

**BEFORE THE TE TAI O POUTINI
PLANNING COMMITTEE**

IN THE MATTER OF the Resource Management Act 1991 (RMA)

AND

IN THE MATTER OF the Proposed Te Tai o Poutini Plan

AND

IN THE MATTER OF Submissions and Further Submissions of Grey District
Council on the Proposed Te Tai O Poutini Plan Chapter: Sites
and Areas of Significance to Maori

**STATEMENT OF EVIDENCE OF MICHAEL BERNARD McENANEY ON BEHALF OF GREY
DISTRICT COUNCIL**

SUBMITTER ID: S608, FURTHER SUBMITTER ID: FS1

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INTRODUCTION

1. My full name is Michael Bernard McEnaney.
2. I am the Regulatory Services Manager at the Grey District Council, a position I have held since January 2023.
3. I am authorised to make this statement of evidence on behalf of the Grey District Council.

QUALIFICATIONS AND EXPERIENCE

4. I have a Bachelor of Science (Geography) degree from the University of Canterbury.
5. I am an associate member of the New Zealand Planning Institute.
6. I have worked for Grey District Council for 9.5 years. Prior to the position I hold now I was the Environmental Planning Team Leader. The team provided both consenting and policy advice.
7. I have worked as a resource management professional for 19 years, and prior to joining the Grey District Council I have held a variety of planning roles in the private and local government sectors. My career focused around consent processing until I became a team leader and was then promoted to a senior management role at Grey District Council.
8. As part of my current and previous roles at Grey District Council I am a member of the Te Tai o Poutini Plan - Technical Advisory Team (TAT). I have been a member of that team since its inception at the beginning of the pTTPP process.
9. The TAT is made up of planners from the three District Councils, the West Coast Regional Council and a planner representing iwi. The pTTPP planners were also a part of the team.
10. The scope of the TAT was to review and comment on draft papers provided by the pTTPP planners. These drafts would form pTTPP chapters which would also be reviewed and agreed on before being sent "up to" the TTPP Joint Committee (JC) for approval.
11. In addition, the pTTPP planners would consult directly with the District Council TAT members on matters specific to their respective Districts i.e. zoning, Westport flooding, Franz/Fox tourism matters.

CODE OF CONDUCT

12. I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court Practice Note 2023. It should be noted that my involvement in the process of the development of the pTTPP means that I am giving evidence in support of a submission made by the Grey District Council,

and therefore I am providing my evidence to set out the Grey District Council's position.

13. Unless I state otherwise, this evidence is within my sphere of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.
14. The data, information, facts, and assumptions I have considered in forming my opinions are set out in my evidence to follow. Where I rely on the opinions of others I have stated that I have done so.

SCOPE AND STRUCTURE OF EVIDENCE

15. For the purpose of this evidence when refer to the pTTPP document I am referring to the pTTPP as notified and where I am commenting on the advice to the Hearings Panel, I state that I am referring to the Section 42A Report for the Sites and Areas of Significance to Maori (SASM).
16. My evidence outlines the matters that are relevant to the Grey District Council. The Grey District Council is participating in this process in two capacities as it is a landowner affected by the proposed plan change and it is also a regulatory authority which will have responsibility for administering the plan.
17. In my evidence I evaluate the proposed SASM provisions from both perspectives, with my evidence separated into two parts. One part is addressing the Council's interests in its capacity as a regulatory authority administering the Plan. A separate section of my evidence addresses the Council's interests as a landowner.
18. The Grey District Council made submissions to a number of provisions throughout the pTTPP, and also a further submission. There have been no prehearing processes since the lodging of submissions and further submissions.
19. This evidence presents the position of the Grey District Council as covered by the submission and further submission. I do not refer to every point of difference between the Council and the section 42A Officer Report, but focus on the key differences and main issues. The fact that I do not refer to a matter in the section 42A report should not be taken to mean that I agree with the section 42A Officer Report.
20. The key documents used in forming my view while preparing this statement of evidence are:
 - (a) The proposed Te Tai o Poutini Proposed District Plan (pTTPP);
 - (b) The section 32 evaluation and accompanying information for the Proposed District Plan;
 - (c) The Council Officers' s42A report;

- (d) The submission (#608) and Further Submission¹ (#1) filed by the Grey District Council, as well as the submissions and further submissions of Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu (submission(joint) #620 & further submission joint) #220);
- (e) The West Coast Regional Policy Statement; and
- (f) The Mana Whakahono ā Rohe agreement between West Coast Regional Council and Poutini Ngāi Tahu.

