

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2026] NZEnvC 51

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule to the Act

BETWEEN AURORA ENERGY LIMITED,
NETWORK WAITAKI LIMITED,
POWERNET LIMITED

(ENV-2024-CHC-24)

(and seven other appellants as set
out in Schedule One to this order)

Appellants

AND OTAGO REGIONAL COUNCIL

Respondent

Environment Judge P A Steven – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 20 March 2026

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

(1) the following appeal point are allowed subject to amendment of the

¹ Resource Management Act 1991.



provisions in the ‘Urban Form and Development – UFD’ chapter of the proposed Otago Regional Policy Statement (non-freshwater) 2021 as set out in Annexure 1, attached to and forming part of this Order:

- (a) Aurora Energy Limited, Network Waitaki Limited and PowerNet Limited’s appeal points in relation to:
 - (i) UFD-O1 – Development of urban areas;
 - (ii) UFD-P1 – Strategic planning;
 - (iii) UFD-P3 – Urban intensification; and
 - (iv) UFD-P4 – Urban expansion.

- (b) Dunedin City Council’s appeal points in relation to:
 - (i) UFD-P4;
 - (ii) UFD-P5 – Commercial activities; and
 - (iii) UFD-P10 – Criteria for significant development capacity.

- (c) Oceana Gold (New Zealand) Limited’s appeal point in relation to Definition: Urban area.

- (d) The Cain Whānau’s appeal points in relation to:
 - (i) UFD-P4;
 - (ii) UFD-M1 – Strategic planning;
 - (iii) UFD-M2 – District plans;
 - (iv) UFD-PR1 – Principal reasons; and
 - (v) UFD-AER13.

- (e) Transpower New Zealand Limited’s appeal point in relation to UFD-P3.

- (f) Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Wihopai Rūnaka, Te Rūnanga o Ōraka Aparima and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu’s appeal points in relation to:

- (i) UFD-O1;
 - (ii) UFD-O3 – Strategic planning [deleted in Decisions Version];
 - (iii) UFD-P1;
 - (iv) UFD-P2 – Sufficiency of development capacity;
 - (v) UFD-P3;
 - (vi) UFD-P4;
 - (vii) UFD-P5;
 - (viii) UFD-P6 – Industrial activities;
 - (ix) UFD-P10;
 - (x) UFD-M1;
 - (xi) UFD-M2; and
 - (xii) UFD-M3 – Design of public spaces and surrounds.
- (g) Queenstown Lakes District Council’s appeal point in relation to UFD-O1.
- (h) Queenstown Airport Corporation’s appeal points in relation to:
- (i) UFD-O1;
 - (ii) UFD-O2 – Development of urban areas [deleted in Decisions Version];
 - (iii) UFD-O3; and
 - (iv) UFD-P3.
- (2) all other appeal points in relation to the UFD chapter of PORPS are otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] These proceedings concern appeals by Aurora Energy Limited, Network

Waitaki Limited and PowerNet Limited (electricity distribution businesses – EDBs), Dunedin City Council (DCC), Oceana Gold (New Zealand) Limited (OGL), Cain Whānau, Transpower New Zealand Limited (Transpower), Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtakou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Ngāi Tahu (Kāi Tahu), Queenstown Lakes District Council (QLDC) and Queenstown Airport Corporation (QAC) against parts of the decisions by Otago Regional Council (ORC) on the proposed Otago Regional Policy Statement (Non-freshwater) 2021 (PORPS) in relation to provisions in the ‘Urban Form and Development – UFD’ chapter (UFD chapter).

[2] The UFD chapter is located in the Part 3 – Domain and Topics section of the PORPS. The UFD chapter contains objectives, policies and methods that provide direction on managing urban areas and development in Otago.

RMA national direction updated

[3] On 15 January 2026, ten new or amended national directions under the RMA came into effect.

[4] The PORPS must give effect to superior planning instruments,² including any new documents made before any final determination by the court.

[5] The ability to give effect to new national direction in the UFD chapter is limited:

- (a) to the scope of appeals; and
- (b) by the stage of the PORPS process: all other appeal points on all other chapters having been resolved by earlier consent orders; changes cannot be made in the UFD chapter contrary to orders already made

² RMA, s62(a).

by the court in those other chapters.

[6] The parties confirm they have considered the new and amended national directions that are relevant to the UFD chapter and confirm that the changes proposed for the court's endorsement give effect to new and amended national direction insofar as it is able in this context.

UFD-O1 – Development of urban areas

[7] UFD-O1 was appealed by the following persons:

- (a) EDBs;
- (b) QLDC;
- (c) QAC; and
- (d) Kāi Tahu.

EDBs

[8] The EDBs' appeal sought that a new clause be inserted into UFD-O1, as follows:

(2AA) Manages the effects of potentially incompatible activities on operational needs and functional needs of existing infrastructure.

[9] The EDBs' position was that the PORPS did not adequately protect the existing electricity distribution network from the effects of incompatible activities, including reverse sensitivity effects created by urban intensification and expansion or provide enough guidance on how to manage incompatible land uses, especially in new developments, on critical electricity infrastructure.

[10] The following persons gave notice of an intention to join this part of the EDBs' appeal under s274 RMA:

- (a) DCC;

- (b) Transpower;
- (c) QAC;
- (d) Z Energy Limited, BP Oil New Zealand Limited, and Mobil Oil New Zealand Limited (Fuel Companies); and
- (e) Otago and Central South Island Fish and Game Councils (Fish & Game).

