

Section 42A Report  
Officer's written right of reply

Light

Prepared for the  
Proposed Kaipara District Plan

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### APPENDIX A: UPDATED RECOMMENDED AMENDMENTS TO THE LIGHT CHAPTER

## 1. Introduction

1. This right of reply addresses the Light topic that was considered in Hearing 2 of the Proposed Kaipara District Plan (**PDP**) held on 17 December 2025. It has been prepared by myself (Melissa Pearson), as the author of the section 42A report for the Light topic.
2. I do not repeat the background information contained in Section 1 – Introduction of the section 42A report and request that the Hearings Panel (**the Panel**) take this as read.

## 2. Purpose of Report

3. The purpose of this report is to respond to the material presented by submitters at the Light hearing and to reply to questions raised by the Panel during the hearing.

## 3. Consideration of evidence heard

4. I prepared a memorandum in response to pre-circulated evidence for the Panel dated 9 December 2025 confirming that I did not receive any written evidence or hearing statements that altered the recommendations I set out in my section 42A report.
5. Only one submitter appeared at the Light hearing, being the NZ Fairy Tern Trust [333] represented by Ms Diane Piesse and others in support. This report summarises the matters raised at the hearing by this submitter and discusses whether that has altered my original position.
6. The Panel asked a range of questions during the hearing, some of which I responded to verbally at the time they were asked. As the Panel questions relate to issues that I address in this reply evidence, I have included my response to those questions below, as opposed to in a separate questions section.
7. I have used the following mark-ups in the provisions to distinguish between the recommendations made in the section 42A report and my revised recommendations in this reply evidence (as set out in Appendix A of this report):
  - a. Section 42A Report recommendations are shown in **red text** (with underline for new text and ~~strikethrough~~ for deleted text); and
  - b. Revised recommendations from this Report are shown in **blue text** (with underline for new text and ~~strikethrough~~ for deleted text)
8. For all other submissions not addressed in this report, I maintain my recommendations as set out in my original section 42A report. I reviewed my responses to submissions set out in Appendix A of the section 42A report and confirm that none of my accept/accept in part/reject

recommendations need to be updated to reflect the additional changes I recommend in this Right of Reply report.

#### **4. Topic 1: Recognition and protection of night-time flying avian fauna and bats**

##### 4.1 Evidence heard

9. NZ Fairy Tern Trust [333] (**the Trust**) are seeking more recognition of the impact of artificial outdoor lighting on night-time flying avian fauna and bats in the Light chapter of the PDP, for the reasons set out in its written evidence. At the hearing, the evidence presented and the discussion with the Panel outlined several key areas where NZ Fairy Tern Trust consider my recommendations could go further:
  - a. The Overview text in the Light chapter could be more specific as to the types of avian species to be protected – in the case of the Kaipara District the Trust considers that the fairy tern and Cook’s petrel should be specifically mentioned. The Trust also suggests that specific mention of the most at risk parts of the Kaipara district (being the fairy tern breeding grounds at Mangawhai Spit and Papakanui on the Kaipara Harbour) would be appropriate in the Overview.
  - b. The Trust consider that the recommended wording throughout the Light chapter to address indigenous biodiversity is overly focused on ‘habitats’, which could be commonly interpreted as the places where birds and bats roost. The Trust considers that ‘flyways’ (being the known flight paths of particular at-risk species) should also be protected, not just vegetated areas of ‘habitat’. The Trust support the mapping of flyways and the application of rules/standards to manage artificial outdoor lighting in these areas.
  - c. Similarly, the Trust consider that the focus on ‘habitats’ misses a key concern, which is that artificial outdoor lighting can impact the natural behaviour of species, not just the physical places where they live.
  - d. Stronger rules relating to the timing of lighting (either in the evening/night-time and/or across certain months of the year) and potentially a lowering of the permitted lux levels may assist with providing additional protection for night-time flying avian fauna and bats. An example was given of the Kaikōura District Plan, which the Trust considers has stronger provisions that might serve as a model for the Kaipara district.
10. My consideration of the material presented by the submitters and matters raised by the Panel are addressed below.

## 4.2 Analysis

### 4.2.1 Overview text

11. The Panel suggested looking at opportunities to include references to Kaipara-specific species and locations in the Overview text.
12. As a non-statutory section of the Light chapter, there is an opportunity to highlight Kaipara specific species and locations that are sensitive to the impacts of artificial outdoor lighting without imposing any new consenting obligations on private property. Although non-statutory it may provide some insight for future plan users as to the concerns that were front of mind when drafting provisions in the Light chapter relating to indigenous biodiversity. As such, I can support the additional wording in the Overview to this effect.

### 4.2.2 Mapping of flyways

13. At the hearing, the Panel explained that mapping of flyways and the application of associated rules is not something that can be achieved through this PDP process. I agree with the Panel that the potential wide impact of this approach on many properties, combined with the practical issue of the mapping exercise not having been undertaken, place it outside the scope of the Trust's submission. Such an approach would require a separate plan change with all necessary work undertaken upfront prior to notification.