BACKGROUND

- 21. The Grey District Council lodged a submission and further submission on the pTTPP outlining its position on many aspects of the plan, including the SASM Chapter. As I outline above, two submitters made a Further Submission on the Grey District Council's submission on the SASM Chapter.
- 22. The Grey District Council understands the Act's requirements regarding the identification and protection of SASM and acknowledges that this is a matter of national importance.
- 23. The Council is also conscious of the influence of higher order documents, in particular the direction of the West Coast Regional Policy Statement and the Mana Whakahono ā Rohe agreement between West Coast Regional Council and Poutini Ngāi Tahu. The Council also acknowledges the strong connection that Iwi have to sites of significance.
- 24. With respect to the SASM chapter, the Grey District Council's submission opposed many aspects of the SASM chapter and proposed that it be removed from the pTTPP until further consultation had been carried out. Grey District Council wishes to stress that it does acknowledge and recognise that there should be protection for sites and areas of significance for Maori. In no way, does the Grey District Council disagree with Iwi or seek to challenge Iwi as to what **criteria** has been applied by Iwi to determine what should or should not be included in the pTTPP as a SASM. The Grey District Council is unaware of the connection between Iwi and the location of the SASMs in many cases.
- 25. The Council's opposition expressed in its submission should not be taken to mean that the Council does not support the identification and protection of SASM.
- 26. The Council's submission in opposition reflects that:
 - a. the **process** for identification and protection of SASM has not occurred in accordance with the Grey District Council's expectations for consultation,

¹ I note that Grey District Council is also recorded as Further Submission #153, however this submission is identical to Further Submission #1, and therefore it appears to be a duplicate. I do not refer to further submission #153 in my evidence as it is a duplicate.

therefore it sought as relief that the SASM sites be removed from the pTTPP until further consultation had been carried out.

- b. the particular **wording** of the policies, objectives and rules go beyond what is required under the Resource Management Act 1991 as the current wording of the objectives and policies is contrary to private property rights.
 - c. there is also a strong concern that the documentary **information** relied on to identify and spatially describe SASM sites is not accurate or complete.
27. Council also lodged a further submission on the pTTPP including on the SASM provisions. The further submission concentrated on supporting submissions which recognised and advocated for private property rights and existing use rights.
 28. The Council considers that the s42A officer report and the proposed amendments do not resolve the conflict between the drafting of the pTTPP's objectives and policies and the property rights of private landowners.

OVERVIEW OF CONSULTATION DEFICIENCIES – DEVELOPMENT OF SASM CHAPTER

29. The SASM chapter was introduced after the consultation for the pTTPP had commenced. The SASM chapter did not go through the same early and intensive consultation process as was used for other pTTPP chapters such as the Significant Natural Areas (SNA) chapter.
30. The timeframe for the preparation of the SASM chapter was relatively compressed, particularly towards the end of the process. The key steps in the preparation of the SASM chapter were as follows:
 - December 2020 – TAT Meeting: DRAFT Sites of Significance to Māori Objectives and Policies
 - October 2021 – TAT Meeting: DRAFT Sites of Significance to Māori Rules
 - November 2021 – TAT Meeting: DRAFT Sites of Significance to Māori Chapter
 - May 2022 – JC Meeting: Technical Report with draft Obs/Pols/Rules/Maps
 - July/August 2022- Letter #1: Sent to landowners
 - August 2022 – JC Meeting: Minor correction to SASM Maps (wrong shape & not shown on EPlan)
 - October 2022 - Letter #2 to landowners
 - December 2022 – JC Meeting: Minor amendment approved for SASM 68 & 79

