

Plan Change 1 – Dark Skies

Resource Management Act 1991 Decision Report

1. Introduction

This is the decision report of the Regulatory and Consents Committee on submissions to Plan Change 1 – Dark Skies to the Southland District Plan 2018. The plan change seeks to establish more strict artificial lighting controls on Stewart Island / Rakiura to protect the dark night sky environment from adverse effects associated with development.

2. Hearing on Plan Change 1 – Dark Skies to the Southland District Plan 2018

A hearing on Plan Change 1 – Dark Skies to the Southland District Plan 2018 was held on Wednesday 12th February 2020. The members of the Regulatory and Consents Committee who were present to hear the submissions are listed below:

- Cr Paul Duffy
- Cr Christine Menzies
- Mayor Gary Tong
- Cr Julie Keast
- Cr Margie Ruddenklau
- Cr Darren Frazer

The following submitters attended the hearing to speak to their submission:

- Alison Undorf-lay on behalf of Sanford Limited
- Jaco Swart on behalf of Sanford Limited

The minutes (recorded) from the public section of the hearing are available upon request.

A summary of the Hearing procedure is attached at Appendix 1 of this report.

3. How to read this report

The following sections 5 and 6 of this report analyse the submissions that were received on the plan change, and makes a decision on whether to accept or reject the submissions and provides reasons.

Appendix 2 to this report is a copy of the relevant sections of the district plan with amendments to reflect the decisions made in this report based on the submissions received. Where amendments have been made to the wording of the plan based on submissions, additions have been shown as underlined, and deletions have been shown as ~~crossed-out~~. Any amendments have also been highlighted grey, to distinguish them from the changes originally proposed in Plan Change 1.

4. Index of Submitters

This index of the submitters, references the relevant section(s) of this report, where their submissions have been discussed.

Submitter number	Submitter name	Relevant paragraph of this report
1	Anthony Musson	5.14
2	Sanford Limited	5.1, 5.2, 5.4, 5.5, 5.7, 5.9, 2.11, 5.12, 5.13
3	Real Journeys	5.4, 5.6, 5.11
4	Department of Conservation	5.1, 5.3, 5.5, 5.7, 5.8, 5.10, 5.12
5	Bridget Carter	5.1, 5.2, 5.3, 5.5, 5.7, 5.8, 5.10, 5.12, 5.13
6	Kevin Carter	5.1, 5.2, 5.3, 5.5, 5.7, 5.8, 5.10, 5.12, 5.13
7	Airways Corporation of New Zealand Limited (“Airways”)	5.11

No further submissions were received.

A late submission was received from Kensington Swan on behalf of Airways Corporation of New Zealand Limited (“Airways”) on Wednesday 9th October 2019 being two days after the submission closing date of Monday 7th October 2019. A recommendation to accept the late submission was promoted by the processing planner pursuant to Section 37 of the RMA. The committee (moved Cr Keast seconded Cr Fraser) resolved to accept the late submission. The committee consider that the submission added elements to the decision making process that would ensure a better outcome overall and that the submission was only a few days late. Finally, there was unlikely to be any prejudice on any other submitters or Council from accepting the late submission.

5. Analysis of Submissions

The following analysis of submissions follows the order of the District Plan.

SIGNAGE CHAPTER

Rule SIGN.2

5.1 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Sanford Limited (2.1)	neutral	Noted
Decision requested (2.1.1): None		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Department of Conservation (4.1)	Support	Accept
Decision requested (4.1.1): Retain as notified		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Bridget Carter (5.1)	Support	Accept
Decision requested (5.1.1): Accept proposed change		

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Kevin Carter (6.1)	Support	Accept
Decision requested (6.1.1): Implement proposed change		

Reasons:

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report as follows: Proposed Rule SIGN.2 seeks to treat all illuminated signage on Stewart Island /Rakiura as a Restricted Discretionary Activity requiring resource consent. In this instance three submitters support this provision and seek the provision to be retained as notified. One submission is neutral. Given the provision enables the objectives of PC-1 to be met, it is considered appropriate to accept the submissions in support and note the neutral submission.

