough~~ for deletions. A reference is also provided of the decision and paragraph number giving rise to the changes in response to submissions. Amendments made to the PDP pursuant to clause 16(2) are shown in the updated District Plan chapters in a green font. Shown in a red font are consequential numbering changes arising from provisions being added or deleted.

1.1.4 Appendix A lists the submissions considered in this decision and their outcome, described as accepted, accepted in part or rejected. For convenience, the Panel has chosen to make decisions on original submissions only. By implication, but not explicitly, it has also made decisions in relation to further submissions.

1.1.5 Attention is also drawn to Decision 2, Whole of Plan and Repeated Submissions that responds to submissions lodged to the District Plan as a whole, together with those lodged to multiple zones and/or chapters in the PDP. In some cases, these submissions may result in amendments to this chapter as well. Any such changes are annotated as a footnote in the updated provisions.

1.2 Abbreviations

1.2.1 In preparing this decision the Panel has used the following abbreviations:

Full Text	Abbreviation
Clause 16(2) of the First Schedule of the RMA	cl 16(2)
Fire and Emergency NZ	FENZ
Gore District Plan	Plan
Hearings Panel	Panel
Hokonui Rūnanga Incorporated	Hokonui Rūnanga
KiwiRail Holdings Ltd	KiwiRail
New Zealand Transport Agency	NZTA
Proposed Gore District Plan	Proposed Plan or PDP
Report prepared under section 42A of the RMA	s42A Report
Resource Management Act 1991	RMA
RMA section	s
Southland Federated Farmers of New Zealand	Federated Farmers

1.3 Statutory Considerations

1.3.1 Decision 1 – Statutory Overview sets out the legal framework and requirements for preparing a District Plan, as well as case law referred to in submissions and evidence provided to the Panel. This framework will not be repeated in this Decision. Rather, this Decision should be read in conjunction with Decision 1.

1.3.2 In s42A reports to the Panel, the authors are required to consider any alternative provisions put forward in the context of what s32 requires, and when changes are recommended, a further assessment under s32AA is provided if the change is a material departure from what was notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.

1.3.3 Through Minute 5, the Panel requested submitters seeking changes to District Plan provisions to have regard to the s32 provisions and provide material to the Panel that would facilitate any additional s32AA assessment required if it was of a mind to accept the changes they sought.

1.3.4 Where the Panel has made amendments to the Proposed Plan that are consistent with the recommendations contained within the s42A Reports and / or rights-of-reply the Panel has adopted the s32AA analysis contained within those reports, unless expressly stated otherwise. Those reports are part of the public record and are available on the Council's website.

1.3.5 Where the Panel has made amendments to the Proposed Plan that are not contained within the s42A Report, or which were not subject to a s32AA assessment provided by submitters, the Panel has undertaken the required s32AA analysis and has incorporated it into the body of the decision, with the required assessment forming part of the evaluation. The Panel is satisfied that the required substantive assessment has been undertaken where required.

1.4 Procedural matters

1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with clause 8AA of Schedule 1, on the submissions relating to this Decision.

1.4.2 No member of the Panel identified any conflicts of interest.

1.4.3 No procedural matters were raised at the hearings with regard to the Light chapter.

1.4.4 No matters of trade competition were raised.

2 The Hearings

2.1 Light Hearing

2.1.1 The hearing in relation to this topic was held on 17 September 2024 at the Gore District Council administration building, in Gore. Submissions to the Light chapter were heard together with the Temporary Activities, Signs and Transport chapters and Designations.

2.1.2 Prior to the hearing, the Panel received a s42A Report from Victoria Woodbridge that considered all submissions lodged to the Light chapter and relevant definitions.

2.1.3 At the commencement of the hearing, the Panel received supplementary evidence from Victoria Woodbridge responding to matters raised in the evidence and additional information received by the Panel. The Panel sought clarification from her regarding

matters contained in her s42A Report and supplementary evidence at various times during the hearing.