### 4.2.3 Natural behaviours

14. The Panel suggested including a reference to 'natural behaviour' or similar into the Light policies and matters of discretion.
15. My initial recommended wording for LIGHT-P2 and the matter of discretion in LIGHT-R1 refers to adverse effects on indigenous biodiversity and included recognition of habitats. Both 'habitats' and 'natural behaviours' are inherently part of the consideration of effects on indigenous biodiversity, therefore I recommend including 'natural behaviours' as an additional aspect. This does not expand the reach of either provision; instead it provides additional clarity.

### 4.2.4 Kaikoura example

16. The Hearing Panel requested that I review the Kaikōura District Plan (**Kaikōura DP**) example and consider whether any of the content could be applied to the PDP.
17. The Kaikōura DP has been operative since 2008 but was recently updated in 2024 via a series of plan changes, one of which was Plan Change 5 – Dark Sky, which made a range of changes

to the Light chapter<sup>1</sup>. The chapter does contain a policy requiring protection of sensitive fauna and specifically mentions effects on the behaviours of fauna – in particular Hutton’s shearwaters (LIGHT-P2 in the Kaikōura DP). However, the implementing Light rules and standards have been introduced predominantly to protect the darkness of the night sky from the effects of exterior lighting – they were not introduced to manage effects of lighting on the habitats or behaviour of indigenous fauna.

18. My reading of the section 42A report for Plan Change 5 and the supporting technical documents is that the maximum 2 and 3 lux levels included in the Kaikōura DP Light chapter (plus other provisions relating to shrouding of light and setting maximum colour temperature levels in Kelvins) were introduced to support the establishment of the ‘Kaikōura Dark Sky Sanctuary’. While providing protection for nocturnal species (such as the Hutton’s shearwater) is an additional bonus, these more restrictive lux levels were introduced to comply with Dark Sky Reserve international requirements and were introduced into the Kaikōura DP as part of a tandem process to apply for an internationally recognised dark sky sanctuary. I have not identified any evidence provided as part of Plan Change 5 that a lower threshold of 2-3 lux is necessary to protect nocturnal species when compared to the 10-lux maximum included in the Light chapter of the Kaipara PDP. As the lower lux level was primarily introduced in Kaikōura to achieve dark sky reserve status, there is, in my view, a risk that adopting a similar approach in Kaipara would be overly onerous given that a dark sky sanctuary is not the goal for either the Council or the NZ Fairy Tern Trust.
19. While there may be merit in setting a lower lux threshold (or additional restrictions such as shrouding light sources etc) to manage impacts on nocturnal species in the Kaipara district, I have not identified any evidence that would justify making changes to the PDP Light rules as part of this process. I do not consider that the Kaikōura DP provisions are appropriate to ‘lift and shift’ into the PDP given that they were drafted for a different purpose (achieving a dark sky sanctuary). The Kaikōura DP provisions also went through a full Schedule 1 process to ensure all potentially affected parties had the opportunity to comment on the more stringent provisions, which is not the case in Kaipara.
20. Turning to scope of the submission, I am also not convinced that a reasonable person reading the submission of the NZ Fairy Tern Trust could have anticipated that more stringent lux limits would be introduced as a result, particularly as the scope of the Trust’s submission on the Light

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<sup>1</sup> Plan Change 5 to the Kaikōura District Plan became operative on 19 December 2024. The background documentation for Plan Change 5 can be read here - <https://www.kaikoura.govt.nz/council/plans-policies-reports/district-plan-review#toc-link-3>

chapter focused on LIGHT-P2. As such, I do not recommend any changes to the permitted lux thresholds in the Light chapter rules.

#### 4.3 Recommendations

21. I recommend that the wording of the Light chapter is amended as follows (as set out in Appendix A to this report):

- a. Add an additional sentence to the end of the Overview as follows: “In the Kaipara district, species such as the New Zealand fairy tern and the Cook’s petrel are particularly vulnerable to the effects of artificial outdoor lighting, including potential impacts on the fairy tern breeding grounds at Mangawhai Spit and Papakanui on the Kaipara Harbour.”
- b. Amend LIGHT-P2.4 as follows: “Minimise adverse effects on indigenous biodiversity, including on the habitats and natural behaviours of indigenous fauna.”
- c. Amend LIGHT-R1.3.g as follows: “The extent to which adverse effects on indigenous biodiversity, including on the habitats and natural behaviours of indigenous fauna, can be avoided, remedied or mitigated, including consideration of alternative options for the location or design of artificial outdoor lighting.”

#### 4.4 Section 32AA evaluation

22. As the recommended changes to the Overview text are not made to a statutory section of the Light chapter, these changes are not evaluated in this report.

23. With respect to the recommended changes to LIGHT-P2 and LIGHT-R1, the section 32AA evaluation in Appendix C of the Light section 42A report has already considered recommended changes to LIGHT-P2 and LIGHT-R1 to better recognise the potential adverse effects of artificial outdoor lighting on indigenous biodiversity. I consider that the additional wording relating to natural behaviours provides clarity as to types of adverse effects on indigenous fauna that could occur when the permitted thresholds in the Light chapter are infringed. In my view, the concept of additional wording relating to indigenous biodiversity has already been sufficiently assessed in the section 32AA evaluation and no further assessment is required.