Rule SIGN.4(5)

5.2 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Sanford Limited (2.2)	Neutral	Noted
Decision requested (2.2.1): None		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Bridget Carter (5.2)	Support	Accept
Decision requested (5.2.2): Accept proposed change		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Kevin Carter (6.2)	Support	Accept
Decision requested (6.2.3): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report as follows: The intention of current Rule SIGN.4(5) is to regulate the illuminance level of lights at the boundary of a property (ie measure the amount of light falling onto a surface and thus understand the effects on adjoining landowners). Presently, the word luminance is used instead of illuminance and this is technically incorrect. The Committee also consider that fixing this technical inaccuracy is beneficial to the functionality of the District Plan.

URBAN ZONE CHAPTER

Policy URB.8

5.3 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Department of Conservation (4.2)	Support	Accept
Decision requested (4.2.1): Retain as notified		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Bridget Carter (5.3)	Support	Accept
Decision requested (5.3.1): Accept proposed change		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Kevin Carter (6.3)	Support	Accept
Decision requested (6.3.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report as follows: Policy URB.8 seeks to guide and provide scope for decision making when a resource consent is required for development in the Stewart Island/Rakiura Urban Zone. In essence, Policy URB.8 encourages development that maintains or enhances the dark quality of the night sky on Stewart Island / Rakiura. Additionally, the Committee also consider that Policy URB.8 will facilitate the objectives of PC-1 to be met and it was supported by the three submitters.

5.4 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Sanford Limited (2.3)	Support	Reject
Decision requested (2.3.1): Amend wording of Policy URB.8 to recognize that Big Glory Bay is an established marine farming zone where lights are to be used for fin fish farm management, health and safety and safe navigation.		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Real Journeys Limited (3.1)	Support	Reject
Decision requested (3.1.1): That Policy URB.8 provides for safety flood lighting for the loading and unloading of submitters vessels at Halfmoon Bay, Golden Bay, Little Glory Cove in the hours of darkness; and for the ability to safely use the submitters moorings in the hours of darkness at Halfmoon Bay.		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report as follows: Sanford Limited and Real Journeys Limited support proposed Policy URB.8, but have requested changes to the text. Sanford Limited requests the text to be amended to recognise that Big Glory Bay is an established marine farming zone where lights are used for fin fish management, health and safety and navigation. Real Journeys Limited seek changes to the text to reflect that lights will be used at their moorings, as well as for the loading and unloading of their vessels at Halfmoon Bay, Golden Bay and Little Glory Cove.

The Committee agrees that in this instance the Sanford Limited fish farming operation falls outside of the District Plan's jurisdiction as stipulated under the RMA, as it sits within the Coastal Marine Area (CMA) which is regulated by the Regional Council. PC-1 does not apply to the submitters existing activities within the CMA.

The Committee acknowledge Sanford Limited's presentation at the hearing regarding the necessity of artificial lights for Salmon farming. Particularly, maintaining the health and safety of overnight crew, navigational lighting and also to prevent salmon maturing prior to harvesting. The Committee accept that fin fish farming and marine aquaculture are established activities within Patersons Inlet and they are considered to be part of the existing working landscape.

Finally, the Committee consider that Environment Southland's Coastal Plan regulates activities within the CMA and therefore amending the policy as requested to provide acknowledgement of artificial lighting and its importance to aquaculture would not constitute good policy writing practice by achieving clear, relevant, concise and meaningful provisions. In this instance the Committee is of the view that the policy should be worded in a way that relates specifically to the jurisdiction of the District Plan.

The Committee consider that the activities that Real Journeys Limited undertake from a wharf or jetty are also within the CMA and therefore are outside the jurisdiction of the District Plan. It is noted that SDC is responsible for issuing building consents for the wharves and jetties and any buildings or structures that are erected within the CMA. However, Environment Southland regulates the use of wharves, jetties (which would include any associated lighting) through the Coastal Plan. Accordingly the Committee notes this submission point but rejects it.