2.1.4 Submitters who appeared at the hearing are shown in Table 1.

Table 1: Hearing HS5 Temporary Activities – Submitters Attending the Hearing			
No.	**Submitter**	**Attendees**	**Nature of Evidence**
	Southland Federated Farmers	Rachel Thomas	Video Link

2.1.5 Submitters who submitted further information for the Panel to consider were:

- Silver Fern Farms (S40)
- New Zealand Transport Agency (S112)
- Alliance Group (S121)

2.1.6 All written material received by the Panel is available on the Council's website.

2.2 Other Hearings

2.2.1 Decision 2 lists the submissions lodged to the Whole of the Plan. Submission S139.040 Hokonui Rūnanga Inc raises issues relevant to this decision and in that regard, relevant evidence was received by the Panel during the hearings to consider submissions to the Mana Whenua and Sites of Significance to Māori chapters from:

- Courtney Bennett for the Gore District Council
- Amy Beran for Hokonui Rūnanga

2.2.2 The Panel received evidence in HS3 on 22 July 2024, HS8 on 5 December 2024 and HS9A on 19 February 2025 from Courtney Bennett and Amy Beran, which included recommendations on provisions in the CCZ that manage effects on Ngāi Tahu cultural values. For provisions where there were no matters in contention or further recommendations arising from evidence received in HS8 or HS9A, these are not discussed further in this decision. Otherwise, discussion the evidence is included in this decision in relation to particular provisions of the chapter.

3 General

3.1 Interpretation

Submitter (S) Further Submitter (FS)	Decision Requested
S126.008 Southland Federated Farmers of New Zealand S115.009 Kevin Robertson S60.011 Ronald Crispin S143.020 Rural Ratepayers Group S148.021 Alistair & Bernadette Hunt S68.129 John Baynes	Amend definition and make any necessary consequential amendments: any <u>electrically powered</u> exterior ~~or nonresidential interior~~ lighting <u>and/or sign</u> that emits directly into the outdoor environment.~~ and includes signs.~~
FS29.007, FS29.008, FS29.009, FS29.0010, FS29.011, FS29.012 Silver Fern Farms Limited	Allow S126.008, S115.009, S60.011, S143.020, S148.021, S68.129 in part. Agree the definition as notified is imprecise and risks unintended consequences. The reference to signs in the proposed (submission) wording is, however, not necessary.
S121.005 Alliance Group Limited S40.004 Silver Fern Farms	Amend definition of artificial outdoor lighting as follows: artificial outdoor lighting: Any exterior or non-residential interior lighting that emits directly into the outdoor environment ~~and includes signs.~~
FS14.001 NZ Transport Agency Waka Kotahi	Allow S40.004 in part to amend wording to only reference internally and externally illuminated signs

3.1.1 Federated Farmers in evidence to the Panel expressed concern that sources of light from fires would be captured by the provisions particularly given that the rules sought to control 'artificial' light, and as "artificial" means something 'made by people' then as bonfires are made by people they will be caught by the rule, being 'artificial outdoor lighting'. Victoria Woodbridge in her supplementary evidence focused on the dictionary definition of "artificial" concluding that light from fires could not be considered artificial. The Panel considers a more simplistic approach is desirable, noting the definition refers to "lighting" rather than "light". The latter would include sources such as the sun, or the moon or fires at night, whereas "lighting" requires the use of a structure that generates an (artificial) light source. As a consequence, this portion of submissions S126.008 Southland Federated Farmers of New Zealand and others are rejected.

3.1.2 The Panel agrees with Victoria Woodbridge at paragraph 43 of her s42A Report where, in response to the submissions by Alliance and Silver Fern Farms, she recommends amending the definition of artificial outdoor lighting to clarify it is the light from signs that is subject to the definition and not the signs themselves. The Panel notes the acceptance by Alliance and Silver Fern Farms to this change and also considers this in part responds to the submission by Federated Farmers and others.

3.1.3 Submissions S126.008 Southland Federated Farmers of New Zealand and others, S121.005 Alliance Group Limited and S40.004 Silver Fern Farms are accepted in part by amending the definition of artificial outdoor lighting as follows:

Artificial Outdoor Lighting Means any exterior or non-residential interior lighting that emits directly into the outdoor environment ~~and includes~~ including lighting associated with signs

3.2 General Submissions

Submitter (S)	Decision Requested
S146.067 Southland District Council	The submitter supports this section.

