

**BEFORE INDEPENDANT 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

STATEMENT OF EVIDENCE OF JAMES REESE (REESE) HART

(SUBMITTER NOS. 149 AND 200)

HEARING STREAM E2: CULTURAL VALUES

Dated: 23 January 2025

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INTRODUCTION

1. My full name is James Reese Hart.
2. I am a retired farmer that began my farming career at the age of 19. I have farmed Palm Hills at 318 Matthew Road, Upper Waitohi (**Palm Hills**), Pigeon Cliffs at 916 Main Waitohi Road, Upper Waitohi (**Pigeon Cliffs**), and Summer Hill at State Highway 8, Levels, Timaru. My wife Elizabeth and I still have an interest in all three properties.
3. I have attended numerous courses at Lincoln University and the Telford Farm Training Institute. I have been a member of the NZ Co-operative Association and attended courses run for members who are interested in furthering their knowledge on co-operatives. I have been a member of the New Zealand Directors Institute and attended courses run by the Institute to further my governance knowledge. I have been part of the Burnside Hart Co-operative Education Trust and have run courses to up-skill aspiring young directors. I have also been the chairman of PPCS (Primary Producers Co-operative Society) Co-operative Meat Company and SFF's (Silver Fern Farm's) Co-operative Meat Company, and a director of the Richmond Meat Company, and Brooks of Norwich UK Meat Company.
4. I have been a Rotarian for 25 years and have been awarded two Paul Harris Fellowships for my services to farming and the wider community.
5. My wife and I currently live at Pigeon Cliffs, which is a 102ha property that runs mainly sheep and beef livestock farming, with limited cropping. We have owned this property for approximately 35 years.
6. Since 2005, my son, James Edward Hart, has owned Palm Hills, which is a 332ha property running bull beef on that property. My grandfather, James Reese Hart purchased Palm Hills in 1907 (118 years ago). My father, William James Hart added additional land in his time, as did I during my tenure between 1970 and 2005.
7. We also own the Summer Hill property and lease this to a neighbouring farmer, who runs sheep and cattle.
8. I made an original submission on the Proposed Timaru District Plan (**Proposed Plan**) (submitter number 149).

9. I am also a member of the group of submitters (*Westgarth, Chapman, Blackler et al.*, submitter number 200 (**Limestone Group** or **Group**)) that made an original submission and further submission on the parts of the Proposed Plan concerning Sites and Areas of Significance to Māori (**SASM**).
10. My evidence is provided in support of those submissions and covers the following:
 - (a) My concerns regarding the Proposed Plan's SASM overlays that affect Pigeon Cliffs and Palm Hills;
 - (b) The process that I have undertaken jointly with members of the local farming community to gain a better understanding of the basis for Timaru District Council's (**TDC's**) proposals in relation to the management of activities within SASM under the Proposal Plan;
 - (c) The Limestone Group's key concerns with the plan development process and the resulting SASM overlays and rules in the Proposed Plan; and
 - (d) The decisions I seek from the Panel to address the concerns addressed in my evidence.

SUMMARY OF EVIDENCE

11. My family own three farming properties in the Waitohi area, which are each subject to proposed SASM. We have been farming in the Waitohi area for over 100 years.
12. I first became aware of the TDC's proposals for managing activities within SASM after the Proposed Plan was publicly notified. Given the significant implications of those proposals for landowners and their farming businesses, I instigated the formation a group of our neighbouring farmers who were affected by TDC's proposals to varying degrees, the Limestone Group.
13. To more fully understand the implications of the TDC's proposals for landowners, their existing and future farming activities and farming businesses, I met with TDC planning staff. I also arranged meetings between members of the Group, the Mayor and James Meager to discuss the Group's concerns about TDC's proposals. In late 2024, members of the

Group also met with the TDC's planning manager, Aaron Hakkaart, to discuss TDC's response to the Group's submissions and concerns, and Mr Hakkaart visited three farming properties following that meeting.

14. As custodians of the SASM on our properties, our primary concern as a group was the process taken by TDC in identifying SASM and the overlay boundary mapping for inclusion in the Proposed Plan in particular, but also how the rules to manage the effects of activities on SASM has been developed. We considered the process should have involved consultation and engagement with us as custodians of SASM and landowners affected by the TDC's proposals, and that the SASM overlay boundaries be based on what is actually required to protect those sites from the effects of activities, rather than the "one size fits all" approach that appears to have been adopted.
15. We were, and continue to be, also concerned about:
 - (a) The TDC's heavy reliance on advice from cultural consultants in that process and the conflict of interest arising from fee expectations to complete consultation and engagement in resource consenting processes under the Proposed Plan with cultural consultants who had authored the Proposed Plan's SASM provisions.
 - (b) The inconsistencies between the TDC's proposals and other existing regulations protecting sites of cultural significance to Māori.
 - (c) The potential for future plan changes to be progressed by TDC at the request of cultural consultants or otherwise that would impose more restrictions on land use, with financial consequences for existing farming businesses.
16. Sadly, as a consequence of the process TDC has adopted, our Group feels that the sites on our properties that we have been faithfully looking after for generations are now a liability. I therefore ask that the Panel give appropriate consideration to the Group's concerns and the submissions that it, and its individual members, have made on the Proposed Plan.
17. It is the Group's preference that TDC start again; that consultation with all stakeholders (i.e., landowners and cultural consultants) is undertaken and a

new SASM Chapter and overlays be developed in light of the outcome of that consultation and the values of the individual SASM that require protection.