The Committee acknowledges that any land based activities from these submitters that was to occur within the jurisdictional boundary of the District Plan would be covered by this Plan Change. Any future development therefore, would need to be designed with these provisions in mind. It is acknowledged that generally, these two submitters sought changes to the activities that would occur within the CMA and it is inferred that these submitters are aware of any potential implications on future land based activities.

Rule URB.5(8)

5.5 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Sanford Limited (2.4)	Neutral	Accept
Decision requested (2.4.1) : None		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Department of Conservation (4.3)	Support	Accept
Decision requested (4.3.1) : Retain as notified		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Bridget Carter (5.4)	Support	Accept
Decision requested (5.4.1) : Accept proposed change		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Kevin Carter (6.4)	Support	Accept
Decision requested (6.4.1) : Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report as follows: Proposed General Standard Rule URB.5(8) sets specific lighting requirements that relate to the spill of light, the direction of lighting, the type of lighting fixtures used and the colour temperature of lights. The submissions received support proposed Rule URB.5(8) and seek the provision to be retained as notified. This rule will facilitate the objectives of PC – 1. The Committee also acknowledge that the rule does not apply to existing activities and rather it will apply to any new light established.

5.6 The following submission was received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Real Journeys Limited (3.2)	Neutral	Reject
Decision requested (3.2.1): That Rule URB.5(8) provides for safety flood lighting for the loading and unloading of submitters vessels at Halfmoon Bay, Golden Bay, Little Glory Cove in the hours of darkness; and for the ability to safely use the submitters moorings in the hours of darkness at Halfmoon Bay.		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. As noted previously in paragraph 5.4 the jurisdiction of the District Plan does not extend into the CMA where the submitters activity of loading and unloading a vessel

would occur. Accordingly, the Committee consider in this instance that the rule should remain in order to reflect the jurisdiction of the District Plan. Appropriate lighting of vessel movements and subsequent safety is a matter that is best regulated in the Southland Coastal Plan.

The Committee consider that the safe and efficient operation of the submitters operations is a valid consideration. It is not the intention of the provision to compromise safety across jurisdictional boundaries. Should the submitter undertake any part of their activity within the jurisdiction of the District Plan, the committee is of the opinion that suitable lighting design solutions are available that will meet District Plan and submitter requirements.

Given Rule URB.5(8) facilitates the objectives of PC-1 to be met and that there are design solutions available to provide for District Plan compliant lighting, the Committee reject the submission point from Real Journeys.

INDUSTRIAL ZONE CHAPTER

Rule IND.4(6)

5.7 The following submissions were received:

Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Sanford Limited (2.5)	Support	Accept
Decision requested (2.5.1): None		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Department of Conservation (4.4)	Support	Accept
Decision requested (4.4.1): retain as notified		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Bridget Carter (5.5)	Support	Accept
Decision requested (5.5.1): Accept proposed change		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Kevin Carter (6.5)	Support	Accept
Decision requested (6.5.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. Rule IND.4(6) seeks a change to the existing General Industrial Standard IND.4(6) to include lighting controls which specifically relate to the Industrial Zone on Stewart Island/Rakiura. All submitters support proposed Rule IND.4(6) and request that the provision be retained as notified. Accordingly, the Committee accept the submissions.

FIORDLAND / RAKIURA ZONE CHAPTER

Rule FRZ.2

5.8 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Department of Conservation (4.5)	Support	Accept
Decision requested (4.5.1): Retain as notified		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Bridget Carter (5.6)	Support	Accept
Decision requested (5.6.1): Accept proposed change		
Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Kevin Carter (6.6)	Support	Accept
Decision requested (6.6.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. Proposed Rule FRZ.2 will facilitate the objectives of PC-1 to be met through the addition of a matter for control assessing lighting effects as part of any resource consent application for a controlled activity. The Committee consider this a necessary change and therefore accept the submissions.