QLDC

[11] QLDC's appeal sought amendments to UFD-O1 to better align this objective with the National Policy Statement on Urban Development (NPS-UD).

[12] QLDC's position was that UFD-O1 did not encompass all of the aspects of what constitutes a well-functioning urban environment.

[13] DCC and QAC gave notice of an intention to join this part of QLDC's appeal under s274 RMA.

QAC

[14] QAC's appeal sought that new clauses be inserted into UFD-O1, as follows:

- (3) minimises conflict between incompatible activities; and
- (4) facilitates the safe and efficient ongoing use maintenance, upgrade and development of significant infrastructure and regionally significant infrastructure.

[15] QAC's position was that the Decisions Version over-simplified the provisions and failed to ensure that the safe and efficient ongoing use, maintenance, upgrade and development of nationally and regionally significant infrastructure will be recognised, provided for and protected when planning for and undertaking urban development and intensification.

[16] The following persons gave notice of an intention to join this part of QAC's

appeal under s274 RMA:

- (a) Transpower;
- (b) EDBs;
- (c) Royal Forest & Bird Protection Society of New Zealand Incorporated (Forest & Bird);
- (d) QLDC; and
- (e) Fish & Game.

Kāi Tahu

[17] The Kāi Tahu appeal sought reinstatement of the provisions notified in UFD-O3(3), UFD-P9, and UFD-M2(10) as they relate to Kāi Tahu aspirations and values for urban development.

[18] The Kāi Tahu position was that by failing to include outcomes relating to those aspirations and values, the UFD provisions did not give effect to Objective 5 and Policy 9 of the NPS-UD. Kāi Tahu also sought any such further, alternative or consequential amendments required to give effect to that relief.

[19] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) Cain Whānau;
- (b) DCC;
- (c) OGL;
- (d) QLDC; and
- (e) Fish & Game.

Resolution

[20] The parties have agreed that UFD-O1 can be amended as follows (amendments henceforth show additions in underline and deletions in strikethrough):

UFD-O1 – Development of urban areas

The development and change of Otago’s urban areas occurs in a strategic and coordinated way, which results in well-functioning urban environments, that:

- (1) ~~accommodates~~ the diverse and changing needs and preferences of Otago’s people and communities, now and in the future,
- (2) ~~integrates~~ effectively with infrastructure, development infrastructure and additional infrastructure, and surrounding urban areas and rural areas, including by managing reverse sensitivity effects and direct effects on electricity networks,
- (2A) ~~results in a~~ are consolidated, well-connected and have a well-designed urban form ~~which is integrated with infrastructure,~~
- (2AB) have effective and efficient infrastructure, development infrastructure and additional infrastructure,
- (2B) ~~supports~~ climate change adaptation and climate change mitigation, ~~and:~~
- (3) takes into account the values and aspirations of iwi, hapū and whānau, including for urban development.

[21] The parties advised that the addition of new clause (3) responds to the Kāi Tahu appeal point as alternative relief for the reinstatement of UFD-O3(3), in addition to the points resolved at paragraphs [77] to [84] below. The amendments to the chapeau and clause (2A) respond to QLDC’s appeal point by incorporating “well-functioning urban environments” into the objective. The amendments to clauses (2) and (2AB) respond to the EDBs and QAC’s appeal points by requiring development to integrate effectively with infrastructure, including by managing reverse sensitivity and direct effects on electricity networks, and for development and urban change to have effective and efficient infrastructure.

[22] The parties consider that the amendments are within the jurisdiction of the court and gives effect to Policy 11 of the National Policy Statement for Electricity

Networks 2008 (NPS-EN) and the relevant parts of the Act, including ss 5, 6(e), 7(b), 7(i), and 8.

UFD-P1 – Strategic planning

[23] UFD-P1 was appealed by the EDBs.

[24] The EDBs' appeal sought amendments to UFD-P1 clauses (1A) and (8A) to give effect to the amendment it sought to UFD-O1 by requiring urban growth and development planning to consider the extent to which that growth or development will create adverse reverse sensitivity effects on existing regionally significant infrastructure, or other planned infrastructure.

[25] The EDBs' position was that the amendments were required to manage incompatible land uses, especially in new developments that impact critical electricity infrastructure.

[26] The following persons gave notice of an intention to join this part of the EDBs' appeal under s274 RMA:

- (a) Transpower;
- (b) QAC; and
- (c) Fish & Game.

Resolution

[27] The parties have agreed that UFD-P1 can be amended as follows:

UFD-P1 – Strategic planning

Strategic planning processes, undertaken at an appropriate scale and detail, precede urban growth and development and:

- (1) identify how housing choice, quality, and affordability will be improved,
- (1A) ensure the integration of land use, urban intensification, and urban expansion ~~and~~ with infrastructure, including how, where and when

necessary development infrastructure and additional infrastructure will be provided, and by whom,

- (1B) take into account whether urban expansion may contravene limits (in relation to freshwater),
- (2) demonstrate at least sufficient development capacity supported by integrated infrastructure provision for Otago's housing and business needs in the short, medium and long term,
- (3) maximise current and future opportunities for increasing resilience and reducing contributions of communities to climate change, and facilitate adaptation to changing demand, needs, preferences and climate change,
- (5) indicate how connectivity will be improved and connections will be provided within urban areas,
- (6) provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, to ensure provision is made for their needs and aspirations, and cultural practices and values,
- (7) facilitate involvement of the current community and respond to the reasonably foreseeable needs of future communities, and
- (8A) identify areas of potential conflict between incompatible activities and sets out the methods by which these are to be resolved, including by consultation with infrastructure providers.

