BEFORE INDEPENDENT HEARING COMMISSIONERS
APPOINTED BY THE TIMARU DISTRICT COUNCIL

UNDER:	the Resource Management Act 1991
IN THE MATTER OF:	Submissions and further submissions in relation to the Timaru Proposed District Plan

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SUMMARY OF EVIDENCE OF JOHN BENJAMIN EVANS ON BEHALF OF WESTGARTH, CHAPMAN, BLACKLER ET AL (SUBMITTER NO. 200; FURTHER SUBMITTER NO. 269)

HEARING STREAM E2: CULTURAL VALUES

Dated: 11 February 2025

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SUMMARY OF EVIDENCE

1. My full name is John Benjamin Evans.

2. The focus of my summary includes the following:

   (a) The work our family has undertaken in support of the sites and areas of significance to our family, which are now within the proposed Sites and Areas of Significance to Māori (**SASM**);

   (b) The existing controls which regulate our farming activity;

   (c) The implications on the reliance on the section 139A Resource Management Act 1991 (**RMA**) Existing Use Certificate provision, and the implications of increased consent triggers; and

   (d) The lost opportunity through Timaru District Council's (**TDC**'s) development of the SASM chapter.

3. My Statement of Evidence described the interest our family has had in discovering and protecting cultural values, long before any legislative controls or where specific areas existed on planning maps. Our family's work has contributed to the understanding of Māori history both on our property and in the local area. These details and discoveries are recorded and secured for current and future generations.

4. To the current day, as land custodians, we actively control weeds and pests and exclude stock from rock art sites to protect not only the cultural values, but also the natural biodiversity and landscape values. It should not be underestimated the generational knowledge we have concerning our land and the connection we have with it. This knowledge far exceeds any council planner or consultant. Our knowledge has not been utilised to inform any TDC plan rule or provision, including this SASM chapter, and that most of our farm now has some sort of overlay, be that SNA's, ONF's, ONL's and VAL's.

5. I have detailed the existing regulatory controls in my Statement of Evidence, including the Canterbury Land and Water Regional Plan, National Environmental Standards for Plantation Forestry and National Environmental Standards for Freshwater. Through these existing controls,

and our compliance with them, our consents (Consent to farm, Consent to afforest, Consent to abstract water, Consent to use water, Consent to disturb the riverbed) and our Farm Environment Plan all consider cultural effects, and where applicable, management of rock art sites.

6. Our farming activities per our consent conditions, have been independently audited on behalf of Environment Canterbury. Furthermore, our voluntary Farm Assurance Programmes (FAP) including FAP "Plus" (also independently audited) consider cultural values, and finally, soon to be implemented under Freshwater Farm Plans Regulations 2023 and RMA Part 9A, a Freshwater Farm Plan, also considering cultural values and also subject to independent audit. We have had five audits in the past three years, of which there is much duplication. These audits are shortly due to recur, with the recurring duplication.

7. There are a magnitude of existing controls in terms of the management and protections of cultural values and sites, which raises the question; why is a Territorial Authority, specifically TDC, adding more?

8. I have found a common theme having considered what were previously permitted activities now being consent triggers, with the response (to either LGOMIA or plan submissions within s42A) being "you will have existing use rights". I feel this is a standard response to appease submitters, but I do not feel that the planners understand the difficulties in obtaining an Existing Use Certificate, with case law substantiating this consideration.

9. The onus is on the applicant to prove that the activity was commenced lawfully as a permitted activity, the present effects of the activity are the same or similar in character intensity and scale as they were before the rule change occurred, and that the activity has been continuous (which the Act measures by reference to whether it has been discontinued for more than 12 months). There is almost unlimited scope to litigate, particularly if up against a risk averse consenting authority. Arguing a given farming activity has been continuous within 12 months is fraught, given many farming activities such as crop rotations, irrigation and earthworks have activity return periods greater than 12 months. I dismiss such acquisitions that existing use rights provide the level of certainty our business requires. The

message is that ‘what we are doing is not ok, but because you’ve already doing it, we’ll live with it’.

10. I understand there is still a pathway (i.e., through obtaining a resource consent) to undertake activities in SASMs which were previously permitted but now trigger a consent. Our experience of late, obtaining consents with Regional Council, has come at the cost of a huge time commitment, and monetary cost, paying application fees, our own consultants including a legal team from the onset. In years past, we would not have required consultants or legal expertise to apply for resource consent, and consent authorities were generally enabling. Our experience, through obtaining consents over time, has seen risk averse planners and consent grantors creating an excessive administrative overhead, in many cases with multiple planners picking up the application with new interpretations. As is the case with TDC’s PDP development, mostly informed by staff who have not left the office to even see what they are regulating. Ultimately, all of our consents have been granted, in some cases with very subtle conditions and amendments to what was proposed, which raises the question, what value was obtained through the hundreds of hours of our time, the funding of council time, the funding of consultants, to then, simply get on with what we originally wanted to do. I foresee that any consents we may apply for, triggered by the SASM rules will be no different, noting, it will possibly accompany a consent with Regional Council too, and updates to our existing Farm Environment Plan.

11. Concerning the requirement to obtain cultural advice, our experience with Aoraki Environmental Consultancy Limited (**AECL**) has been productive, constructive, reasonably priced and we have welcomed their input concerning our farming activities. The Rock Art Trust has done amazing work in our district and they ought to be commended. Again, productive and constructive landowner engagement leading to effective outcomes. I do, however, consider there to be future risks given there is limited to no ability for a competitive process, in terms of opinion/assessment and/or cost.

12. As you have heard from other submitters, we have no clear understanding of the values that Rūnanga consider need to be protected on our property and we were not asked of the values we may be aware of, rather it would seem, apply for a consent and we will find out. There are no bounds.

13. While I appreciate the RMA defines the process in order to undertake a Plan Change which I am sure the TDC followed, but one would question if this is enough to actually deliver the best result for the community and the objectives of the SASM chapter. Clearly, given we are here today, considering the volume of submissions in opposition to the notified version and the array of recommended amendments within the s42A, I argue that TDC has missed an opportunity to draft something workable as a starting point, involving the subjects (landowners) of its regulation. Now TDC has disenfranchised landowners who legally own the areas where many identified cultural areas and values exist, fatigued from engagement in planning processes, and not equipped to participate in an RMA planning process, with just a small portion of whom stand here alongside me.

14. The most important consideration is that landowners, through their interest and respect of mana whenua values (as I have detailed has been the case, even in the absence of any regulatory framework) are willing to collaboratively work with Rūnanga, recognising cultural values and on discovery of, or detailing past discovery of, sites and areas of significance to Māori. This can and does exist outside of TDC's proposed planning controls, as has been the case while recognising other controls exist, and therefore leads to my position, that SASM overlays do not need to be defined on territorial authority planning maps, nor is there any need for territorial authority, specifically TDC, to impose land use controls. My evidence demonstrates that even in the absence of the SASM chapter, we already consider RMA 6(e), through recognising and providing for the relationship of Māori, their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga, as matters of national importance. Additionally, we recognise the culture and traditions of all New Zealanders who have a connection with our land, who can access for camping, fishing, hunting, horse trekking and in a parallel we can run a productive business supporting the wider economy with the enabling support of regulators.

15. Finally, while I am critical of some of TDC's implementation of the PDP, I would like to recognise and thank the TDC team who have facilitated this PDP process to date. They have clearly communicated with submitters, addressed any queries and provided easy website accessibility, with the

PDP and planning maps easily located, alongside the statutory documentation.

John Benjamin Evans

11 February 2025.