18. However, if the Panel considers that the SASM Chapter is to remain as part of the current planning process, the Group would support the changes that Ms Whyte has recommended in her report, subject to:
 - (a) The boundaries of SASM related to rock art sites being based on a 10m setback from the rock art site;
 - (b) Details as to the values of individual SASM sites and threats to those values being included in the Proposed Plan; and
 - (c) The additional changes set out in the legal submissions that will be presented at the hearing on behalf of the Group.

PROPOSED PLAN

19. I first became aware of the TDC's proposal to include rules in the Proposed Plan that would restrict activities within SASM at a public meeting held after the Proposed Plan was publicly notified. The meeting was attended by representatives of the TDC's planning department and Federated Farmers.
20. To better understand what the TDC's proposals would mean for Pigeon Cliffs and Palm Hills, I arranged a meeting with a member of the TDC's planning department.
21. At that meeting, I was shown maps of the SASM affecting Pigeon Cliffs and Palm Hills for the first time. The TDC planning officer also provided an explanation of the rules in the Proposed Plan that apply to activities within the SASM overlays that took effect on public notification of the Proposed Plan.
22. From my discussion with the TDC planning officer, I understand that Pigeon Cliffs and Palm Hills are located within the following SASM overlays:
 - (a) SASM-7 Wāhi Taoka: Kakahu Basin and Foothills; and
 - (b) SASM-9 Wāhi Tapu: Opihi Rock Art Sites.

23. Those SASM are shown in Figures 1 and 2 below, which have been taken from the Proposed Plan's e-maps. The boundaries of the Pigeon Cliffs and Palm Hills properties are shown as black and white lines and the SASM overlays as grey lines and red dots.



Figure 1 – Pigeon Cliffs SASM overlays

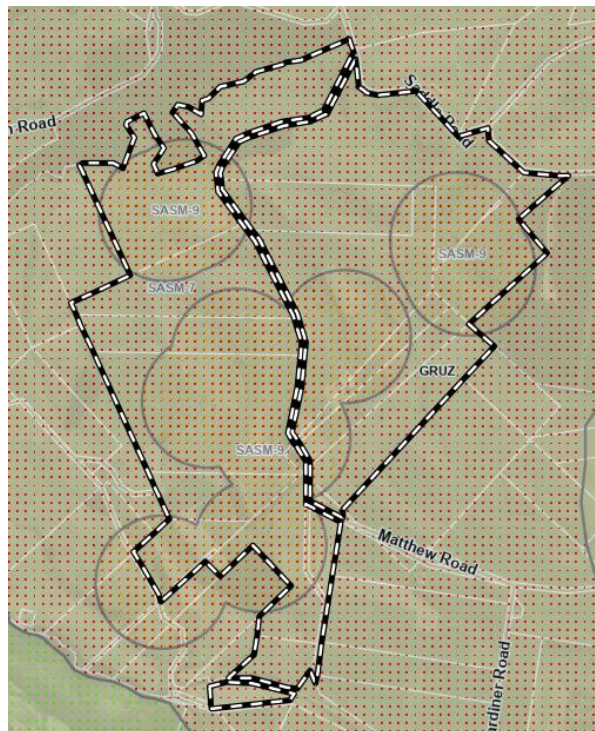


Figure 2 – Palm Hills SASM overlays

24. On the basis of the information I was provided at my meeting with the TDC planning officer, I was very concerned about the consequences of the TDC's

proposals for SASMs for our existing farming activities and potential future farming activities and that we had not been consulted on those proposals before the Proposed Plan was publicly notified.

25. I was also concerned that other farmers in the area might not be fully aware of the TDC's proposals and how it would affect their own farming operations. I therefore made contact with farmers on neighbouring properties and arranged a meeting with the Mayor so that we could better understand the process TDC had undertaken in developing its proposals and our concerns.
26. That meeting was attended by the Mayor, a member of the TDC's planning department, and members of our local farming community.
27. At the meeting, the Mayor listened to our concerns and encouraged us to make submissions on the Proposed Plan. The Mayor and the TDC representative confirmed that the Proposed Plan's SASM provisions would not affect farmers' existing use rights under the Resource Management Act, and therefore farmers would not need to apply for a resource consent to continue existing farming activities on their properties. We were also assured that TDC would not be actively enforcing compliance with activities within SASM that were permitted under the Proposed Plan.
28. After that meeting, I canvassed the interest of local farmers to make a joint submission on the parts of the Proposed Plan concerning SASM. The Limestone Group was subsequently formalised and engaged Gresson Dorman & Co to prepare a joint submission on the Proposed Plan outlining our concerns and the outcomes we sought to address those concerns. Several members of the group also made their own submissions on the Proposed Plan to address their concerns about SASM on their own properties.
29. We also arranged a meeting with James Meager to express our concerns with TDC's process for the district plan review in relation to SASM.
30. After the submission period closed, the TDC's new planning manager, Aaron Hakkaart, requested a meeting with the Limestone Group's lawyers to gain a better understanding of the group's concerns and to identify possible options for resolving them. Two meetings were held on 17 September and 22 October 2024.