[28] The parties advised that the amendments to clauses (1A) and (8A) respond to the EDBs' appeal point. Clause (1A) now requires that land use, urban intensification, and urban expansion be integrated with infrastructure. The parties consider that the agreed amendment to clause (8A), being the inclusion of consultation with infrastructure providers, will assist in the identification of potential conflict between incompatible activities.

[29] The parties advised that the addition of clause (1B) responds to the Kāi Tahu appeal point on 'UFD-P4 – Urban expansion', set out in more detail below. As set out at paragraph [56] below, the parties agreed that an amendment to UFD-P1 would better achieve the outcome sought by Kāi Tahu by requiring strategic planning to consider whether urban expansion may contravene freshwater limits.

[30] The parties consider that the amendments are within the jurisdiction of the

court and give effect to Policy 12 of the NPS-EN and the relevant parts of the Act, including ss 5, 6(a), 7(b), and 8.

UFD-P3

[31] UFD-P3 was appealed by the following persons:

- (a) EDBs;
- (b) QAC; and
- (c) Transpower.

EDBs

[32] The EDBs' appeal sought amendments to require that urban intensification is managed by avoiding reverse sensitivity effects on existing and planned infrastructure. The EDBs' position was that the Decisions Version of UFD-P3 did not manage incompatible land uses.

[33] The following persons gave notice and intention to join this part of the EDBs' appeal under s274 RMA:

- (a) Transpower;
- (b) QAC;
- (c) DCC; and
- (d) Fish & Game.

QAC

[34] QAC's appeal sought that an additional clause be inserted into UFD-P3, as follows:

(2A) does not compromise the safe and efficient ongoing use of nationally or regionally significant infrastructure.

[35] QAC's position was that the Decisions Version of UFD-P3 failed to ensure that the safe and efficient ongoing use, maintenance, upgrade and development of nationally and regionally significant infrastructure will be recognised, provided for and protected when planning for and undertaking urban development and intensification.

[36] The following persons gave notice of an intention to join this part of QAC's appeal under s274 RMA:

- (a) EDBs;
- (b) QLDC; and
- (c) Fish & Game.

Transpower

[37] Transpower's appeal sought that clause (6) of UFD-P3 be reinstated, which had been deleted in the Decisions Version of the PORPS:

(6) manages adverse effects on values or resources identified by this RPS that require specific management or protection.

[38] Transpower's position was that UFD-P4 relating to urban expansion has appropriately acknowledged that urban growth be enabled subject to managing adverse effects on resources identified by the PORPS as requiring specific protection (the National Grid being one of those resources) and that the same recognition should be included in UFD-P3.

[39] The EDBs and Fish & Game gave notice of an intention to join this part of Transpower's appeal under s274 RMA.

Resolution

[40] The parties have agreed that UFD-P3 can be amended as follows:

UFD-P3 – Urban intensification

Manage intensification in urban areas, so that as a minimum, ~~it~~ the intensification:

- (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment,
- (2) is well-served by efficient and effective infrastructure, ~~existing or planned~~ development infrastructure and additional infrastructure,
- (3) enables heights and densities that meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned active transport or public transport, ~~and~~
- (5) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- ~~(6) protects the efficient and effective operation, maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure in accordance with EIT-INF-P15, and electricity distribution infrastructure in accordance with EIT-INF-P9A, and~~
- ~~(7) except as provided for in (6), limits, to the extent reasonably possible, the effects on operation, maintenance, upgrading and development of development infrastructure and additional infrastructure.~~

[41] The parties advised that new clauses (6) and (7) and the amendment to clause (2) respond to the EDBs, QAC, and Transpower's appeal points. The parties consider the amendments are appropriate to ensure regionally and nationally significant infrastructure and the electricity distribution network is not adversely affected by urban intensification, and the cross-references to EIT-INF-P15 (for nationally and regionally significant infrastructure) and EIT-INF-P9A (for electricity distribution infrastructure) clarifies the level of protection to be provided.

[42] The parties consider that the amendments are within the jurisdiction of the court and give effect to Objective 2.1 of the NPS-EN and the relevant parts of the Act, including ss 5, and 7(b).

UFD-P4 – Urban expansion

[43] UFD-P4 was appealed by the following persons:

- (a) EDBs;
- (b) Cain Whānau;
- (c) Kāi Tahu; and
- (d) DCC.

EDBs

[44] The EDBs' appeal sought that a new clause be inserted into UFD-P4, as follows:

(X) Does not compromise the functional needs and operational needs of existing and planned infrastructure.

[45] The EDBs' position was that the Decisions Version of UFD-P4 did not manage incompatible land uses.

[46] The following persons gave notice of an intention to join this part of the EDBs' appeal under s274 RMA:

- (a) Transpower;
- (b) QAC;
- (c) DCC; and
- (d) Fish & Game.