- December 2022 - Letter #3: Sent to landowners (correction to sites 68 & 79 only)
 - Approval by JC: April 2023 – Minor amendment approved for SASM mapping errors
31. Poutini Ngāi Tahu were engaged to undertake the mapping on behalf of the TTPP Joint Committee. Poutini Ngāi Tahu staff along with the Kaiwhakamahere of the two hapū and other kaumatua, undertook the work. All these sites were digitally mapped and shape files provided.
 32. Soon after the notification of the plan (July 2022) it became apparent that there were inaccuracies in the maps. This is no reflection or criticism of Poutini Ngāi Tahu staff. What had happened was that many of the documentary resources were inaccurate or incomplete – but this was not discovered until very late in the process.
 33. I believe some errors had also occurred with the conversion of data to a digital file. This included spatial shapes being incorrect and covering properties that were not SASM sites.
 34. As a consequence of the errors and corrections made to the SASM mapping, some landowners received very late notice of the inclusion of their land in a SASM.
 35. The Grey District Council had found both through the pTTPP process and consultation it carried out for SNAs that it is not sufficient to identify and map areas by undertaking a desktop exercise only.
 36. The historical records are incomplete and have been found in some cases to be inaccurate. To avoid transferring these errors and inaccuracies a site visit should be carried out, before confirming the spatial extent of the SASM overlays. That should occur with the landowner, Council and Iwi representatives in attendance together.
 37. There was insufficient time programmed in the consultation process for the Grey District Council to carry out further verification of the mapped proposed SASM areas, or to liaise with landowners who were included in a proposed SASM area.
 38. In particular, there was no opportunity for Grey District Council officers to meet with landowners who were affected by a SASM overlay to do a site walk-over to confirm the accuracy and spatial extent of the SASM.
 39. Due to the late discovery of mapping errors and the compressed timeframe for the final stages of the development of this chapter, the Grey District Council has not had sufficient time to carry out any checks for accuracy or verification of the SASM chapter in advance of the proposed SASM chapter being notified.
 40. In particular, I note that the majority of SASM sites have been identified as part of Iwi's oral history, much of which would be unknown by landowners and is (by

definition) not documented or discoverable by landowners. Consultation that includes site visits and connects landowners with Iwi takes on greater significance in the case of plan provisions that are based on oral histories and is an extremely important step to complete.

41. This detailed consultation exercise is also more important due to the documentary records relied on having been found to be incomplete or include inaccurate information. I consider that the section 42A planning officer has underestimated the importance of a detailed consultation process being undertaken for the SASM chapter.
42. I note that at paragraph 57 of the section 42A report the planner acknowledges concerns raised around process and that at para 58, the planner acknowledges that it would have been “ideal” to have included SASMs in the draft plan so that pre-consultation could occur. I do not agree with this characterisation because it implies that effective consultation is optional and the process timeframes should dictate the method of consultation. I consider this decision to exclude a detailed consultation process for the development of the SASM chapter is a serious error of process for the reasons I set out in my above paragraphs.
43. A detailed consultation process to engage iwi and landowners and Council is essential given the significance of the SASM chapter and that providing for a connection between Iw and SASM is a matter of national importance.
44. The approach taken to identify and include SASMs does not meet the Grey District Council’s expectations for consultation for this chapter of the pTTPP because there has been no opportunity for landowners and iwi to engage together and no process undertaken to verify (by way of a site visit) the spatial extent of SASMs. Additionally, some landowners were only advised of the SASM as a consequence of a mapping error being discovered very late in the process, and therefore the SASM overlay applying to those properties was advised at a very late stage.
45. For a process of guiding a matter of national significance and for sites with such a great spatial extent identified, Grey District Council would expect a high level of pre-consultation with landowners as well as consultation which included face to face meetings and a site visit as I set out above. Grey District Council used exactly that consultation methodology for the SNA chapter and that process worked extremely well and it increased landowners confidence in the planning process and the pTTPP.