31. A further meeting between Mr Hakkaart, members of the Limestone Group and its lawyers was then arranged for 18 November 2024. At that meeting, members of the Group explained their concerns about the TDC's proposals and Mr Hakkaart outlined the work that the TDC and its reporting officer had been undertaking in the review and revision of the SASM provisions in the Proposed Plan to address the concerns raised in the Group's joint submissions and individual submissions made by members of the Group.
32. At the request of the Group, arrangements were then made for Mr Hakkaart to visit Palm Hills and the properties owned by Johnathon Goslin and John Evans. The Group picked these properties for Mr Hakkaart's site visits as they each face different issues in terms of the TDC's proposals for SASM, and would therefore enable Mr Hakkaart to more fully appreciate the range of issues our local farmers are facing with those proposals. Those site visits occurred on 19 December 2024.

OFFICER'S REPORT

33. I have reviewed the report prepared by TDC's consultant, Liz Whyte, and her recommendations in response to concerns about the parts of the Proposed Plan relating to SASM raised in my individual submission and the Limestone Group's joint submission.
34. I acknowledge that Ms Whyte has recommended a number of changes to the rules that apply to activities within SASMs in response to those submissions. However, I remain concerned about the process adopted in the mapping of the proposed SASM on Pigeon Cliffs and Palm Hills. I address those concerns below, together with the Limestone Group's general concerns regarding the process adopted by TDC in developing the Proposed Plan's SASM provisions and inconsistencies with other existing regulatory approaches to the protection of SASM by other organisations.

Mapping of SASMs

35. The mapping of the SASMs on Pigeon Cliffs and Palm Hills was a "desktop exercise". It was done without our knowledge, resulting in a plan that is not relevant to the protection of SASM sites or mindful of the operating viability of existing and future farming activities of our properties.

36. In her report, Ms Whyte refers to the 300-metre boundary used in the mapping of SASM related to rock art sites. This seems to have been a response to protect SASM from the effects of irrigation, not the effects of activities causing land disturbance or dust generation.
37. The vast majority of the rock art sites, including those on the Pigeon Cliffs and Palm Hills properties, are located on steep rugged land where irrigation will never be an option. Pigeon Cliffs does not have much land that is suitable for making hay, silage etc and is therefore a scarce resource. In my view, these are relevant considerations but do not appear to have been taken into account in the mapping of the SASM overlay boundaries.
38. The decay of rock art sites over time due to natural causes is also a factor that does not appear to have been considered as part of the mapping exercise. I have observed the ongoing natural deterioration of rock art on Pigeon Cliffs and Palm Hills that has occurred over the last 50 years; this deterioration has not occurred as a result of adjacent farming activities.
39. Ms Whyte has proposed a reduction in the overlay boundaries for SASM related to rock art sites from 300 to 250 metres. I am concerned that Ms Whyte has not ground-truthed her work; instead she has adopted an academic “one size fits all” response that does not take account of the actual effects of land use activities on the sites and is likely to affect the livelihoods of generations of farmers to come through unjustified restrictions on land use.
40. I find it difficult to understand the justification for rules that restrict activities to protect sites that are up to 300 metres away and would not be impacted by the effects of those activities due to the physical location of the sites (e.g., in steep gullies) and/or where such effects that have already occurred as a result of existing and ongoing permitted farming land use. Up until the Proposed Plan was publicly notified, there were no buffer zones and we have managed activities without the need for any buffer area.
41. To assist the Panel to understand this point, I have included as **Annexure A** to my evidence a series of photographs of the rock art sites and the related SASM overlay area on Palm Hills. As can be seen from these photographs, the area of land that the overlay extends across is highly modified productive

farmland that is not connected to the rock art sites. The physical location of the rock art sites, i.e., high in steep gullies, means that activities within the wider overlay area would not affect the integrity of those sites and their values.

42. I have been unable to find any information that supports Ms Whyte's proposed 250m "buffer" around rock art sites from the perspective of what is required to protect such sites from the effects of land use activities. I consider a 250m "buffer" is excessive and a 10m "buffer" would be sufficient to manage the effects of new land use activities under Ms Whyte's revised rules. Based on the information contained in the reports in relation to managing effects on rock art sites that Ms Whyte has referenced in her report, I consider the effects of relevance for SASM related to rock art sites and their values should be limited to those that are known to arise from activities that generate dust and the disturbance of land that has not already occurred i.e., as a result of past and present farming (or other) land use activities.
43. Contrary to the information that Mr Henry has provided through the plan development process in relation to the values of SASM sites, including those on our properties, some time ago, we were advised by Dr Roger Duff and Theo Scoon, both being experts in rock art sites, as well as others such as Vance, Couch, McCully, Hamilton, Wiser and Hurst that:
 - (a) Our property was only occupied for a short period of time and was used as a 'safe haven' away from threats of war and conflict from different tribes. This story of intense conflict is depicted in the rock art drawings on our property.
 - (b) Palm Hills was also a prime hunting ground of moa. The primary hunting method was described to us fires were lit to drive the moas from the flats and up to the swamps located in the gullies at Palm Hills where they could be captured. This is shown by moa bones and eggshells being found in concentrated areas on the property, but also through the reduced native bush and shrub population which was caused by fire damage.