DCC

[47] DCC's appeal sought an amendment to the chapeau of UFD-P4 as follows:

Expansion of existing urban areas ~~may~~ should only occur where at a minimum the expansion:

[48] DCC's position was that "may occur" in the opening sentence of UFD-P4 was no appropriate language for a policy managing where urban expansion should occur.

[49] QAC gave notice of an intention to join this part of DCC's appeal under s274 RMA.

Kāi Tahu

[50] The Kāi Tahu appeal sought that a new clause be inserted into UFD-P4, as follows:

(X) is located and designed to avoid increasing demand on water supply in water-short areas and cumulative impacts of wastewater and stormwater on water bodies and coastal waters

[51] The Kāi Tahu position was that the proposed amendment was required to ensure that planning for urban expansion takes into account the implications of increased water supply and wastewater and stormwater demand on water bodies that are degraded.

[52] The following persons gave notice of an intention to join this part of the Kāi Tahu appeal under s274 RMA:

- (a) Beef and Lamb New Zealand (Beef + Lamb);
- (b) Cain Whānau;
- (c) DCC;
- (d) Fish & Game;
- (e) Forest & Bird;
- (f) QLDC;
- (g) Rayonier Matariki Forests, City Forests Limited, Ernslaw One Limited and Port Blakely NZ Limited (Forestry Appellants);
- (h) OGL; and
- (i) Federated Farmers of New Zealand (Federated Farmers).

Resolution

[53] The parties have agreed that UFD-P4 can be amended as follows:

UFD-P4 – Urban expansion

Expansion of existing urban areas ~~may~~ should only occur where at a minimum the expansion:

- (1) contributes to establishing or maintaining the qualities of a well-functioning urban environment,
- (1A) is identified by and undertaken consistent with strategic plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,
- (1B) achieves consolidated, well designed and sustainable development in and around existing urban areas,
- (2) is logically and appropriately staged, and will not result in inefficient or sporadic patterns of settlement and residential growth,
- (3) is integrated efficiently and effectively with infrastructure, development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way,
- (4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- (5) manages adverse effects on other values or resources identified by this RPS that require specific management or protection,
- (6) avoids, highly productive land except as provided for in the NPS-HPL, and considers adverse effects, particularly reverse sensitivity effects, on existing and anticipated primary production or rural industry activities when determining the location of the new urban/rural boundary,
- ~~(7) protects the efficient and effective operation, maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure in accordance with EIT-INF-P15, and electricity distribution infrastructure in accordance with EIT-INF-P9A, and~~
- ~~(8) except as provided for in (7), limits, to the extent reasonably possible, the effects on operation, maintenance, upgrading and development of development infrastructure and additional infrastructure.~~

[54] The parties advised that the amendment to the chapeau responds to DCC's appeal point.

[55] They advised that new clauses (7) and (8) and the amendment to clause (3) respond to the EDBs' appeal point. The new clauses are consistent with the new clauses agreed by the parties to be added to UFD-P3. The parties agree that the

amendments are appropriate to ensure regionally and nationally significant infrastructure and the electricity distribution network are not adversely affected by urban intensification, and the cross-references to EIT-INF-P15 (for nationally and regionally significant infrastructure) and EIT-INF-P9A (for electricity distribution infrastructure) clarifies the level of protection to be provided.

[56] No amendments to UFD-P4 were agreed by the parties in response to the Kāi Tahu appeal point. Instead, and as noted above, the parties agreed that UFD-P1 was the appropriate policy to address the Kāi Tahu appeal point relating to development and water-short areas. The parties agreed to include a new clause (1B) to require that planning processes to take into account whether urban expansion may contravene limits (in relation to freshwater) as set out in paragraph [29] above.

[57] The parties consider that the amendments are within the jurisdiction of the court and give effect to Objective 2.1 of the NPS-EN and the relevant parts of the Act, including ss 5, and 7(b).

UFD-P5 – Commercial activities

[58] UFD-P5 was appealed by DCC.

[59] DCC's appeal sought an amendment to clause (4) as follows:

- (4) outside the areas described in (1) and (2), provide for small scale retail and service activities, home occupations and community services to establish within or close to the communities they serve where there is insufficient capacity for these activities in the nearby centre or commercial zone.

[60] DCC's position was that clause (4) provides for a range of commercial activities to establish outside centres and commercial zones, but the range of activities may only be appropriate where there is insufficient capacity within the zones to accommodate them.

[61] QAC gave notice of an intention to join this part of DCC's appeal under s274 RMA.

Resolution

[62] The parties have agreed that UFD-P5 can be amended as follows:

UFD-P5 – Commercial activities

Provide for commercial activities in urban areas by:

- (1) enabling a wide variety and scale of commercial activities, social, recreational and cultural activities to concentrate in city, metropolitan, town centres and commercial zoned areas, where appropriate, especially if they are highly accessible by public transport or active transport, and
- (2) enabling smaller local and neighbourhood centres, mixed use zones and rural settlements to accommodate a variety of commercial activities, social, recreational and cultural activities of a scale appropriate to service local community needs, ~~and~~
- ~~(4) outside the areas described in (1) and (2), provide for small scale retail and service activities, home occupations and community services to establish within or close to the communities they serve.~~

[63] The parties advised that the deletion of clause (4) responds to DCC's appeal point. The parties agreed that clause (4) was unnecessary and overly specific for a regional policy statement.

