

S42A Report Paragraph	Panel Questions	Response
33	<p>You recommend that clause 1 of the Objective could be amended to refer to “amenity values and health”.</p> <ul style="list-style-type: none"> ▪ Would it be clearer if any additional wording was: “... amenity values; <u>human safety and well-being</u>; and ...” <p>Given that ‘health’ is arguably a subset of ‘well-being’ and lighting is often intended to address safety issues?</p> <ul style="list-style-type: none"> ▪ In your review of other district plans, do they specifically include reference to health as distinct from amenity values? 	<p>The other district plans reviewed fall into two categories:</p> <ol style="list-style-type: none"> 1) older plans that do not have light-specific objectives and policies, and where lighting controls stem from broader objectives and policies that are focussed on amenity values, or managing nuisance effects.¹ 2) more recently proposed plans which tend to refer to amenity values, as well as to health and safety.² <p>Given the above, if clause 1 is extended, it would be consistent with these other proposed plans and with s5 of the RMA if it read “amenity values <u>and health and safety</u>”. However, I am comfortable that if the clause is expanded, ‘wellbeing’ would broadly encompass health. “Human safety” is however not a commonly used term, and I note that clause (2) of the objective already refers to the ‘safe operation of the transport network’, which encompasses those safety matters which are reflected in the rules.</p>
34	<p>You state that the “controls on lighting, albeit applied for other purposes, will also inadvertently manage some ecological effects”.</p> <p>Can you please provide more detail about the ecological effects that may inadvertently be managed by the controls on lighting?</p>	<p>Recent environmental reporting published by MfE has identified that “blue-rich” LED lights can disrupt the circadian rhythms of organisms, and have potential negative effects for humans, species, and whole ecosystems. Light pollution more generally can disrupt activities of some species, including navigation, orientation, foraging activity, reproduction, communication, and community composition.³</p> <p>My understanding is that controls restricting correlated colour temperature will reduce “blue-rich” LED lights, and shielding will reduce the spill of light into the night sky which in turn will reduce potential disruption of species.</p>

¹ For example, Ashburton District Plan, Waimate District Plan and Central Otago District Plan.

² Proposed Selwyn District Plan, Proposed Waimakariri District Plan and Proposed Poirura District Plan

³ *Environment Aotearoa 2022, New Zealand’s Environmental Reporting Series*. Ministry for the Environment and Stats NZ.

<https://environment.govt.nz/publications/environment-aotearoa-2022/> page 67.

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34 & 50 (c)	Please confirm minor typos, that 'lightning' should be 'lighting'.	Yes these are typos and should be 'lighting'.
46	<p>You refer to the Opuha submission that pivot irrigators are not "buildings" under the Plan's definitions and reference Opuha's existing use rights argument.</p> <ul style="list-style-type: none"> ▪ Do you agree with either of those points? ▪ Can you please explain why you either agree or disagree with those points? 	Yes I agree that the Environment Court decision referred to by Opuha found that pivot irrigators are not considered to fall within the current definition of buildings, for the reasons set out in that decision. I also agree that any existing lighting which does not comply with the rules proposed in PC22 will have existing use rights under s10 of the RMA, provided their use was lawfully established, and their use continues to be the same in character, intensity, and scale to what occurred before PC22 was notified.
47	<p>You reach a view that submissions (5) and (14) should be rejected.</p> <ul style="list-style-type: none"> ▪ To what extent did you consider the submission of Opuha in arriving at this view? 	While accepting the points made by Opuha, it was not central to my assessment of these submissions. My key consideration was whether the effects of this particular type of lighting warranted a prohibited activity status.
53	<p>While acknowledging the utility of the proposed new rule LIGHT-R4, would it be clearer if the new rule drew on existing RMA phraseology (such as in section 237) and read:</p> <p style="text-align: center;"><i>Temporary Outdoor Lighting During Periods of Emergency or Public Risk Likely to Cause Loss of Life, Injury, or Serious Damage to Property for Emergency Purposes, including the Safe and Efficient Operation of Infrastructure during a Natural Hazard Event</i></p> <p>Would this alternative wording</p> <ul style="list-style-type: none"> ▪ Have beneficial wider application in the circumstances it addresses? ▪ Avoid the need to refer specifically to infrastructure? ▪ With the 'likely to cause' wording, avoid the need to define "emergency", given that any definition which 	<p>The drafting recommended in the s42A report is consistent with that used in other plans, which refer to lighting for the purpose of emergency response.</p> <p>The recommended definition of emergency is consistent with that used in the Christchurch District Plan and proposed Waimakariri District Plan.</p> <p>None of the plans I reviewed referred to "public risk".</p> <p>Section 237C relates to closing public access to esplanade or access strips and therefore in my view has a different purpose to what the recommended rule relates to.</p> <p>The recommended drafting would already apply to any emergency purposes and is therefore not limited to infrastructure.</p>