Plan development process issues

Lack of consultation with landowners

44. Our group has real concerns about the lack of consultation undertaken by TDC in formulating the Proposed Plan's SASM overlays and rules.
45. Unlike other areas identified in the Proposed Plan as being of significance (e.g., due to landscape or ecological values), no site visits were undertaken on our properties and I am not aware of there being any site specific reports identifying the values of the proposed SASMs or threats to those values that I understand TDC is required (under the RMA) to manage through rules in the Proposed Plan.
46. From my reading of the publicly available information in the form of various reports and documents supporting the Proposed Plan, I understand that TDC had no involvement in the development of the SASM overlays that were included in the Proposed Plan and relied solely on the advice of Aoraki Environmental Consultancy Limited's (**AECL's**) cultural consultants. The letter authored by John Henry of Te Rūnanga o Arowhenua Society Inc that I have attached to my evidence as **Annexure B** indicates that the various SASM rules in the Proposed Plan's SASM rules were largely informed by the requests of AECL's cultural consultants.
47. As a group, we feel that we were shut out of this process and not allowed to see the planning overlay that affected our properties until after the Proposed Plan had been publicly notified.
48. We see ourselves as custodians of these sites; we understand they are of significance to Māori and have managed our farming activities over generations in recognition of their importance, in the absence of planning restrictions.
49. We recognise that an enduring relationship with Te Rūnanga o Arowhenua (**Rūnanga**) is necessary to ensure the ongoing protection of these sites/areas and their values. We consider that early consultation as part of the plan development process was essential to building that relationship and plan provisions that strike an appropriate balance between protecting SASM and not unnecessarily restricting future land use.

Conflict of interest

50. Our group also has concerns about the expectation under the Proposed Plan's SASM rules that consultation with Rūnanga will occur where a resource consent is triggered. Our understanding of the proposed rules is that the consultation process is required to enable Rūnanga to identify the values of the SASM that require protection and the means by which such protection should occur.
51. Our concern is that AECL stands to benefit through the charging of a fee to sign off on these regulations that they were instrumental in asking TDC to include in the Proposed Plan. We consider this to be a gross violation of due process; resulting in AECL having a conflict of interest. We consider that we have been seriously disadvantaged by this aspect of the process that TDC has allowed to occur in the development of the Proposed Plan.

Inconsistency in regulatory approaches

52. The Proposed Plan seems to be out of step with the regulatory approaches to protection of rock art sites taken by Environment Canterbury (**ECan**), the Māori Rock Art Trust and Heritage NZ to name a few. By way of example, I understand the Rock Art Management Areas in the Canterbury Land and Water Regional Plan are based on a 50m "buffer" area around identified rock art sites in South Canterbury to manage the effects of farming land use, the take, use and storage of water, and the discharge of contaminants.
53. The Limestone Group is concerned that the TDC's proposed approach to managing activities within SASM illustrates the disfunction that existed in the TDC's planning department when they failed to calibrate the Proposed Plan with other regulatory approaches. As a result, "shell shocked" farmers who are on "compliance overload" face conflicting regulations on top of regulations that the above organisations already have in place.
54. It will be argued by advocates of the Proposed Plan that farmers will be able to intensively graze livestock in and around SASM due to existing use rights or as permitted activities. This academic response ignores the fact that farming is a dynamic industry where the only constant is change itself. The Group considers it is totally unrealistic to deny tomorrow's farmers the opportunity to change land use, without triggering the Proposed Plan's 300-

metre boundary limits around rock art sites and forcing people to go through expensive resource consenting processes, due not only to processing costs but also the costs of consultation with relevant iwi groups.

DECISIONS SOUGHT

55. Our group's concerns regarding the lack of consultation and due process adopted by TDC in developing the Proposed Plan's SASM overlays and rules could be remedied by:
- (a) TDC starting again and including all stakeholders in initial consultations and planning overlay development; and/or
 - (b) Proceeding with the formalisation of the Proposed Plan, but leaving out SASM to be dealt with at a later date, following consultation with stakeholders.
56. I ask that the Panel give appropriate consideration to the Limestone Group's concerns with the plan development process and those potential options.
57. However, if the Panel forms the view that the SASM provisions (including overlays) are to be retained in the Proposed Plan, our Group would support the changes Ms Whyte has recommended in her report subject to:
- (a) The boundaries of SASM related to rock art sites being based on a 10m setback from the rock art site;
 - (b) Details as to the values of individual SASM sites and threats to those values being included in the Proposed Plan; and
 - (c) The additional changes set out in the legal submissions that will be presented at the hearing on behalf of the Group.

CONCLUSION

58. As custodians, members of our Limestone Group have faithfully looked after the rock art sites on our properties for generations, in our own time and at our own expense. We have viewed these sites as priceless assets and have been proud to have them on our properties. Sadly, after the way we feel we