[64] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 7(b), and 7(f).

UFD-P10 – Criteria for significant development capacity

[65] UFD-P10 was appealed by DCC.

[66] DCC's appeal sought an amendment to clause (3) as follows:

- (3) required development infrastructure can be provided effectively and efficiently for the proposal, and without material impact on planned

development infrastructure provision to, or reduction in development infrastructure capacity available for, other feasible, likely to be realised developments, ~~in the short-medium term,~~

[67] DCC's position was that clause (3) limits consideration of development infrastructure in the short-medium term, but there will be important infrastructure projects for long term capacity, and infrastructure projects may be necessary for environmental improvements or to meet Treaty obligations.

[68] No persons gave notice of an intention to join this part of DCC's appeal under s274 RMA.

Resolution

[69] The parties have agreed that UFD-P10 can be amended as follows:

UFD-P10 – Criteria for significant development capacity

~~A proposed plan change will only be considered as providing significant development capacity for the purpose of clause 3.8 of the NPSUD if it Significant development capacity is provided for where a proposed plan change affecting an urban environment meets all of the following criteria:~~

- (3) ~~required development infrastructure can be provided effectively and efficiently for the proposal, and without preventing or delaying other material impact on planned development infrastructure provision to, or reduction in development infrastructure capacity available for, other feasible, likely to be realised developments, in the short-medium term,~~
- (4) the proposal makes a significant contribution to meeting a need identified in a Housing and Business Development Capacity Assessment, or a shortage identified in monitoring for:
 - (a) housing of a particular price range or typology, particularly more affordable housing,
 - (b) business space or land of a particular size or locational type, or
 - (c) community or educational facilities, and
- (5) when considering the significance of the proposal's contribution to a matter in (4), this means that the proposal's contribution:
 - (a) is of high yield relative to either the forecast demand or the identified

shortfall,

- (b) will be realised in a timely (i.e. rapid) manner,
- (c) is likely to be taken up, and
- (d) will facilitate a net increase in district-wide up-take in the short to medium term.

[70] The parties advised that the agreed amendments respond to DCC’s appeal point. The changes clarify that a proposed plan change will only be considered as providing significant development capacity, for the purpose of the NPS-UD, if it meets all of the specified criteria, including that required development infrastructure does not prevent or delay any planned development infrastructure.

[71] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 7(b), and 7(f).

The Cain Whānau appeal

[72] The Cain Whānau appeal sought:

- (a) relief with respect to any provisions in the PORPS that apply to or affect Māori land, to ensure owners of Māori land can protect, occupy, subdivide, develop, and use their resources (inclusive of land, freshwater, coastal water and coastal marine area) to benefit their social, economic, cultural, educational, recreational, and environmental wellbeing as their secondary alternate relief; and
- (b) the inclusion of the text “and owners of freehold Māori Land in relation to their land” beside instances of “mana whenua”.

[73] The persons who gave notice of an intention to join the Cain Whānau appeal under s274 RMA are listed in the ‘MW – Mana whenua’ chapter consent memorandum dated 14 March 2025.

[74] As set out in the MW consent order, the parties agreed that the rights and interests of owners of Māori freehold land, in relations to their land, should be

recognised, in specific circumstances, alongside Kāi Tahu as mana whenua.

[75] The parties have agreed that the following UFD chapter provisions can be amended to recognise the rakatirataka of owners of Māori freehold land (in relation to their land) alongside Kāi Tahu, as follows:

UFD–M2 – District plans

Territorial authorities must prepare or amend their district plans as soon as practicable, and maintain thereafter, to:

- (1) ...
- (8) involve mana whenua and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, and
- (8A) ensure that owners of Māori freehold land are included in planning processes that may affect their land.

UFD–M1 – Strategic planning

...

- (7) must involve mana whenua, and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, and
- (7A) must ensure that owners of Māori freehold land are included in planning processes that may affect their land.

UFD–PR1 – Principal reasons

....

These strategic planning processes provide the mechanism by which longer term issues can be considered, integration between land use and infrastructure can be achieved, and various constraints, opportunities and key trade-offs can be identified and appropriately resolved, while identifying and managing the values and resources identified in this RPS. These processes, and others should always involve mana whenua, and owners of Maori freehold land in relation to their land, at all levels of the process to ensure their views and values can be incorporated and celebrated, and their needs and aspirations appropriately provided for.

....

To appropriately and efficiently achieve the objectives and policies, other non-regulatory spatial planning exercises and associated action plans, agreements and infrastructure delivery programs will be needed to complement regulatory

approaches, including setting aside the necessary funding for delivery, and partnering with Kāi Tahu mana whenua, central government, communities and developers to deliver the quality and quantity of urban development needed to meet demand and provide for change, improve land and development market competitiveness, and achieve resilient, efficient and attractive urban places.

UFD-AER13

Mana whenua, and owners of Māori freehold land in relation to their land, are involved in strategic planning

[76] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 6(e), 7(a) and 8.

Uses of Māori land

Kāi Tahu

[77] As noted above, the Kāi Tahu appeal sought amendments to the objectives, policies, and methods throughout the UFD chapter to include outcomes relating to Kāi Tahu aspirations and values for urban development. By the time the UFD provisions were mediated, that included a request to be consistent with the agreed approach taken in Policy ‘MW-P4 – Use of Native Reserves and Māori land’, which has been confirmed by the court.³

[78] Kāi Tahu also sought any such further, alternative or consequential amendments required to give effect to that relief.