3.2.1 Submission S146.067 Southland District Council in support is acknowledged. As changes have been made to some of the provisions in this chapter, this submission is accepted in part.

Submitter (S)	Decision Requested
S144.010 Contact Energy Limited	Ensure consistency with other regulations and standards.
S144.012 Contact Energy Limited	Contact seeks that the provisions in the District Wide sections of the Proposed Plan do not conflict with any of the more specific provisions which relate to renewable electricity generation activities in other chapters of the Plan.
S140.008 Robina Johnston	Seeks reduction in light emission. The red beacon lights for flying could they not be adjusted their rotation in an upwards directed to avoid visual light pollution that is constant from the turbines or the number reduced from 50% of the structures to 10 > 25%.

3.2.2 Robina Johnston refers to lighting associated with wind turbines seeking a reduction when viewed from land. However, as noted by Victoria Woodbridge at paragraph 55 of her s42A Report, the district plan provisions must comply with the Civil Aviation Authority requirements which contains mandatory provisions requiring "top of structure" lights. Accordingly, submission S140.008 Robina Johnston is rejected.

3.2.3 The Panel agrees with Victoria Woodbridge at paragraph 56 of her s42A Report where she acknowledges that the rules in this chapter would conflict with the minimum lighting standards of the Civil Aviation Authority and consequently, an addition is required to Rule LIGHT-R1 to provide an exemption for the lighting of wind turbines.

3.2.4 Submissions S144.010 and S144.012 Contact Energy Limited are accepted in part by adding to Rule LIGHT-R1:

(d) Lighting on wind turbines over 60 metres in height where compliance with Civil Aviation Authority New Zealand lighting standards is required.

3.3 Notes

3.3.1 As part of considering submissions to remove unnecessary duplication in the Plan, the Panel has reviewed all Notes and determined that in this chapter:

(a) Note 1 can be deleted because reliance can be placed on the introductory sections of the Plan.

(b) Note 2 is particularly relevant to interpretation of the rules and text of the note is therefore moved to be located under the Rules heading. These changes are made as an amendment under Clause 16(2) of the First Schedule, including adding the following text under the Rules heading of the chapter:

Note: The standards for light must be measured and assessed in accordance with Standards AS/NZS 4282-2023 Control of the Obtrusive Effects of Outdoor Lighting.

4 Light Overview, Objectives and Policies

4.1 Overview

Submitter (S)	Decision Requested
S126.126 Southland Federated Farmers of New Zealand S115.127 Kevin Robertson S143.138 Rural Ratepayers Group S148.139 Alistair & Bernadette Hunt S60.129 Ronald Crispin S68.247 John Baynes	Amend the Overview: Artificial outdoor lighting enables work, rural production, recreation and entertainment activities to occur beyond normal daylight hours.

4.1.1 The Panel accepts the advice of Victoria Woodbridge at paragraph 70 of her s42A Report where she refers to the word “work”, stating this includes “rural production”, and as a consequence the addition sought is not appropriate. The Panel notes advice from Federated Farmers that this recommendation is accepted. Accordingly, these submissions are rejected.

4.2 Objective LIGHT-O1

Submitter (S)	Decision Requested
S121.067 Alliance Group Limited S125.036 Ministry of Education S40.048 Silver Fern Farms S126.128 Southland Federated Farmers of New Zealand S132.089 KiwiRail Holdings Ltd S115.129 Kevin Robertson S143.140 Rural Ratepayers Group S148.141 Alistair & Bernadette Hunt S60.131 Ronald Crispin S68.249 John Baynes	Retain LIGHT-O1 as notified.

4.2.1 These submissions support Objective LIGHT-O1. There were no opposing submissions nor submissions seeking change to the provisions, so these submissions are accepted.