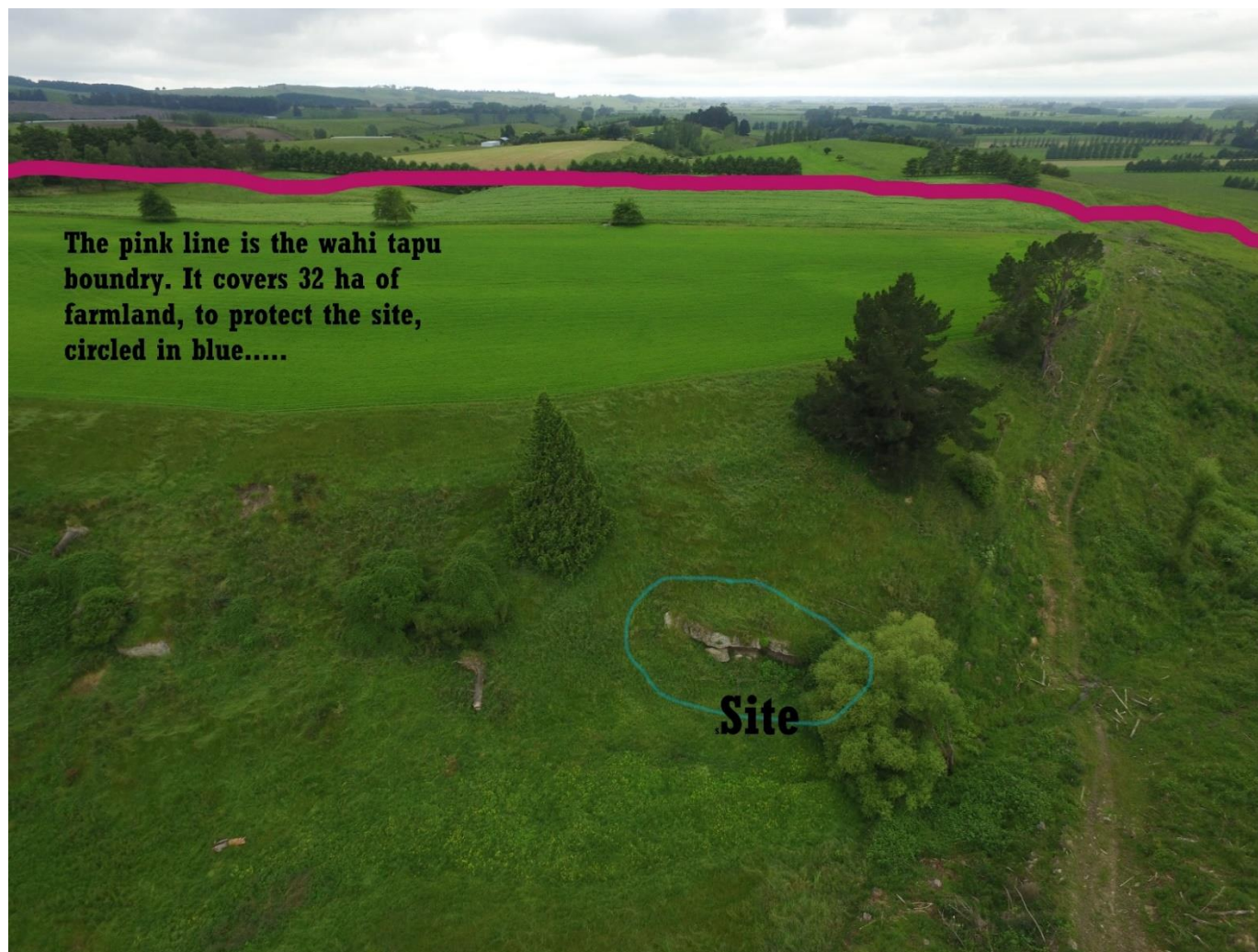
have been treated in the plan development process, we now view these sites as a liability and do not wish for them to be on our properties.

59. On behalf of our Group, I ask that the Panel give appropriate consideration to:
- (a) The concerns outlined in my evidence in relation to the plan development process and the potential options I have identified for addressing those concerns; and
 - (b) The changes to the SASM overlay boundaries and plan provisions addressed in my evidence and the evidence of the Limestone Group's other witnesses, if the Panel determines it is appropriate for such provisions to be retained in the Proposed Plan to manage the effects of activities on SASM.

James Reese Hart

23 January 2025

ANNEXURE A: PHOTOGRAPHS OF ROCK ART SITES AND SASM OVERLAY LOCATIONS ON PALM HILLS



Pink line shows edge
of Wahi Tapu zone.
House buildings
included in zone.

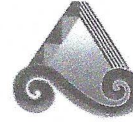
Over 30ha covered,
to protect the
site.



ANNEXURE B: LETTER FROM TE RŪNANGA O AROWHENUA SOCIETY INC



Te Runanga o Arowhenua Society Inc.



AORAKI
ENVIRONMENTAL
CONSULTANCY LTD

30 June 2021

Mr Alex Wakefield
Senior Planner
Timaru District Council
PO Box 522
TIMARU
[delivered to: alex.wakefield@timdc.govt.nz]

Tēnā koe Alex,

FEEDBACK ON THE OPTIONS REPORT ON SITES AND AREAS OF SIGNIFICANCE TO MAORI

Te Rūnanga o Arowhenua (Arowhenua) and Aoraki Environmental Consultancy Limited (AEC) thank you for the opportunity to review the Issues and Options Report for the Sites and Areas of Significance to Maori (the Report) that has recently been prepared as part of the Timaru District Council's (TDC) District Plan Review process.

AEC has reviewed the Issues and Options Report and provided a comprehensive summary of the document to the Cultural Consultants for their comment. In terms of structure of the report each of the main sections have been addressed in turn.

Extent of SASMs that have been identified.

It appears from the Issues and Options Report, TDC received a number of submissions from the general public and landowners questioning the level of information obtained and the methodology followed when ascertaining the size and location of the Sites and Areas of Significance to Māori (SASM) within the Timaru District.

The report correctly states that the methodology for identifying the sites adopted by TDC is the one in the report *Timaru District Plan Review: Report in Sites and Areas of Significant to Māori (Aoraki Environmental Consultancy Limited, March 2020) (AECL Report)*. This report was agreed to by Rūnanga. In addition, TDC worked closely with AEC who has been mandated by Arowhenua Rūnanga to undertake the assessment. AEC having consultants within its team that are deeply entrenched in Tikanga Māori and the history and knowledge of Arowhenua and Ngāi Tahu to determine where SASM are.