[79] The Kāi Tahu position was that by failing to include outcomes relating to Kāi Tahu aspirations and values for urban development, the UFD provisions did not give effect to Objective 5 and Policy 9 of the NPS-UD.

[80] The following persons gave notice of an intention to join this part of the

³ [2025] NZEnvC 107.

Kāi Tahu appeal under s274 RMA:

- (a) Cain Whānau;
- (b) DCC;
- (c) OGL;
- (d) QLDC; and
- (e) Fish & Game.

Resolution

[81] In addition to the agreed amendment to UFD-O1(3), the parties have agreed to include a new Policy ‘UFD-PX – Development on native reserves and Māori Land’ to provide for outcomes relating to Kāi Tahu aspirations and values for urban development as follows:

UFD-PX – Development on native reserves and Māori Land

In urban areas, Kāi Tahu are able to use and develop native reserves and Māori land in accordance with MW-P4.

[82] The parties have also agreed to make a consequential amendment to clause (4) of ‘UFD-M1 – Strategic planning’, as follows:

UFD-M1 – Strategic planning

Otago Regional Council and territorial authorities:

...

- (4) must coordinate the redevelopment and intensification of urban areas and the development of expansions to urban areas with infrastructure planning and development programmes, to:
 - (a) provide the required development infrastructure and additional infrastructure in an integrated, timely, efficient and effective way, and
 - (b) identify major existing and future activities, constraints and opportunities

and for Tier 2 local authorities to achieve this through jointly developed Future Development Strategies and/or strategic planning, and for all other

local authorities through strategic planning in accordance with UFD-P1,
and
considering, in relation to native reserves and Māori land, the range of
servicing solutions that will enable the use and development of that land in
accordance with MW-P4,

...

[83] The parties consider that the inclusion of the new policy ‘UFD-PX – Development on native reserves and Māori Land’ and the amendment to UFD-M1(4) is consistent with MW-P4, which has been confirmed by the court.

[84] The parties consider that the amendments are within the jurisdiction of the court and give effect to the relevant parts of the Act, including ss 5, 6(e), 7(a), 7(aa), 7(b) and 8.

Other relevant matters

[85] As a result of this consent order, together with previous consent orders issued by the court in relation to the PORPS,⁴ the court’s decision in *Glenpanel Limited Partnership v Otago Regional Council*⁵ and Cain Whānau’s withdrawal of its remaining appeal points on 19 December 2025, all appeals on the non-freshwater planning instrument parts of the PORPS are now fully resolved.

[86] The parties advise that all matters proposed for the court’s endorsement fall within the court’s jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

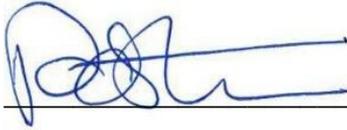
[87] The parties agree that no order for costs is sought.

⁴ [2025] NZEnvC 366; [2025] NZEnvC 396; [2025] NZEnvC 107; [2025] NZEnvC 307; [2025] NZEnvC 395; [2025] NZEnvC 296; [2025] NZEnvC 208; [2025] NZEnvC 333; [2025] NZEnvC 397; [2025] NZEnvC 206; [2025] NZEnvC 323.

⁵ *Glenpanel Limited Partnership v Otago Regional Council* [2025] NZEnvC 399.

Outcome

[88] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



P A Steven
Environment Judge



SCHEDULE ONE

1. Dunedin City Council (ENV-2024-CHC-25)
2. Oceana Gold (New Zealand) Limited (ENV-2024-CHC-29)
3. Cain Whānau (ENV-2024-CHC-30)
4. Transpower New Zealand Limited (ENV-2024-CHC-35)
5. Te Rūnanga o Moeraki, Kāti Huirapa Rūnaka ki Puketeraki, Te Rūnanga o Ōtākou and Hokonui Rūnanga, Te Ao Marama Incorporated on behalf of Waihopai Rūnaka, Te Rūnanga o Ōraka Aparima, and Te Rūnanga o Awarua and Te Rūnanga o Ngāi Tahu (ENV-2024-CHC-36)
6. Queenstown Lakes District Council (ENV-2024-CHC-37)
7. Queenstown Airport Corporation (ENV-2024-CHC-40)

Annexure 1

Amend objective:

UFD–O1 – Development of *urban areas*

The development and change of Otago’s *urban areas* occurs in a strategic and coordinated way, which results in *well-functioning urban environments*, that:

- (1) accommodates the diverse and changing needs and preferences of Otago’s people and communities, now and in the future,
- (2) integrates effectively with *infrastructure, development infrastructure and additional infrastructure, and surrounding urban areas and rural areas, including by managing reverse sensitivity effects and direct effects on electricity networks,*
- (2A) ~~results in a~~ are consolidated, well-connected and have a well-designed urban form, ~~which is integrated with *infrastructure*, and~~
- (2AB) have effective and efficient *infrastructure, development infrastructure and additional infrastructure,*
- (2B) supports *climate change adaptation* and *climate change mitigation*, and
- (3) takes into account the values and aspirations of iwi, hapū and whānau, including for urban development.