MAPPING OF SASM OVERLAY

46. The Council considers that the SASM overlay should be removed from the plan, or this part of the plan is not made operative, until such time as the accuracy of the SASM sites can be “verified such as by methods such as site visits to ensure that the pTTPP is accurate and public confidence in the SASM chapter is maintained.

47. Clear and accurate information is vital for the schedules and maps to be fit for purpose and to have the confidence of the community in protecting these areas. Landowners need good quality information so they can manage activities around the SASM to protect those areas and avoid damage. Accurate evidence is needed before a site is identified in the plan, as the regulatory consequences are significant for a landowner.
48. The Council's opposition is restricted to the process for making provision for the pTTPP (including mapping of SASM sites) to recognise and provide for the relationship of Maori to SASM in the Grey District and in particular the consequences for private landowners.
49. A large number of the mapped sites included in the pTTPP have been found to be inaccurate. It is stated by the pTTPP planners that the accuracy of the mapping has been 'fixed' but doubts remain about that as there has been no consultation or site visits to validate the digital mapping for the SASM.
50. The Hearings Panel should not rely upon on pTTPP submitters to validate the plan and ensure sites are accurately identified and mapped, as there is no guarantee that every affected landowner has understood the implications of the SASM and made a submission. A landowner's silence can't be assumed to mean that there is no error in the SASM mapping.
51. Grey District Council's submission point requesting a more detailed and comprehensive consultation process has been disregarded except to the extent of the SASM overlay proposed for Cobden Island. In that case, the section 42A planner has agreed that further consultation should occur before this is included as a SASM in the pTTPP. The Grey District Council considers that there are such significant consequences for landowners which are subject to a SASM overlay that the same approach proposed for the Cobden Island SASM should be taken for all other SASMs.
52. The reporting officer has dismissed Grey District Council's submission, by relying on the fact that letters were sent to all landowners who had a SASM identified on their property. Advising a landowner of the process for making a submission on the pTTPP does not mean that consultation has been carried out effectively.
53. I disagree with paragraph 54 of the section 42A planner's report, as the approach to information relied on from Iwi in the plan preparation and the process to date has excluded the important step of verifying by site visit the spatial extent of a SASM sites. I have previously set out the Grey District Council's concerns about the lack of verification of the spatial extent of the SASM sites in my paragraphs above. I highlight that as a consequence, the Panel may not have all the relevant information before it when deciding the appropriate extent of a SASM site. The Council has therefore requested that further consultation is completed first.
54. The information and data relied on for the mapping location and spatial extent of the SASMs may not be accurate. It should not be up to a landowner to verify

or challenge the accuracy of the information relied on to determine the spatial extent of the SASM mapping overlay.

55. The Council's submission is that including inaccurate and imprecise information in the pTTPP has very significant consequences for the Council's regulatory functions as well as the consequences for landowners that have a SASM overlay on their land in the Grey District. I disagree with the section 42A reporting officer's assessment at para 59 that "... the provisions in the SASM chapter have been drafted with a strong degree of awareness of minimising the restrictions over private land, recognising that for many landowners these are new restrictions."
56. I consider that the method used by the section 42A reporting planner to assess the spatial extent of the SASM areas is an unreliable methodology for the reasons I have set out above including consultation process deficiencies. The spatial extent of the SASMS hasn't been reliably assessed as it has not been verified by site visits. The SASM mapping has therefore tended to overestimate the spatial extent of the SASM mapped. The SASM chapter therefore cannot be said to have minimised the restrictions over private land, as the section 42A planning officer asserts at para 59.
57. The Grey District Council has requested the Hearing Panel to remove the SASM overlay, or alternatively that its operative effect be deferred, to provide for a more detailed consultation process to be carried out before the SASM chapter is made fully operative. This is to avoid errors and misdescriptions triggering resource consent applications unnecessarily and to ensure that there is public confidence in the plan.
58. In my view it is paramount that the SASM overlays are described accurately. Once included in the plan, a SASM cannot be removed or the spatial extent of the SASM corrected unless a plan change is carried out. Any error in the mapping can only be corrected by way of a plan change which is a lengthy and costly process. It is important to have the SASM mapping areas described accurately (including the spatial extent of the SASM) from the outset.