5.9 The following submissions were received:

Submitter/ <i>Further submitter</i>	Support/oppose/neutral	Committee Decision
Sanford Limited (2.6)	Support	Reject
Decision requested (2.6.1): submitter seeks amendments to the District Plan so as to specifically recognize the need and role of lights for fin fish management.		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. The submitter's comments and presentation at the hearing are understood by the Committee and noted. However, a decision has been made to reject their submission due to the fact that Sanford Limited's operation is located outside of the jurisdiction of the District Plan and therefore it is outside the scope of what the rule can regulate.

The Committee consider that widening the scope of the rule to include the activity (which occurs in the CMA) is against best practice plan making. Furthermore, the Committee consider that should the submitter's activities in the future be established within the jurisdiction of the District Plan there are suitable lighting design solutions available which would provide for a suitable solution to the points they have raised.

Rule FRZ.5(4)

5.10 The following submissions were received:

Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Department of Conservation (4.6)	Support	Accept
Decision requested (4.6.1): retain as notified		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Bridget Carter (5.7)	Support	Accept
Decision requested (5.7.1): Accept proposed change		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Kevin Carter (6.7)	Support	Accept
Decision requested (6.7.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. The rule requires any lighting, not subject to existing use rights, to meet the new requirements or a resource consent sought. The Committee consider that the rule will achieve the objectives of the plan change.

5.11 The following submissions were received:

Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Sanford Limited (2.7)	Support	Reject
Decision requested: to amend text to exclude lights from fin fish farming from Rule FRZ.5(4); and lights for fin fish management to be compliant with Maritime and Civil Aviation regulations and bylaws.		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Real Journeys Limited (3.3)	Support	Reject
Decision requested: That Rule FRZ.5 provides for safety flood lighting for the loading and unloading of submitters vessels at Halfmoon Bay, Golden Bay and Little Glory Cove in the hours of darkness; and for the ability to safely use the submitters' moorings in the hours of darkness at Halfmoon Bay.		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Airways Corporation of New Zealand Limited ("Airways") (7.1)	Neutral	Reject
Decision requested (7.1.1): Amend wording of Rule to include that maritime and aviation navigational aids are to include all lighting within an airfield and lighting outside an airfield for		

safety purposes and/or to comply with Maritime and Civil Aviation Regulations and bylaws and are not required to comply with this rule. To include a definition of navigational aids.

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. Sanford Limited seek to amend Rule FRZ.5(4) so that lights from fin fish farming are exempt from Rule FRZ.5(4) but compliant with maritime and civil aviation regulations and bylaws. Real Journeys Limited requests Council to amend the provision to provide for safety flood lighting for the loading and unloading of submitters vessels at Halfmoon Bay, Golden Bay and Little Glory Cove in the hours of darkness; and for the ability to safely use the submitters' moorings in the hours of darkness at Halfmoon Bay.

Overall, the submitters' comments and underpinning of their reasons are understood by the Committee. However, a decision has been made to reject their submissions due to fact that the activities outlined in the submissions occur within the CMA which is outside of the jurisdiction of the District Plan and therefore it is outside the scope of what the rule can regulate.

The Committee consider that widening the scope of the rule to include the activity is against technical best practice plan making. Furthermore, the Committee consider that should the submitters' activities in the future be established within the jurisdiction of the District Plan there are suitable lighting design solutions available which would provide for a suitable solution to the points they have raised.

The Committee notes that the submission from 'Airways' seeks changes to FRZ.5(4) to clarify that lights relating to airport activity are to be exempt from Rule FRZ.5(4) and that all lighting related to aviation which is inside or outside the airfield is exempt. The Committee is of the opinion that the existing text is explicit enough to infer that lighting used for the purposes of civil aviation (inside or outside of the airfield) are exempt from Rule FRZ.5(4) and that these lights must comply with Civil aviation regulations and bylaws. Given this the Committee rejects the submission point from Airways.