4.3 Objective LIGHT-O2

Submitter (S)	Decision Requested
S112.102 Waka Kotahi NZ Transport Agency S132.090 KiwiRail Holdings Ltd	Retain LIGHT-O2 as proposed.
S126.129 Southland Federated Farmers of NZ S115.130 Kevin Robertson S143.141 Rural Ratepayers Group S148.142 Alistair & Bernadette Hunt S60.132 Ronald Crispin S68.250 John Baynes	Artificial outdoor lighting is crucial for some primary production activities (especially over the winter months when daylight hours are short - 8.5 hours). Amend LIGHT-O2: Artificial outdoor lighting is located, designed and operated to maintain the character and amenity values within zones, including the enablement of rural production, and so that it does not adversely affect the health and safety of people, the natural life cycles of indigenous species and the safe operation of the transport network and views of the night sky.

4.3.1 The Panel accepts the advice of Victoria Woodbridge at paragraphs 77 - 78 of her s42A Report where she refers to the content of the objective, focusing on managing character and amenity values, and that in her view rural production is part of the character and amenity values of rural areas. She therefore recommended rejecting the submission. The Panel notes advice from Federated Farmers that this recommendation was agreed to. Accordingly, these submissions are rejected.

4.3.2 NZ Transport Agency and KiwiRail Holdings Ltd support the objective. As no changes are being made as a consequence of the submissions referred to above, these submissions are accepted.

4.4 Policy LIGHT-P1

Submitter (S)	Decision Requested
S121.068 Alliance Group Ltd S125.037 Ministry of Education S40.049 Silver Fern Farms S132.091 KiwiRail Holdings Ltd	Retain LIGHT-P1 as proposed.
S112.103 Waka Kotahi NZ Transport Agency	Amend as follows: Enable activities that generate an appropriate level of artificial outdoor lighting for operational and functional purposes while maintaining the predominant character and amenity of each zone

4.4.1 A number of submitters support the policy. As changes have been made to the provision, albeit while retaining its intent, these are accepted in part.

4.4.2 The Panel accepts the advice of Victoria Woodbridge at paragraph 84 of her s42A Report where she recommends accepting the submission NZ Transport Agency.

4.4.3 Submission S112.103 Waka Kotahi NZ Transport Agency is accepted by amending Policy LIGHT-P1 as follows:

Enable activities that generate an appropriate level of *artificial outdoor lighting* for operational and functional purposes while maintaining the predominant character and amenity of each zone.

4.5 Policy LIGHT-P2

Submitter (S)	Decision Requested
S112.105 Waka Kotahi NZ Transport Agency	Amend LIGHT - P2 as follows: Require artificial outdoor lighting to be located, designed and operated to: 1. control the maximum level of light spill and glare; 2. manage adverse light spill and glare effects to: ....
S132.092 KiwiRail Holdings Ltd	Retain LIGHT-P2 as proposed.

4.5.1 KiwiRail Holdings Ltd support the policy. As changes have been made to the provision, albeit while retaining its intent, submission S132.092 KiwiRail Holdings Ltd is accepted in part.

4.5.2 The Panel accepts the advice of Victoria Woodbridge at paragraphs 90 – 95 of her s42A Report where she recommends accepting the submission of NZTA.

4.5.3 Submission S112.105 Waka Kotahi NZ Transport Agency is accepted by amending Policy LIGHT-P2 as follows:

Require *artificial outdoor lighting* to be located, designed and operated to:
1. control the maximum level of *light spill* and *glare*;
2. manage adverse *light spill* and *glare* effects to:
   (a) maintain people's ability to view the night sky and protect intrinsically dark landscapes.
   (b) protect the health and well-being of people, ecosystems and indigenous species.
   (c) ensure safe and efficient operation of the *transport network*.

4.6 Additional Policy Sought

Submitter (S)	Decision Requested
S126.130 Southland Federated Farmers of New Zealand S115.131 Kevin Robertson S143.142 Rural Ratepayers Group S148.143 Alistair & Bernadette Hunt S60.133 Ronald Crispin S68.251 John Baynes	Include a policy that recognises and enables certain rural and primary activities may require artificial outdoor lighting outside normal working hours, under certain conditions, in order for its rural community to thrive in the District.

4.6.1 The Panel accepts the advice of Victoria Woodbridge at paragraphs 62 – 67 of her s42A Report where she refers to Policy LIGHT-P1, which in her view includes the issue raised in these submissions. She therefore recommended rejecting the submissions. The Panel notes advice from Federated Farmers that this recommendation is accepted. Accordingly, submissions S126.130 Southland Federated and others are rejected.