SASM OBJECTIVES

59. Grey District Council's primary concerns as set out in respect to the deficiencies in the mapping outlined above also flow through to the terms of the Objectives, Policies and Rules.
60. Grey District Council considers the landowner engagement has been less than adequate as I have set out in my evidence above. The opportunity to build trust and impart knowledge between council, mana whenua and the landowners hosting these sites and areas has been lost to a degree as a consequence.
61. The approach adopted has resulted in anger and mistrust from landowners who have been surprised with a SASM overlay in the pTTPP. This has undermined public confidence in this chapter of the pTTPP including the objectives which provide for physical access to SASM.

62. A change to the language in the pTTPP SASM objectives and policies is sought by both Iwi and the Grey District Council.
63. The proposed objectives and policies are of greatest concern where they refer to “access”. The use of “access, maintain and use” in the objectives and policies appears to prescribe that a landowner must provide physical access to a SASM as the objectives provide for the access use and maintenance of SASM. I disagree with the s42A planner’s opinion that the only way to provide for SASM as a matter of national significance is to provide for physical access.
64. I have undertaken a desktop review of a variety of District Plans (including the Far North District Council, New Plymouth District Council, Central Hawkes Bay District Council) which include SASM sites. On my review, no other Council has provided for physical access by Iwi to a SASM site in a district plan objective. However I do acknowledge that some district plans do provide for physical access in district plan policies. The focus in objectives of the district plans I have reviewed has been to ensure that provision has been made for the identification, protection and recognition of SASM.
65. I note that the evidence filed by Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu and dated 5 April 2024 states in several places that there has never been any intention by Iwi to obtain physical access to SASM via this pTTPP.
66. Removing the reference to physical access and expressly providing for Iwi’s connection with SASM sites will ensure that most concerns outlined by Grey District Council in its submission on the objectives are resolved.
67. An amendment to the wording of those objectives to remove a reference to “...access, maintain and use...” and to replace that wording with “...recognise, protect and maintain...” is in my opinion an outcome that is better aligned with section 6(e) of the Resource Management Act 1991. I set out the proposed wording for the relevant objectives in my Appendix A.
68. I outline my view on specific objectives in further detail below.

SASM – O1

69. The Grey District Council recognises the relationship of Poutini Ngai Tahu with ancestral lands and the environment and acknowledges the statutory requirement to recognise and identify sites of significance. It also recognises the importance of Poutini Ngai Tahu being involved in decision making where values are threatened. The Council supports the proposal by the Section 42A planner to introduce M1 to the SASM chapter.

SASM - O2

70. The Grey District Council opposed Objective SASM-O2, considering it inappropriate to prescribe physical access to sites and areas that are held in

private ownership. It is further considered inappropriate to allow unfettered use of these sites where physical access may have an effect on established activities.

71. The Grey District Council considers a starting point is to create a relationship/partnership with landowners by consulting with them and coming to an agreement of terms for access and use of sites.
72. The reporting officer does not share the concerns of the Grey District Council. In paragraph 90 on page 36 of the s42A Officers Report it is stated that *“I note that the Objective does not mandate access by Poutini Ngāi Tahu to provide land, but intends to support access being gained over time where this is appropriate”*.
73. This is however not an accurate summation of what is written. The objective does not contain a timeframe for access, nor does it describe any form of maintenance or use by Poutini Ngai Tahu. It clearly states *“Poutini Ngāi Tahu are able to access, maintain and use areas...”*.
74. This in Grey District Council’s view is promoting “unfettered” access to private land which in a manner which conflicts with the rights of landowners to exclude access to their property.
75. What would resolve the Grey District Council’s concerns with respect to this objective is to make it clear that O2 applies in the case of public land only and is cross referenced to PA-O1. In terms of SASM that are located on private land, the reference to physical access being provided should be removed. I note this change requested by Grey District Council is not inconsistent with the evidence of by Te Runanga o Ngati Waewae, Te Runanga o Makaawhio and Te Runanga o Ngai Tahu and dated 5 April 2024.

