

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHĪ ROHE**

ENV-2024-CHC-031

UNDER the Resource Management Act 1991

IN THE MATTER of appeals under clause 14(1) of the First Schedule of the Act in relation to the non-freshwater planning instrument parts of proposed Otago Regional Policy Statement 2021 (pORPS21)

BETWEEN **GLENPANEL LIMITED PARTNERSHIP**

Appellant

AND **OTAGO REGIONAL COUNCIL**

Respondent

**SUBMISSIONS FOR OTAGO REGIONAL COUNCIL IN REPLY- GLENPANEL
LIMITED PARTNERSHIP APPEAL - SCOPE**

Dated: 19 September 2025

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**SUBMISSIONS FOR OTAGO REGIONAL COUNCIL IN REPLY - GLENPANEL
LIMITED PARTNERSHIP APPEAL SCOPE**

May it please the Court:

Introduction

- 1 These submissions reply to the submissions of Glenpanel Limited Partnership (**Glenpanel**) on scope dated 15 September 2025 (**scope submissions**).
- 2 Glenpanel no longer pursues relief in respect of UFD-O3 and UFD-O4.¹
- 3 Glenpanel's relief is now confined to:
 - 3.1 UFD-O1; and
 - 3.2 UFD-M2(5) and UFD-E1, only as consequential amendments to the relief sought on UFD-O1.²
- 4 In Glenpanel's scope submissions the relief sought on UFD-O1 is shown as tracked changes to the mediation agreement version of the proposed Otago Regional Policy Statement 2021 (**pORPS**) as follows:³

"UFD-01 - 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) accommodate the diverse and changing needs and preferences of Otago's people and communities, now and in the future (including expansion of urban areas),
- (2) integrate effectively with *infrastructure, development infrastructure* and *additional infrastructure*, and surrounding urban areas and rural areas,
 - (2A) are consolidated, well-connected and have a well-designed urban form,
 - (2AB) have effective and efficient *infrastructure, development infrastructure* and *additional infrastructure*,
 - (2B) support *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., and

¹ Glenpanel scope submissions, paragraphs 22 and 23

² Glenpanel scope submissions, paragraph 19.

³ Glenpanel scope submissions, paragraph 7

(4) recognises that the need for urban expansion may prevail over the values of an ONL/F."

5 The appeal is against the decisions version of the pORPS. Changes agreed at mediation have no effect unless they are confirmed by order of this Court. That has not yet occurred.

6 So that the Court can easily see the difference between the mediation agreement and decisions versions of UFD-O1, set out below is the mediation agreement version of UFD-O1 with changes agreed at mediation tracked in green, and the Glenpanel relief tracked in red:

"UFD-01 - 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 (including expansion of urban areas),

(2) integrates effectively with infrastructure, development infrastructure and additional infrastructure, and surrounding urban areas and rural areas,

(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, and-

(4) recognises that the need for urban expansion may prevail over the values of an ONL/F."

7 For completeness, the tracked decisions version of UFD-O1, which shows the changes from the notified version to the decisions version, is set out below:

"UFD-01 – ~~Form and function~~ Development of urban areas

The development and change ~~form and functioning~~ of Otago's urban areas occurs in a strategic and coordinated way, which

(1) ~~reflects~~ accommodates the diverse and changing needs and preferences of Otago's people and communities, now and in the future".

(2) integrates effectively with surrounding urban areas and rural areas, maintains or enhances the significant values and features identified in this RPS, and the character and resources of each urban area."

(2A) results in a consolidated, well-connected and well-designed urban form which is integrated with infrastructure, and

(2B) supports climate change adaptation and climate change mitigation.”