Amend policies:

UFD–P1 – Strategic planning

Strategic planning processes, undertaken at an appropriate scale and detail, precede urban growth and development and:

- (1) identify how housing choice, quality, and affordability will be improved,
- (1A) ensure the integration of *land use, urban intensification, and urban expansion and with infrastructure, including how, where and when necessary development infrastructure and additional infrastructure* will be provided, and by whom,
- (1B) take into account whether urban expansion may contravene limits (in relation to *freshwater*),
- (2) demonstrate at least sufficient *development capacity* supported by integrated *infrastructure* provision for Otago’s housing and business needs in the short, medium and long term,

- (3) maximise current and future opportunities for increasing *resilience* and reducing contributions of communities to *climate change*, and facilitate adaptation to changing demand, needs, preferences and *climate change*,
- (5) indicate how connectivity will be improved and connections will be provided within *urban areas*,
- (6) provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, to ensure provision is made for their needs and aspirations, and cultural practices and values,
- (7) facilitate involvement of the current community and respond to the reasonably foreseeable needs of future communities, and
- (8A) identify areas of potential conflict between incompatible activities and sets out the methods by which these are to be resolved, including by consultation with infrastructure providers.

UFD-P3 – Urban intensification

Manage intensification in urban areas, so that as a minimum, it the intensification:

- (1) contributes to establishing or maintaining the qualities of a *well-functioning urban environment*,
- (2) is well-served by efficient and effective infrastructure, existing or planned development infrastructure and additional infrastructure,
- (3) enables heights and densities that meets the greater of demonstrated demand for housing and/or business use or the level of accessibility provided for by existing or planned *active transport* or *public transport*,
and
- (5) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- (6) protects the efficient and effective operation, maintenance, upgrading and development of nationally significant infrastructure and regionally significant infrastructure in accordance with EIT-INF-P15, and

electricity distribution infrastructure in accordance with EIT-INF-P9A, and

- (7) except as provided for in (6), limits, to the extent reasonably possible, the effects on operation, maintenance, upgrading and development of *development infrastructure and additional infrastructure.*

UFD-P4 – Urban expansion

Expansion of existing *urban areas* ~~may~~ should only occur where at a minimum the expansion:

- (1) contributes to establishing or maintaining the qualities of a *well-functioning urban environment*,
- (1A) is identified by and undertaken consistent with strategic plans prepared in accordance with UFD-P1, or is required to address a shortfall identified in accordance with UFD-P2,
- (1B) achieves consolidated, well designed and sustainable development in and around existing *urban areas*,
- (2) is logically and appropriately staged, and will not result in inefficient or sporadic patterns of settlement and residential growth,
- (3) is integrated efficiently and effectively with *infrastructure, development infrastructure and additional infrastructure* in a strategic, timely and coordinated way,
- (4) addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents,
- (5) manages adverse *effects* on other values or resources identified by this RPS that require specific management or protection,
- (6) avoids, highly productive land except as provided for in the NPS-HPL, and considers adverse *effects*, particularly *reverse sensitivity* effects, on existing and anticipated *primary production or rural industry*

activities when determining the location of the new urban/rural boundary,

- (7) protects the efficient and effective operation, maintenance, upgrading and development of *nationally significant infrastructure* and *regionally significant infrastructure* in accordance with EIT-INF-P15, and electricity distribution infrastructure in accordance with EIT-INF-P9A, and
- (8) except as provided for in (7), limits, to the extent reasonably possible, the effects on operation, maintenance, upgrading and development of *development infrastructure* and *additional infrastructure*.

UFD-P5 – Commercial activities

Provide for commercial activities in urban areas by:

- (1) enabling a wide variety and scale of *commercial activities*, social, recreational and cultural activities to concentrate in city, metropolitan, town centres and commercial zoned areas, where appropriate, especially if they are highly accessible by *public transport* or *active transport*, and
- (2) enabling smaller local and neighbourhood centres, mixed use zones and rural settlements to accommodate a variety of *commercial activities*, social, recreational and cultural activities of a scale appropriate to service local community needs, and
- ~~(4) outside the areas described in (1) and (2), provide for small scale retail and service activities, home occupations and community services to establish within or close to the communities they serve.~~

UFD-P10 – Criteria for significant development capacity

A proposed plan change will only be considered as providing *significant development capacity* for the purpose of clause 3.8 of the NPSUD if it

~~Significant development capacity is provided for where a proposed plan change affecting an urban environment meets all of the following criteria:~~

- (3) ~~required development infrastructure can be provided effectively and efficiently for the proposal, and without preventing or delaying other material impact on planned development infrastructure provision to, or reduction in development infrastructure capacity available for, other feasible, likely to be realised developments, in the short-medium term,~~
- (4) the proposal makes a significant contribution to meeting a need identified in a *Housing and Business Development Capacity Assessment*, or a shortage identified in monitoring for:
 - (a) housing of a particular price range or typology, particularly more affordable housing,
 - (b) business space or *land* of a particular size or locational type, or
 - (c) community or educational facilities, and
- (5) when considering the significance of the proposal's contribution to a matter in (4), this means that the proposal's contribution:
 - (a) is of high yield relative to either the forecast demand or the identified shortfall,
 - (b) will be realised in a timely (i.e. rapid) manner,
 - (c) is likely to be taken up, and
 - (d) will facilitate a net increase in district-wide up-take in the short to medium term.