SASM – O3

76. The Grey District Council is supportive of the intent of this objective to protect SASM sites from inappropriate subdivision, use and development.

SASM POLICIES

77. It is my opinion that the policies in this chapter suffer from the deficiencies that I have already outlined above, but I do not repeat those comments in this section. I provide more detailed comments on the policies below, with the specific wording changes that are proposed by Grey District Council set out in my Appendix A.

SASM – P1

78. The Grey District Council is supportive of the amendments proposed by the section 42A planner to amend this policy to require access by way of landowner agreement, but maintains its original submission that references to physical access be removed within this policy and the associated objectives.

SASM – P2

79. The Grey District Council acknowledges the statutory requirements of the RMA (e.g. s6(e)) and the current practice of identifying and listing sites and areas of significance to Māori. However, the Grey District Council also considers that this policy as currently proposed conflicts with private property rights.
80. The process of “identifying and listing” should be based on a consultative approach that involves Iwi, Council and the private landowner and this policy should be updated to reflect that process. Affected landowners and Iwi should engage together to gain a better understanding of what exactly is on that property, where exactly it is located is on their property and why it is significant to Iwi. The history and value of each site should also be explained and recorded.
81. Landowners can be encouraged to engage with mana whenua to develop positive working relationships in regard to the on-going management and/or protection of sites and areas of significance to Māori. I agree the introduction of M1 will assist with resolving some of those concerns. However the Grey District Council maintains its submission that reference to physical access should be removed and that instead the language of the policies should be directed at ensuring the connection between Iwi and SASM is identified, recognised and managed.

SASM – P4

82. The Grey District Council is supportive in part of this policy requiring landowner agreement for access. However Grey District Council seeks that landowners retain the right to restrict access where they choose to do so. Formal access is promoted by way of landowner, Council and mana whenua partnership.

SASM – P8

83. The Grey District Council is supportive of the proposed amendments to this policy.

SASM – P9

84. The Grey District Council is supportive of the proposed amendments to this policy.

SASM – P11/P12

85. The Grey District Council is supportive of the proposed amendments to this policy, but notes that the section 42A report contains an error in this section as it has incorrectly duplicated P11 at the position that P12 is described. It is requested that this error is corrected.

SASM – P13

86. The Grey District Council is supportive of the proposed amendments to this policy.

SASM – P14

87. As discussed in paragraph 78 - 81 above, the amendments sought to SASM - P1 and P4 rectify the Grey District Council's opposition to section "d" of this policy.

SASM RULES

88. I have evaluated the rules as proposed by the section 42A planner. As a general observation I do consider the rules as amended by the section 42A planner more appropriate than the version that was notified.
89. A key purpose of the rules in the plan is to define when an activity requires a resource consent, and the activity status of any resource consent required. A rule is also used to define whether an activity is in breach of the Act and whether a prosecution or other regulatory action is required.
90. I consider in the main that the rules do achieve these outcomes, but the key issue is that due to the spatial extent of the SASM and the Pounamu and Aotea Overlay Areas, the pTTPP is requiring resource consent unnecessarily and that the integrity of the pTTPP is therefore undermined. I set out my opinion on this in further detail below.
91. If the objectives and policies of the plan are recast to remove reference to physical access to private land, there will need to be consequential changes to the rules to reflect that adjustment. Therefore, I consider that the drafting of all the rules will need to have consequential updates. However, I comment below on the form of the rules which are being proposed by the section 42A planner.
92. If the rules are to be retained but their effect delayed, I set out the Council's position on the form of the rules proposed below.