8 In Glenpanel’s memorandum of 28 July 2025 specifying the relief sought the two additions to UFD-O1 were put as alternatives⁴. The relief sought now appears to be both additions rather than one or the other.⁵

9 Glenpanel’s submission on the notified pORPS (**original submission**) dealt with the urban area definition and UFD-O1 as follows:

8. My submission is:

Column 1	Column 2	Column 3	Column 4
<i>The specific provisions of the proposal that my submission relates to are:</i>	<i>I support or oppose the specific provisions or wish to have them amended.</i>	<i>The reasons for my views are:</i>	<i>I seek the following decision from the local authority:</i>
Urban Area definition	<i>I support the specific provisions</i>	Support the definition as it includes land “that is, or intended to be, predominantly urban in character”. The definition enables private plan changes to be considered.	Retain the definition and reference to areas intended to be predominantly urban in character.

UFD-O1 – Form and function of urban areas	<i>I support the specific provisions</i>	UFD-O1 recognises that the form and function of urban areas will change, now and in the future, to meet the changing needs of Otago’s people and communities. It is important this policy recognises the need for urban form to expand in areas with growth.	Retain the objective and ensure it recognises that urban areas will change and grow.
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Summary of Otago Regional Council’s (ORC) reply submissions

10 The original submission does not give scope for the additions now sought to UFD-O1:

10.1 The submission on the urban area definition does not seek any addition to UFD-O1. The submission sought retention of the definition as notified. It was.

10.2 The submission on UFD-O1 supported UFD-O1 as notified. It sought: “*Retain the objective and ensure it recognises that urban areas will change and grow.*” It did not seek any addition:

⁴ See paragraph 12 of that memorandum

⁵ Glenpanel scope submissions, paragraph 7

- 10.2.1 to state “*including expansion of urban areas*” or similar. The submission on the urban area definition dealt with that aspect by seeking to retain the wording “*is, or is intended to be, predominantly urban in character*”. The original submission should not now be read as seeking further change to achieve the same result.
- 10.2.2 recognising that urban expansion may prevail over the values of outstanding natural landscapes and features.
- 10.3 Glenpanel’s submission that most rural Queenstown Lakes District is an outstanding natural feature or landscape (making tension with outstanding natural features and landscapes implicit in the expansion of urban areas) is incorrect:
- 10.3.1 Most rural land in the District is not an outstanding natural feature or landscape.
- 10.3.2 Even if tension with the values of outstanding natural features and landscapes is (to some lesser extent than Glenpanel has submitted) implicit in the expansion of urban areas, the original submission did not raise that tension, nor seek any addition to deal with it.
- 10.4 The submission that NFL provisions should protect against “*inappropriate subdivision, use and development*” does not give scope for an addition to UFD-O1.
- 11 There is no scope in the notice of appeal for the additions now sought:
- 11.1 The notice of appeal refers to prioritising the needs of the community over outstanding natural features and landscapes, particularly where there is an overwhelming community need to use land, for example for housing.
- 11.2 But there are no precise details of relief sought either regarding urban expansion or urban expansion prevailing over the values of outstanding natural features and landscapes.
- 11.3 No relief specific to these matters was sought at all.

- 11.4 The only specific relief sought relates to when landscapes and features should be classified as outstanding, and that even then private property rights should prevail.
- 12 Even if there is scope, the appeal should be struck out under section 279(4)(a) of the RMA as frivolous and/or vexatious:
- 12.1 The addition of “(*including expansion of urban areas*)” to UFD-O1(1) adds nothing to the relief sought in the original submission to retain “*is, or is intended to be,*” in the urban area definition.
- 12.2 The addition of “*recognises that the need for urban expansion may prevail over the values of an ONL/F*” to UFD-O1 adds nothing to the relief sought in the original submission to add “*from inappropriate subdivision, use and development*” to NFL-O1 and NFL-P2 provisions protecting outstanding natural landscapes and features.
- 12.3 In its decisions on the pORPS, ORC granted the relief sought by Glenpanel on these provisions.
- 12.4 To now seek further relief to like effect, and which adds nothing to the relief sought in Glenpanel’s original submission, and which was granted in ORC’s decisions on the pORPS, is frivolous and/or vexatious and should be struck out under section 279(4)(a) of the RMA.
- 13 Additions to UFD-M2(5) and UFD-E1 are now sought only as consequential amendments to Glenpanel’s relief on OFD-O1. For the reasons above, there is no scope for the relief sought on UFD-O1, and whether or not there is scope the appeal on UFD-O1 should be struck out as frivolous and/or vexatious.