TDC were engaged in and aware of the process being undertaken when identifying the location and nature of the SASM. This included discussions on the reasoning why Arowhenua has identified SASM locations broadly rather than having an exact grid reference identified on a planning map. To this extent Arowhenua would be greatly concerned if the methodology and identification process for the SASM was to be revisited at this late stage in the process given the significant amount of work undertaken to identify the SASM.

The AECL report provides a schedule of identified sites with a description of the location and values of each of the identified areas. Arowhenua hold valid concerns that if detailed information as to the specific location of site is provided in a public forum that sites could be destroyed and/or vandalised. In addition, it is considered that it is not appropriate for the cultural heritage associated with the site to be questioned by those who do not have the expertise or authority to comment. The historical events associated with a location, a specific treasured item, or a resource used may not be known by Manan Whenua. The role of

passing on historical and spiritual information falls on specific individuals that inherit the responsibility from their tupuna. This tradition is strictly adhered to and respected; so, it may not be appropriate for additional information to be provided on an SASM within the context of the District Plan Review.

Determining what activities are "inappropriate use and development" and therefore require management in the District Plan

The submissions received by TDC have identified a number of concerns with the insertion of SASM within the District Plan.

Urban Areas:

It appears from the Report that there are concerns as to where the SASM overlap within urban zones. Concern was also raised about the controls that will restrict development potential in line with what is anticipated by the zoning of those properties.

AEC Comment and Recommendation:

it is acknowledged that some of the SASM areas fall within the urban environment and may impact existing buildings. The purpose of a SASM area is to enable Arowhenua to ensure that the SASM is appropriately considered when areas are being rezoned, redeveloped, and/or developed. An example of this would be the recent development of the showgrounds site for commercial use where discussion was held on the SASM values of the site and appropriate measures to manage these determined. Whilst Arowhenua do not wish to unnecessarily restrict the location and use of existing buildings, they do seek to be included in decisions on managing the SASM areas.

AEC and Arowhenua would also like to have it noted that the restriction in building height and building envelope area within SASM areas are not provisions they sought to have included in the District Plan. These provisions were sought by TDC; therefore, the reference to the building restrictions in the Issues and Options Report is not accurate.

It is recommended that AEC work with TDC to develop a suitable matter of discretion relevant urban zones. An additional matter of discretion would allow the decision maker to consider the cultural values associated with the area.

While less preferred, controlled activity status could be applied for where these overlays are within an urban zone with a matter of control being around the SASM. Outside of the urban area.

Earthworks:

AEC is somewhat confused by the statements made in the Report whereby a permitted activity status is introduced for earthworks that are limited to remedial works and will be the subject of conditions including the use of the ADP form. However, permitted activities do not require a resource consent, therefore, there is limited ability to impose conditions or require monitoring to be undertaken. Therefore, do the conditions referred to in the report relate to the objectives, policies and rules proposed for the earthworks and SASM chapters?

There does not appear to be any objectives, policies or rules that accommodate earthworks in a SASM as a permitted activity. TDC has are required to prepare and change its District Plan in accordance with the provisions of Part 2 of the RMA which includes recognising and providing for the relationship of Maori and their cultural and traditions with their ancestral lands, wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. AEC acknowledges the work TDC has done to date to provide for this and seeks that it continues to be fully involved in the drafting of these provisions to ensure the cultural narration is captured accurately.

Arowhenua understand there may be a need for earthworks to occur within an SASM where there is a need to undertake remedial works. These earthworks would typically be carried out in areas that have already been disturbed when the original infrastructure was installed. The conditions would need to relate to the specific area of work.

Where earthworks are required as a part of urgent remedial works to protect the community these are typically undertaken under the direction of a Crown Agency, District Council and/or Regional Council. Like that of the recent Canterbury floods, there are appropriate mechanisms available to complete works under Sections 330, 330A and 330B (Emergency Works) of the Resource Management Act 1991 and the Civil Defence Emergency Management Amendment Act 2016 without the need to obtain a resource consent first. Works of this nature are typically short in duration and overseen at a national or regional level with regular input from the local rūnanga. In these situations, Arowhenua would still anticipate that discussion works within SASM would still take place.

Arowhenua is concerned that enabling remedial earthworks to proceed (beyond those emergency works carried out by Crown Agencies and Local Government), as a permitted activity within the SASM prevents Arowhenua from being involved in any discussions as to the scale, location and quantity of the works, and the potential effects the works on the SASM. It is considered that earthworks of the type TDC anticipates is captured such as the repair of domestic infrastructure such as tracks, roads, drains, water storage dams and ponds, effluent ponds, fence lines, pipelines, and irrigation systems can have a larger volume of works and can also be undertaken by local contractors or landowners. Without appropriate controls this poses a significant risk to the SASM. Arowhenua therefore do not support these earthworks being a permitted activity within an SASM. A permitted activity status for these activities implies that earthworks can be anticipated in these areas of great cultural significant, which is not the case. This does not align with the intent of the SASM chapter.