SASM R1

SASM# 55 Māwhera Burial Cave Site is listed as requiring consent for grazing. It is located within the urban area of the Grey District. The Council acknowledges the high cultural value of this site, but considers that grazing of this land is fanciful because of its situation in an urban area. The Council considers that the reference in SASM Rule 1 to SASM# 55 Māwhera Burial Cave Site can be removed from this rule, without any risk of the site being adversely affected by non-inclusion in this rule.

SASM R2, R3 and R6

93. Rules 2, 3 and 6 allow only very limited permitted activities with respect to minor earthworks. While provision is made for fencing posts for overhead network utility lines, the rule would not provide for installing new fencing along the boundary of the SASM site as a permitted activity. It also does not provide for farming fence posts to be replaced or repaired as a minor earthworks permitted activity. I consider this rule should provide for the replacement of fencing posts and fence maintenance as a permitted activity.

94. The scope of the permitted activities rules are too narrow and require a consent for works of even a small scale. It would seem appropriate to differentiate between small and large projects so as to make provision for small projects with minor effects to obtain consent more easily than large, complex projects.
95. The rule does not make provision for controlled activity or restricted discretionary activity status for relatively minor earthworks and small-scale projects. In my view provision for a lesser activity status should be made to ensure that earthworks associated with small projects that have a minor or less than minor impact on the SASM should be able to gain resource consent through a simplified process.

SASM R4 and R5

96. These rules require the use of Iwi consent or approval or certification in order that the activity has permitted activity status. I consider that the requirement to fulfil an administrative step in order for an activity to be categorised as a Permitted Activity is not the usual criteria to apply. Typically, plans will determine permitted activity status by reference to the effects on the environment, rather than an administrative step. However I do note that the Far North District Council does include a similar provision to what is proposed in these rules.
97. A further issue I note is that the provision for temporary events and activities would appear to apply to the use of private land with a SASM notation. I consider that these types of events have effects that are less than minor and present a very low risk to a SASM site. I therefore consider that the rules should be adjusted to provide for the temporary events as a permitted activity on private land.

SASM R7

98. The Council supports the protection of Aotea and Pounamu as resources for Iwi. However it is considered that this rule should only apply to Pounamu and Aotea Overlay Areas where those resources have been identified as being present. If this rule is retained across all properties where a Pounamu and Aotea Overlay Areas applies, then a resource consent will be required unnecessarily, as will the certification requirement proposed by the section 42A Planner. The Council therefore seeks that condition 3 of R7 is deleted, or otherwise the spatial extent of the Pounamu and Aotea Overlay Areas is amended to include only those areas in which Pounamu and Aotea resources have been confirmed as being located.

GREY DISTRICT COUNCIL AS A LANDOWNER

99. The Grey District Council owns a number of properties throughout the Grey District, particularly in the greater Greymouth urban area. Some of the land is leased whilst a large portion is undeveloped greenfield.

100. Council is concerned with the use of broad overlays and the potential for these to impose significant constraints and costs.
101. The section 42A report contains additional sites proposed to be added to the SASM Schedule. The sites have been identified by Poutini Ngai Tahu and are deemed to meet the criteria for identification as SASM.
102. One of these sites is Aromahana (Cobden Island) SASM #218. The site is adjacent to the Grey River and is un-developed land. The site is a mix of wetland (part of the Cobden Aromahana Sanctuary and Recreation Areas), pasture and at the eastern end there is Council recreation facilities e.g. boat ramp, wastewater dump station and freedom camping site.
103. As the landowner and authority responsible for the administration of this reserve, Grey District Council is concerned that no consultation was undertaken with it, prior to the request for listing of this site as a SASM. The potential regulatory requirements that Council must now meet include Rule 4 where a discretionary consent is required for even minor indigenous vegetation clearance.
104. That means that normal reserve management activities such as vegetation trimming are likely to require a resource consent. Temporary events and activities that are considered to be ordinary uses of the recreation reserve will likely also require a consent under Rule 5. The Council seeks that the reference to Cobden Island is removed from Rule 4 and that Rule 5 is amended so that it is a permitted activity to hold temporary events on Cobden Island.
105. Council is not clear on the reason for the inclusion of Cobden Island as a site of significance. Clear and accurate information about this SASM is vital to ensure that Council can take the necessary steps to manage the reserve to ensure that the reserve land is managed in accordance with its SASM significance. Further consultation with Iwi is welcomed.
106. The Council notes that other landowners are likely to be in the same position and also need good quality information so they can manage their activities and ensure the sites are protected.