Reasons for ORC’s reply submissions

Original submission on urban area definition

- 14 Glenpanel submits that the forward looking aspect of the urban area definition (ie the wording “*that is, or is intended to be, predominantly urban in character*”) should be reflected in the relevant objective relating to urban expansion, and that UFD-O1 is not presently sufficiently forward looking.⁶

⁶ Glenpanel scope submissions, paragraph 9

- 15 ORC takes this to be a submission supporting the addition of “*(including expansion of urban areas)*” to UFD-O1(1). This appears to be the forward looking addition. The other addition is directed towards urban expansion prevailing over the values of outstanding natural landscapes and features.
- 16 Reflecting the forward looking aspect of the urban area definition in UFD-O1 (or any provision other than the definition itself) is not something that Glenpanel sought in its original submission.
- 17 The submission on the urban area definition sought only that the notified wording be retained.
- 18 The notified wording was retained in ORC’s decisions on the pORPS.⁷
- 19 There is no scope for anything further.

Frivolous and/or vexatious appeal point – “including expansion of urban areas” is duplication of relief already sought and granted

- 20 It is frivolous and/or vexatious to seek relief reflecting the forward looking “*or is intended to be*” part of the urban area definition in UFD-O1 when the relief sought has already been granted.
- 21 The effect of Glenpanel seeking retention of that part of the definition in its original submission, and ORC granting that relief in its decisions on the pORPS is that the forward looking aspect of the definition is already reflected in UFD-O1.
- 22 The defined term urban area is used in the chapeau of UFD-O1.
- 23 Defined terms have their defined meaning. Use of the defined term in UFD-O1 imports the forward looking aspect of the definition into UFD-O1.
- 24 Because the defined term urban area is used in the chapeau, its forward looking aspect carries through to every limb of UFD-O1, including limb (1) where Glenpanel now seeks to add “*(including expansion of urban areas)*”.
- 25 Adding these words to UFD-O1 has the same effect as use of the urban area definition (“*is, or is intended to be predominantly urban in character*”).

⁷ Page 55 of the tracked decisions version of the pORPS, here: <https://www.orc.govt.nz/media/s1fdog1h/300824-tracked-annotated-decisions-version.pdf>

- 26 The relief sought would mean that when the definition of urban area is read into UFD-O1(1) it says: “*areas that are, or are intended to be, predominantly urban in character...including expansion of urban areas*”.
- 27 That’s saying the same thing twice using different words. Any area which is not presently urban, but is intended to be, must when it becomes urban be an expansion of urban areas.
- 28 Whether by reference to “*intended to be*” urban areas or “*including expansion*” of urban areas, or both, the meaning of UFD-O1(1) is that additional urban areas “*accommodate the diverse and changing needs and preferences of Otago’s people and communities*”.
- 29 The relief of applying UFD-O1(1) to expanded urban areas has already been sought in Glenpanel’s original submission seeking retention of the “*intended to be*” wording in the urban area definition and granted in ORC’s decisions on the pORPS.
- 30 An appeal point seeking relief which has already been granted is frivolous and/or vexatious and should be struck out under section 279(4)(a) of the Resource Management Act 1991 (**RMA**).