AEC Recommendation:

If Council are of the mind to create a permitted activity status for earthworks within an SASM, these are limited to those works associated with emergency management works and the repair of regionally or nationally significant infrastructure, stop banks, key road networks and bridges etc damaged as a result of a flood or natural disaster undertaken by a Crown Agency, District Council and/or Regional Council. Additionally, the works shall be for the purpose of:

- Maintaining, repairing and/or reinstating (not replacing) existing infrastructure – where within the footprint or ground previously modified by the existing infrastructure; and an ADP form is used.
- Reinstatement is limited to the reinstatement of the existing infrastructure item(s) on a like for like basis, within pre-event footprint and of the same or similar scale; and an ADP form is used.
- Replacement is not utilised in the wording of the rule. Replacement implies infrastructure can be reinstated either in the same location as the damaged infrastructure or it is located adjacent or nearby. Replacement also infers that the earthworks can be undertaken on the basis that it is associated with the installation of the infrastructure, and it does not have to be of the same or similar scale. As a permitted activity, the provisions to control the bulk, location and scale of earthworks will be difficult to control.

Arowhenua do not support the repairing of existing large-scale infrastructure following a natural event that damages domestic and farming related infrastructure (tracks, driveways, drains, water storage dams and ponds, effluent ponds, fence lines, pipelines, and irrigation) as a permitted activity if this requires extensive earthworks or infrastructure to be relocated or repositioned. An example of this would be relocating a water storage pond due to a flooded river cutting into and eroding the bank supporting a storage pond. Whilst Arowhenua and AEC accept there is a need to repair potholes, re-dig fence post holes and stabilise a very minor slip, a scale of works needs to be ascertained to prevent landowners undertaking the work on

their own without input from suitably qualified experts. A permitted activity status also prevents Arowhenua from having any input into an area that is of most importance to them.

If Council are of a mind to alter the activity status to make such works more permissive, Arowhenua would like to see the earthworks activity (associated with natural disasters only) have a minimum activity status of a controlled activity. Arowhenua would also expect to have a matter of control inserted into the rule stipulating that the applicant consults with Manawhenua to confirm the activity will not adversely affect the wāhi tapu and wai taonga sites within the SASM.

Buildings and Structures:

Arowhenua and AEC hold a similar view to TDC that small-scale structures (less than 30 m²), that do not trigger a building consent, may be less likely to have significant adverse effects on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. However, the location in which a building is to be constructed can have an impact and that needs to be considered. A permitted activity status for these small-scale structures does not allow adverse effects on the cultural values of Arowhenua to be considered or require an applicant to consult with Arowhenua about what effects the construction might have. A permitted activity status would also imply buildings are generally anticipated in these protected areas. This view does not align with the intent of the SASM provisions and mapped information in the District Plan.

Buildings that require a building consent are more likely to have a significant adverse effect on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. Arowhenua therefore do not consider it is not appropriate to reduce the activity status of such buildings to that of a controlled activity. As outlined in the Issues and Options Report, a controlled activity status for all other buildings and structures would not allow the Council to decline a consent for these buildings, and the activity status implies that buildings are generally anticipated in SASM. Arowhenua considers a restricted discretionary status is more appropriate and align with the consenting regime under the Natural Character Chapter (NATC).

Altering the activity status to enable buildings and structures to be located in SASM implies:

- Council do not hold the same concerns about the protection of significant sites as Heritage New Zealand and Arowhenua,
- Council anticipates buildings and associated earthworks in protected areas,
- Council is not concerned about SASM provisions not aligning with similar provisions in other sections of the Plan.

AEC Recommendation:

Arowhenua do not support the change in activity status for buildings and structures within a SASM. It is recommended A permitted activity status for buildings not requiring a building consent and a controlled activity status for larger buildings that do require building consent will not allow Arowhenua to be involved in any discussions with TDC and a restricted discretionary activity status (as a minimum) retained for all buildings and structures within a SASM.

Quarrying:

It appears from the Issues and Options Report submitters are concerned the definition of quarrying will restrict gravel extractions from riverbed areas. The submitters considering that such abstraction may have benefits such as flood control. Some submitters also consider that gravel extractions that are otherwise consented or permitted in the Regional Plans do not require rules in the District Plan. There is also concern that the restriction on quarrying will prevent minor farm quarrying activities which are necessary for the operation and maintenance of a farm.

Arowhenua appreciate that some gravel extraction from the bed of a river is permitted activity under the Canterbury Land and Water Regional Plan (CLWRP). The activity of gravel extraction is heavily managed monitored by ECan's River Engineering group. The rules in the CLWRP manage effects on the bed of the river and the water by limiting the quantity of gravel extraction, the location in which the gravel is extracted and restricting the works to dry areas of the bed and they protect indigenous species by placing restrictions on the timing of the extraction to avoid spawning and bird nesting seasons. In addition to this, both the permitted and consented works are timebound with consents being granted generally. The Canterbury Air Regional Plan (CARP) regulates the discharge of dust and contaminants to air and the proximity of such discharges to sensitive activities.

The CLWRP and CARP do not however regulate and manage gravel extraction activities such as stockpiling of material beyond the bed of a river, or the location and volume and extent of material extracted. As part of providing for land use it is therefore appropriate the District Plan regulates the effects of quarrying including the location, volumes (of material), vehicle movements to and from the site, hours of operation, and the rehabilitation of the site once the quarry activity has ceased. The District Plan is also responsible for considering adverse effects of quarry activities on sites of cultural significance to Ngāi Tahu and Arowhenua.

As outlined in the AECL Report, there is a need to manage quarrying within SASM areas and for both the Regional and District Councils to appropriately protect wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. It is crucial for TDC to identify the SASM areas and have provisions in place within a District Plan to protect sites.

Arowhenua request that gravel extraction and quarry activities are not a permitted or controlled activity within SASM. Arowhenua consider land outside of SASM can be managed with appropriate provisions in the Plan and would like to work with TDC to look at appropriate conditions under which such activities could be permitted.