The Committee acknowledges that 'Airways' also sought to include within the plan a broad definition of navigational aids. A definition of navigational aids was not included within the scope of the original PC-1 and as such this submission point cannot be considered or implemented in this plan change.

DEFINITION – 'Fully Shielded'

5.12 The following submissions were received:

Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Sanford Limited (2.8)	Neutral	Accept
Decision requested (2.8.1): none		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision
Department of Conservation (4.7)	Support	Accept
Decision requested (4.7.1): Retain as notified		
Submitter/Further submitter	Support/oppose/neutral	Committee Decision

Bridget Carter (5.8)	Support	Accept
Decision requested (5.8.1): Accept proposed change		
<i>Submitter/Further submitter</i>	<i>Support/oppose/neutral</i>	<i>Committee Decision</i>
Kevin Carter (6.8)	Support	Accept
Decision requested (6.8.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. A definition of ‘fully shielded light fixture’ is proposed. The purpose of the definition is to assist users with the interpretation of the various rules within PC-1. The Committee note that all submitters support the proposed definition.

SCHEDULE 5 – Guidelines for Buildings in Stewart Island /Rakiura Urban Zone

5.13 The following submissions were received:

<i>Submitter/Further submitter</i>	<i>Support/oppose/neutral</i>	<i>Committee Decision</i>
Sanford Limited (2.9)	Neutral	Accept
Decision requested (2.9.1): none		
<i>Submitter/Further submitter</i>	<i>Support/oppose/neutral</i>	<i>Committee Decision</i>
Bridget Carter (5.9)	Support	Accept
Decision requested (5.9.1): Accept proposed change		
<i>Submitter/Further submitter</i>	<i>Support/oppose/neutral</i>	<i>Committee Decision</i>
Kevin Carter (6.9)	Support	Accept
Decision requested (6.9.1): Implement proposed change		

Reasons

The Regulatory and Consents Committee agree and endorse the decision and reasons provided in the Section 42A report. The Committee fully support the community’s aspirations and the wider economic, social and ecological benefits of being an internationally recognised dark sky of which PC -1 indirectly supports. The Committee consider that accurate and easy to understand lighting guidance is important for the community to understand and implement the provisions and intent of the plan change.

General Comments

5.14 The following submission was received:

<i>Submitter/Further submitter</i>	<i>Support/oppose/neutral</i>	<i>Committee Decision</i>
Anthony Musson (1.1)	unclear	Reject
Decision requested (1.1.1): unclear		

Reasons

The Regulatory and Consents Committee were unclear on what Mr Musson was seeking and accordingly reject the submission.

6.0 Conclusion

The Regulatory and Consents Committee are of the opinion that the purpose of PC-1 is to address the adverse environmental effects that can arise due to inappropriate lighting design associated with development. Six submissions were received by the close of submissions on 7th October 2019. One submission was received late on 9th October 2019 and was accepted. The Committee takes comfort from the significant pre-consultation on this plan change and the collaborative process Great South, the Community Board, Te Ao Marama and Council have entered into to establish more strict lighting controls on Stewart Island/Rakiura. The low number of submissions received and the fact that the majority of the submission points supported the plan change is reflective of the community's stance.

The Committee acknowledges not all of the submission points were accepted and reasons for this are outlined above. The Committee are of a mind that the submission points rejected relate to operational matters, navigation, health and safety and existing activities and these are all valid issues. However, this plan change is not the right process to reconcile and consider lighting impacts on these activities. The Committee's role is to ensure a good outcome for the District Plan and therefore will leave the matters to be picked up during the review of the Southland Coastal Plan. Additionally, the Committee is of a mind that the submission point relating to navigational aids is clear and in no way does the committee consider that aviation safety will be compromised by these rules.

The Committee agree with the Section 32 report which concludes that the objectives of PC – 1 achieve the purpose of the RMA91. Furthermore the proposed policy and rule provisions assist in achieving the overall objectives of the plan change which is to address adverse environmental effects of lighting associated with development on Stewart Island / Rakiura.