Original submission that UFD-O1 “recognises that urban areas will change and grow”

- 31 Glenpanel submits:⁸
- “In addition, both ORC and QLDC helpfully recognise that Glenpanel’s original submission went on, in addition to seeking the retention the proposed definition, to say that it needed to “ensure that it recognises that urban areas will change and grow”. QLDC accepts that, on a “liberal approach” (which Glenpanel says should be taken, consistent with *Royal Forest and Bird Protection Society Inc*) there would provide scope in the original submission.”
- 32 ORC does not accept that Glenpanel’s original submission on UFD-O1 gives scope for the relief sought.
- 33 Glenpanel’s original submission supported UFD-O1 as notified.
- 34 The reasons in Glenpanel’s original submission were: “*UFD-01 recognises that the form and function of urban areas will change, now and in the future,*

⁸ Glenpanel scope submissions, paragraph 10. Note that the “*ensure that it recognises that urban areas will change and grow*” wording was part of the Glenpanel submission on UFD-O1, not the urban area definition as stated in the cited extract from Glenpanel’s scope submissions. Nothing turns on this.

to meet the changing needs of Otago's people and communities. It is important this policy recognises the need for urban form to expand in areas with growth."

- 35 The decision sought in Glenpanel's original submission was: "*Retain the objective and ensure it recognises that urban areas will change and grow.*"
- 36 The original submission did not seek any addition to state "*including expansion of urban areas*" as is now sought.
- 37 The submission on the urban area definition dealt with that aspect by seeking to retain the wording "*is, or is intended to be, predominantly urban in character*", making it unnecessary to seek additional words on additional or expanded urban areas in UFD-O1.
- 38 The original submission should not now be read as seeking further change to achieve the same result.
- 39 The other addition Glenpanel now seeks is a new UFD-O1(4): "*recognises that the need for urban expansion may prevail over the values of an ONL/F*".
- 40 The original submission on UFD-O1 is silent on urban expansion prevailing over the values of outstanding natural features and landscapes.
- 41 There is no scope to seek such relief now.

Other Glenpanel scope submissions on its original submission

Implicit tension between outstanding natural features and landscapes and urban expansion

- 42 Glenpanel submits that: "*It is implicit in extending urban areas into rural areas, that this may also create tension with the values of ONL/Fs*".⁹
- 43 In support of this it states: "*In QLDC's district, most rural land is on outstanding natural landscape or outstanding natural feature (ONL/F)*".
- 44 That statement is incorrect. I'm informed by Queenstown Lakes District Council that:

⁹ Glenpanel scope submissions, paragraph 13

44.1 the total area of the Queenstown Lakes District is approximately 872,000 hectares; and

44.2 of the rural (ie non-urban) areas, in excess of 800,000 hectares are not outstanding natural landscapes or features.

45 Even if it is implicit (to some far more limited extent than Glenpanel has submitted) that urban expansion may create tension with the values of outstanding natural landscapes and features, that does not give scope for the addition sought.

46 All manner of tension with competing values might be said to be implicit in urban expansion. If a submitter seeks that a tension arising from urban expansion needs to be the subject of the urban development objective, then the tension and decision sought need to be identified.

47 Glenpanel's original submission does not seek, nor even hint at, adding explicit recognition in UFD-O1 that urban expansion may prevail over the values of outstanding natural features and landscapes.

Glenpanel's original submission on NFL-O1 and NFL-P2

48 Glenpanel goes on to submit that in its original submission it: *"also sought for NFL-O1 and NFL-P2 to be amended to allow (in effect) appropriate subdivision use and development of ONL/Fs"*.

49 Glenpanel did submit to this effect in its original submission. It sought that statements about protection of outstanding natural features and landscapes in NFL-O1 and NFL-P2 include the words *"from inappropriate subdivision, use and development"*.¹⁰

50 In its decisions on the pORPS, the ORC inserted the words sought by Glenpanel ie the relief sought was granted.¹¹

51 Nowhere in the original submission is it suggested that an addition to UFD-O1 is also sought to recognise that *"the need for urban expansion may prevail over the values of an ONL/F"*.

¹⁰ Pages 6 and 7 of Glenpanel's original submission, here: https://www.orc.govt.nz/media/10690/glenpanel-limited-partnershi-rps21_0405.pdf

¹¹ See pages 270 and 271 of the track change copy of the decisions version of the pORPS, here: <https://www.orc.govt.nz/media/s1fdog1h/300824-tracked-annotated-decisions-version.pdf> There is no relevant change to NFL-O1 or NFL-P2 in the mediation agreements on those provisions, nor any appeal points on those provisions not resolved at mediation.