AEC Recommendation:

The provisions within the CLWRP provide for the management of gravel extraction within the bed of a river and therefore do not require regulation by the TDC. However, Arowhenua would not support the removal of provisions in the District Plan that regulate gravel extraction beyond the bed of a river as this activity is not provided for in the CLWRP.

Arowhenua agrees with TDC in terms of retaining a consenting requirement for all quarry activities within a SASM overlay as this is necessary to address effects on sites of significance.

Forestry:

The Issues and Options Report states TDC have received submissions that were concerned with the non-complying activity status for plantation forestry, particularly in areas where forestry has been part of the farms practice. The submissions also raised that this appears contradict government support for forestry as a tool in addressing climate change.

TDC have an obligation to protect areas of wāhi tapu and wāhi taonga and this includes rock art under Part 1, Clause 12 of the NES for Plantation Forestry 2017, which states TDC are required to impose rules in their District Plan that prevent forestry from taking place within a significant natural area of an outstanding natural feature or landscape. The definition of an 'outstanding natural feature and landscape' (under the NES for Plantation Forestry 2017) refers to areas identified in a policy statement or plan by their location, including a map, schedule or a description of an area.

Wāhi taonga, wāhi tapu, wai taoka and wai tapu sites can be destroyed by plantation forestry. For example, forestry is known to damage rock art. Rock art is typically found on limestone outcrops that are heavily

influenced by water. Plantation forestry is heavily reliant on groundwater resources for growth and maturity and have been known to drain significant volumes groundwater. If groundwater around rock art is drained, the limestone dries out too much and the rock art disappears.

Arowhenua acknowledge Government's drive to plant a greater number of trees in response to climate change. However, forestry plantations are known to reduce soil quality and negatively impact the future productive capacity of farmland; therefore, it is important to manage where forestry is planted and the size of the plantation.

District Plans zone land and manages the land uses that take place with these zones. The regional plan does not control where plantation forestry can occur, nor does it manage shelterbelts and woodlots. Ngāi Tahu has also experienced pushback from Regional Councils as to their responsibility in protecting SASM considering it a District Council matter to map these sites. Arowhenua and Ngāi Tahu do not agree with this conclusion and are seeking that the plans appropriately manage for the effects that an activity may have on wāhi taonga, wāhi tapu, wai taoka and wai tapu sites.

AEC Recommendation:

Arowhenua and AEC do not support TDC in removing the restrictions on plantation forestry in SASM areas. Arowhenua do not expect TDC to impose strict forestry provisions across the entire district, instead, Arowhenua seek greater control within policy overlay areas such as the SASM to ensure any adverse effects on cultural values can be considered through a consenting process.

Arowhenua and AEC would also like to see provisions relating to shelterbelts and woodlots retained in the District Plan, particularly in relation to SASM areas because they are not regulated in regional plans.

Intensive Farming:

It is noted in the Issues and Options Report that TDC are aware there are concerns regarding the non-complying activity status for intensively farmed stock, particularly where this applies in areas where this type of activity is already taking place.

In addition, the Issues and Options Report states TDC have received submissions concerned with having to comply with two sets of planning instruments that contain rules that appear to overlap. There appears to be confusion as to why they have applied for farming related resource consents from ECan for wetland construction, irrigation, effluent discharge, buildings, and bridge construction etc and rūnanga have not objected nor have any sites of cultural significance been identified on properties. Because of this confusion, the local farmers and farming groups are puzzled as to why their farming activities are being restricted yet again by a new policy overlay in a District Plan requiring protection of culturally significant sites.

Arowhenua are seeking that both the regional and District Councils appropriately protect wāhi taonga, wāhi tapu, wai taoka and wai tapu sites. It is crucial for TDC to identify the SASM areas and have provisions in place within a District Plan to protect sites.

An important step in removing this confusion as to why an apparent duplication of consents is education. It is suggested TDC needs to explain to landowners and farmers that the provisions only relate to land use outside of the beds of river within the SASM areas, not the entire district.

In terms of the second matter raised in the submissions, it is correct that a significant number of landowners have obtained farming land use consents from ECan and rūnanga have not objected to certain activities or identified culturally significant sites on their properties. The reasoning for this is because ECan do not currently adequately manage the full extent of culturally significant sites as they do not manage those values that fall outside of the bed of a waterbody. Because of this, regional consents have not been an adequate forum for Arowhenua to raise matters of protecting wāhi taonga, wāhi tapu, wai taoka and

wai tapu sites. in addition, farmers and landowners not being aware of rūnanga having concerns with specific farming practices because of:

- (a) The resource consent having a controlled activity status with no assessment matters requiring cultural values to be considered. Consequently, there is very little scope for rūnanga to be party to any discussions associated with specific activities and any consent conditions.
- (b) The lack of consultation undertaken with rūnanga by farmers and landowners. This requires AEC and Arowhenua to work directly with the ECan consents planner to work through planning related issues.

AEC Recommendation:

AEC agree in principle that where matters are managed under the regional plan, or relate to Regional Council functions, that these should not be managed in the District Plan; however, TDC may need to refine the wording of their rules to make sure they manage the matters under the District Council's control and do not step over the line by controlling matters that ECan control.

AEC do not wish to see the activity status of resource consents being more permissive for SASM areas. Arowhenua support a non-complying activity status for intensively farmed stock and in particular within a SASM.

Please contact the writer if you have any questions.

Ngā mihi,



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