CONCLUSION - RELIEF SOUGHT

107. The Grey District Council does not support the SASM Chapter as proposed in the section 42A officer's report. The Council does however acknowledge that in many instances the proposals made by the section 42A reporting planner are improvements on the version of the pTTPP that was notified.
108. The Grey District Council is very disappointed that detailed consultation to connect Council, Iwi and landowners was not carried out in the development of the SASM chapter.
109. As a matter of national importance, and due to the special nature of oral history, detailed consultation connecting iwi and landowners is a very significant

omission. This has led to the Council's submission requesting that the SASM chapter not proceed to an operative status until that step has been carried out.

110. The Grey District Council has taken that position because it is concerned that the public interest in having a plan that is precise and accurate has not been met by the process undertaken to date.
111. Notwithstanding the Council's position that the SASM chapter should not be made operative at this time, I have provided the wording for objectives and policies that would meet the Council's submission points and I include that in my Appendix A. I consider that there is scope to grant this alternative relief outlined in Appendix A as it is a further response to the Council's submission seeking that the reference to physical access is removed.
112. If the Hearings Panel determines that the SASM sites, and the objectives, policies and rules are to remain, the Grey District Council seeks by way of alternative relief that the legal effect of the rules are suspended until there has been further consultation with landowners to verify the spatial extent of SASM areas, given that critical steps in the consultation process have been missed.
113. I therefore haven't provided any alternative wording for the Rules section. Also I consider they would require a significant redrafting to resolve the submission points as to the scope of permitted activities, and in my view it would be best to workshop those provisions with Iwi.

DATED 10 April 2024



Michael McEnaney

APPENDIX A:

The Grey District Council recommends the following changes to the SASM Chapter objectives and policies (based on the s42A recommended version of the objectives and policies):

Sites and Areas of Significance to Māori - Objectives

SASM – O1 Sites and areas of significance to Māori are identified, recognised and managed, to ensure their long-term protection for future generations.

SASM – O2 The relationship of Poutini Ngai Tahu with sites and areas of significance to Māori is recognised and provided for and are involved in decision making that affects their values to provide for tino rangatiratanga and kaitiakitanga.

SASM – O4 Develop partnership between the Council, landowners and tangata whenua in the management of sites and areas of significance.

Sites and Areas of Significance to Māori - Policies

SASM – P1 Protect Poutini Ngāi Tahu cultural landscapes from adverse effects of inappropriate subdivision, use and development while enabling their values to be enhanced through ongoing Poutini Ngāi Tahu management.

SASM – P2 Support land owners to manage, maintain and preserve sites and areas of significance to Māori by:

- a. increasing awareness, understanding and appreciation within the community of the presence and importance of sites and areas of significance to Māori;
- b. encouraging land owners to engage with mana whenua to develop positive working relationships in regard to the on-going management and/or protection of sites and areas of significance to Māori;
- c. providing assistance to land owners to preserve, maintain and enhance sites and areas of significance to Māori; and
- d. through engagement, consultation and collaboration with mana whenua, promoting the use of mātauranga Māori, tikanga and kaitiakitanga to manage, maintain, preserve and protect sites and areas of significance to Māori;
- e. for identified SASM, or for [silent SASM](#), seeking to establish an extent through engagement, consultation and collaboration with [tangata whenua](#).

SASM – P4 The Grey District Council supports the development of M1, which will assist in the implementation of the SASM. However, I rely on my comments made in respect of Objective 2 above and request that this policy is redrafted to remove reference to “access, use and maintain...”

SASM – P8 The Grey District Council supports the wording proposed for this policy.

SASM – P11 and SASM - P12 The Grey District Council seeks that the error in the section 42A report version of P12 is corrected.