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	<p>lists activities risks missing activities out (either existing activities or future as yet unknown activities)?</p>	
57	<p>You identify that the Selwyn District Plan includes a specific rule for outdoor lighting for roads and public pedestrian accessways and cycleways, which is subject to the standards.</p> <ul style="list-style-type: none"> ▪ Do you know why the Selwyn District Plan decided to provide a separate rule for Street lights? ▪ Do you think there should be a separate rule for Street lights or is inclusion in LIGHT-R1 Outdoor Lighting <u>Not Otherwise Listed</u> sufficient. 	<p>No, I do not know the reasoning behind there being a separate rule for street lights in the proposed Selwyn District Plan, however I note that the distinction between lighting for different purposes allows for different standards to be applied to the different types of lighting (refer LIGHT-REQ3, LIGHT-REQ4 and LIGHT-REQ5).</p> <p>No I do not consider that there is a need for a separate rule for street lighting because it is captured in LIGHT-R1. In my view, the only reason to list this type of lighting separately would be if different standards were to be applied.</p>
60	<p>It is possibly unclear how LIGHT-R1 as notified is intended to work.</p> <ul style="list-style-type: none"> ▪ Is any outdoor lighting that is not listed under the word “Where” a Permitted Activity not subject to any conditions or standards? ▪ If the answer to the preceding question is YES, how do the additional words in the rule title assist. For example, with those additional words it could be argued that the rule does not apply to the listed activities, which would defeat the purpose of the rule? 	<p>Any outdoor lighting not listed under the word “where” is still required to comply with the standards listed.</p> <p>The intent of adding “not otherwise listed” was to clarify that that LIGHT-R1 does not apply to the types of lighting specified in LIGHT-R2, LIGHT-R3 or LIGHT-R4. The phrase “not otherwise listed” is used consistently in other chapters introduced in PC22 (for example LLRZ-R3, NCZ-R7).</p>
64	<p>Given your comment regarding “... the lighting meets the proposed standards ...” would it be clearer if LIGHT-P1(2) referred directly to LIGHT - TABLE 1 and read:</p> <ul style="list-style-type: none"> ▪ <i>“it complies with the Receiving Zone standards in LIGHT-TABLE 1 is compatible with the zone in which any light spill or glare is received”</i> 	<p>I do not agree that it is appropriate to refer to compliance with TABLE1 in LIGHT-P1(2) as the effect of this would mean that lighting must always comply with these standards and resource consent would not be able to be granted to breach the standards. The policy instead provides guidance for any resource consent process, whereby consent may be able to be granted where on a case-by-case basis the light spill is still considered to be compatible with the zone in which the light is received. This is further guided by the matters of discretion in LIGHT-MD2.</p>

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		My reference to the lighting meeting the proposed standards in is relation to the submitters comment on LIGHT-P2 (seeking the use of a lighting control system for street lighting, parks, reserves, and public spaces, as a tool for mitigating light pollution), not in relation to LIGHT-P1.
66	<ul style="list-style-type: none"> ▪ Do the terms 'road' and 'roading network' include pedestrian walkways and cycleways? ▪ If not, would cyclists and pedestrians be covered by Policy P1? ▪ Should they be? <p>The answers may also be relevant to Light-S5 as assessed in paragraph 92 of the Section 42A Report.</p> <p>In Policy P1(1) the word 'traffic' is proposed to be replaced by 'road users'.</p> <ul style="list-style-type: none"> ▪ Should MD2(b)(iii) also be changed from 'traffic' to 'road user' safety for consistency? ▪ Is there scope to make this change? 	<p>"Road" is defined in the Operative Plan, by reference to section 315 of the Local Government Act 1974. My understanding of this is that it covers any legal road vested in the Council, including any cycleway or pedestrian path on legal road. The direction in LIGHT-P1(1) is related to LIGHT-S1, which requires fixed exterior lighting to be directed away from adjacent roads, and therefore applies to any road users.</p> <p>Yes I agree that it would be appropriate to amend LIGHT-MD2(b)(iii) to be "the safety of road users" to be consistent with the change recommended to LIGHT-P1(1). I consider there to be scope for this as it is consequential to the change sought by the submitter to LIGHT-P1.</p>
80	<ul style="list-style-type: none"> ▪ With regard to streetlights, is LIGHT-S1 sufficiently certain? <p>For example, it could be argued that an 'adjacent road' is the road immediately adjacent to the streetlight that the streetlight is intended to illuminate.</p> <ul style="list-style-type: none"> ▪ Would it be clearer if LIGHT-S1 read: <p>"All fixed exterior lighting shall be directed away from any adjacent roads, residential properties and lakes, <u>with the exception of streetlights which may be directed towards the road that they are intended to illuminate.</u>"</p>	Yes I agree that the additional wording would assist in removing any doubt in relation to streetlights.

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103	<p>You reject the submission point of B. King (18) and state that you do not consider it necessary.</p> <ul style="list-style-type: none"> ▪ Can you please explain why you think the submitter's suggestion is unnecessary? 	<p>There are many examples of where matters controlled under a district plan are also subject to oversight or control from other bodies. It would be inefficient for the MDP to list them in all cases.</p> <p>In my experience, where these are referred to within district plans are where there is potential overlap between these controls and there is benefit in alerting plan users to these, for example, within earthworks provisions referring to the additional requirements under the Heritage New Zealand Pouhere Act for archaeological sites. I am not aware of any matters addressed by Environment Canterbury or the Department of Conservation that directly relate or have some overlap with the controls in the MDP relating to lighting. In addition, the ways in which these parties may work together, outside of the District Plan framework is, in my opinion, not something that should be contained within the District Plan.</p>