New policy:

UFD-PX – Development on native reserves and Māori Land

In urban areas, Kāi Tahu are able to use and develop native reserves and Māori land in accordance with MW-P4.

Amend methods:

UFD–M1 – Strategic planning

Otago Regional Council and *territorial authorities*:

- (1) must, where they are Tier 2 local authorities, jointly determine housing *development capacity* that is feasible and likely to be taken up in the medium and long terms through *Housing and Business Development Capacity Assessments*,
- (2) should, for other districts, jointly determine demand and potential supply responses through similar, but appropriately scaled strategic planning approaches,
- (3) must, where they are Tier 2 and Tier 3 local authorities, monitor and regularly assess and report on the supply of, and demand for, residential, commercial and industrial zoned *land development capacity* available at the regional, district and *urban environment* scales, and other local authorities are encouraged to do so,
- (4) must coordinate the redevelopment and intensification of *urban areas* and the development of expansions to *urban areas* with *infrastructure* planning and development programmes, to:
 - (a) provide the required *development infrastructure* and *additional infrastructure* in an integrated, timely, efficient and effective way, and
 - (b) identify major existing and future activities, constraints and opportunities

and for Tier 2 local authorities to achieve this through jointly developed *Future Development Strategies* and/or strategic

planning, and for all other *local authorities* through strategic planning in accordance with UFD-P1, and

considering, in relation to native reserves and Māori land, the range of servicing solutions that will enable the use and development of that land in accordance with MW-P4,

- (5) must, where they are Tier 2 local authorities, develop housing bottom lines for urban environments and include those bottom lines in APP10 and in the relevant *district plans*,
- (6) must individually or jointly develop further regulatory or non-regulatory methods and actions to implement strategic and spatial plans, including to guide the detail of how, when and where development occurs, including matters of urban design, requirements around the timing, provision, and responsibilities for open space, connections and infrastructure, including by third parties, and the ongoing management of effects of urban development on matters of local importance, ~~and~~
- (7) must involve *mana whenua*, and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, and
- (7A) must ensure that owners of Māori freehold land are included in planning processes that may affect their land.

UFD-M2 – District plans

Territorial authorities must prepare or amend their *district plans* as soon as practicable, and maintain thereafter, to:

- (1) identify and provide for urban expansion and intensification to occur in accordance with:
 - (a) any adopted *future development strategy* for the relevant district or region, which must be completed in time to inform the 2024 Long Term Plan, or

- (b) where there is no *future development strategy*, a *local authority* adopted strategic plan developed in accordance with UFD-P1, for the relevant area, district or region,
- (2) in accordance with any required *Housing and Business Development Capacity Assessments* or monitoring, including any *competitiveness margin*, ensure there is always sufficient *development capacity* that is feasible and likely to be taken up and, for Tier 2 urban environments, at a minimum meets the bottom lines for housing in APP-10, and meets the identified *land* size and locational needs of the commercial and industrial sectors,
 - (3) ensure that urban development is designed to:
 - (a) achieve a built form that relates well to its surrounding *environment*,
 - (b) provide for a diverse range of housing, *commercial activities*, industrial and service activities, social and cultural opportunities,
 - (c) achieve an efficient use of *land*, energy, *water* and *infrastructure*,
 - (d) minimise the potential for reverse sensitivity *effects* to arise, by managing the location of incompatible activities, within the *urban area*, and at the rural-urban interface, and
 - (e) reduce the adverse *effects* of Otago's cooler winter climate through designing new subdivision and development to maximise passive winter solar gain and winter heat retention, including through roading, lot size, dimensions, layout and orientation,
 - (4) identify and provide for locations that are suitable for urban intensification in accordance with UFD-P3,

- (5) identify and provide for locations that are suitable for urban expansion, if any, in accordance with UFD-P4,
- (6) identify and provide for *commercial activities* in accordance with UFD-P5,
- (7) identify and provide for *industrial activities* in accordance with UFD-P6, ~~and~~
- (8) involve *mana whenua* and provide opportunities for iwi, hapū and whānau involvement in planning processes, including in decision making, and
- (8A) ensure that owners of Māori freehold land are included in planning processes that may affect their *land*.

Amend principal reason:

UFD-PR1 – Principal reasons

....

These strategic planning processes provide the mechanism by which longer term issues can be considered, integration between land use and infrastructure can be achieved, and various constraints, opportunities and key trade-offs can be identified and appropriately resolved, while identifying and managing the values and resources identified in this RPS. These processes, and others should always involve *mana whenua*, and owners of Māori freehold land in relation to their *land*, at all levels of the process to ensure their views and values can be incorporated and celebrated, and their needs and aspirations appropriately provided for.

....

To appropriately and efficiently achieve the objectives and policies, other non-regulatory spatial planning exercises and associated action plans, agreements and *infrastructure* delivery programs will be needed

to complement regulatory approaches, including setting aside the necessary funding for delivery, and partnering with Kāi Tahu *mana whenua*, central government, communities and developers to deliver the quality and quantity of urban development needed to meet demand and provide for change, improve *land* and development market competitiveness, and achieve *resilient*, efficient and attractive urban places.

Amend Anticipated Environmental Results:

UFD-AER13

Mana whenua, and owners of Māori freehold land in relation to their *land*, are involved in strategic planning and other planning processes.