5 Light Rules and Standards

5.1 Rule LIGHT-R1

Submitter (S)	Decision Requested
S112.104 Waka Kotahi NZ Transport Agency S121.069 Alliance Group Limited S40.050 Silver Fern Farms	Retain as notified
S132.093 KiwiRail Holdings Ltd	Amend LIGHT-R1 as follows: Except this rule does not apply to: (a) Traffic and rail signals, and navigation aids

5.1.1 Various submitters support the rule. As changes have been made to the provision, albeit while retaining its intent, these are accepted in part.

5.1.2 The Panel accepts the advice of Victoria Woodbridge at paragraph 102 of her s42A Report where she recommended accepting the KiwiRail submission.

5.1.3 Submission S132.093 KiwiRail Holdings Ltd is accepted by amending Rule LIGHT-R1 as follows:

……Except this rule does not apply to:
(a) Traffic and rail signals, and navigation aids…;

5.2 Rule LIGHT-R2

Submitter (S)	Decision Requested
S112.106 Waka Kotahi NZ Transport Agency	Retain LIGHT-R2 as notified

5.2.1 NZ Transport Agency supports the rule. There were no opposing submissions or submissions seeking change to the provision, so this submission is acknowledged and accepted.

5.3 Standards LIGHT-S1 and LIGHT-S2

Submitter (S)	Decision Requested
S121.070 Alliance Group Limited S40.051 Silver Fern Farms	Retain LIGHT-S1 as notified
S112.107, S112.108 Waka Kotahi NZ Transport Agency	Amend LIGHT-S1 and LIGHT-S2 to insert a standard for artificial outdoor lighting that has any light spill or glare onto a State highway that aligns with the AS/NZS 4282.2019 Control of the Obtrusive Effects of Outdoor Lighting

5.3.1 Alliance Group Limited and Silver Fern Farms support Standard LIGHT-S1. As changes have been made to the provision, albeit while retaining its intent, these are accepted in part.

5.3.2 The Panel accepts the advice of Victoria Woodbridge at paragraphs 109 - 116 of her s42A Report where she recommended changes to LIGHT-S1 and LIGHT-S2 in response to the submission from NZTA, but in a different way to that explicitly referred to by the submitter. The Panel agrees with those changes and notes NZTA advised of agreement with the recommendation.

5.3.2 Submissions S112.107, S112.108 Waka Kotahi NZ Transport Agency are accepted in part by

1. Amending Rule LIGHT-R1 as follows:

   Activity status: Permitted
   Where:
   2. All artificial outdoor lighting is directed downward away from and/or screened from adjoining properties and roads and shielded from above to ensure that all light shines below the horizontal~~.~~; and

   Activity status where compliance not achieved with …
   LIGHT-R1(2) and LIGHT-R1(3): Restricted Discretionary
   Matters over which discretion is restricted:
   1. The matters within LIGHT-S1.
   2. The actual or potential risk of any glare from artificial outdoor lighting creating a distraction or other impediment to the safe, effective and efficient operation of the transport network.

2. Amending Standard LIGHT-S1 as follows:

   1. The maximum level of *light spill* from any *site* measured at the *notional boundary* of any dwelling or *building* accommodating a *sensitive activity* or the boundary with a state highway must not exceed 5 lux (in both the horizontal and vertical planes).

3. Adding to Standard LIGHT-S1 Matters of Discretion as follows:

   10. The extent of any adverse effect of light spill and/or glare on the safe, efficient and effective operation of any road.

4. Amending Standard LIGHT-S2 as follows:

5. Have a maximum level of light spill that does not exceed the horizontal or vertical illuminance level of 10 lux between 06:00 and 22:00 on an adjoining site zoned Rural or Residential and 25 lux on an adjoining site zoned Commercial, Mixed Use, or Industrial, ~~excluding~~ including roads; and

5. Adding to Standard LIGHT-S1 Matters of Discretion as follows:

9. The extent of any adverse effect of light spill and/or glare on the safe, efficient and effective operation of any road.