Frivolous and/or vexatious appeal point – “urban expansion may prevail” is duplication of relief already sought and granted

- 52 Glenpanel submits: *“Reading Glenpanel’s original submission as a whole, it is apparent that it clearly raises themes of enabling expansion of urban areas including into ONL/Fs – which is exactly what its particularised relief on appeal now seeks.”*¹²
- 53 ORC submits that on reading Glenpanel’s original submission as a whole, it becomes apparent that not only has the *“including expansion of urban areas”* relief already been sought and granted, but the *“urban expansion may prevail over the values of an ONL/F”* relief has also been sought and granted, in Glenpanel’s original submission and ORC’s decisions on the pORPS.
- 54 Glenpanel submits that its original submission seeking insertion of *“from inappropriate subdivision, use and development”* into NFL-O1 and NFL-P2 supports scope to add to UFD-O1 *“the need for urban expansion may prevail over the values of an ONL/F”*.
- 55 The addition Glenpanel now seeks to UFD-O1 can only mean that *“urban expansion may prevail over the values of an ONL/F”* when appropriate.
- 56 That is the effect of the relief sought by Glenpanel and granted on NFL-O1 and NFL-P2 (and of section 6(b) of the RMA).
- 57 The addition Glenpanel now seeks to make to UFD-O1 does not (and cannot) add anything to the amendments to NFL-O1 and NFL-P2 which Glenpanel sought in its original submission, and which ORC granted in its decisions on the pORPS.
- 58 As decided, the protection of outstanding natural features and landscapes in NFL-O1 and NFL-P2 is against *“inappropriate subdivision, use and development”* ie there may be appropriate development.
- 59 The addition Glenpanel seeks to UFD-O1 says nothing more than that: *“the need for urban expansion may prevail over the values of an ONL/F”*.
- 60 Glenpanel now seeks relief to like effect to the relief already sought and granted on NFL-O1 and NFL-P2. The relief sought adds nothing to the

¹² Glenpanel scope submissions, paragraph 13

relief sought in Glenpanel's original submission, which was granted in ORC's decisions on the pORPS.

61 This is frivolous and/or vexatious and should be struck out under section 279(4)(a) of the RMA.

Glenpanel's notice of appeal

62 Glenpanel submits that the relief now particularised is sufficiently within the scope of what was signalled in the notice of appeal.¹³

63 A notice of appeal must be in the prescribed form and state the relief sought.¹⁴ In respect of the relief sought, the prescribed form states "[give precise details]."¹⁵

64 In its scope submissions Glenpanel relies on the following from its notice of appeal:¹⁶

- "(i) a general concern that the pORPS: "do not include objectives that represent the most appropriate way to achieve the purpose of the RMA, as required by section 32 of the RMA";
- (ii) A specific concern that "Property rights and the needs of the community must be prioritised over the outstanding natural features and landscapes" (with additional details); and
- (iii) Relief sought including: "for features and landscapes that are appropriately categorised as outstanding natural features or landscapes, to direct for private property rights to prevail unless a Council acquires the land for a scenic or other reserve purposes"; and "any alternative or other amendments to address the matters raised in this appeal, and to achieve the intent of this appeal"

65 Paragraph (i) is so general as to be meaningless.

66 The references in paragraphs (ii) and (iii) to property rights prevailing do not provide scope for the additions to UFD-O1 which Glenpanel now seeks. Whether private property rights should prevail is an entirely different point.

67 The closest the notice of appeal comes to providing scope is in the reasons section stating: "*the needs of the community must be prioritised over the outstanding natural features and landscapes*".

¹³ Glenpanel scope submission, paragraph 11(b)

¹⁴ RMA, section 121(1)

¹⁵ Form 7, Resource Management (Forms, Fees, and Procedure) Regulations 2003

¹⁶ Glenpanel scope submissions, paragraph 11(a)

68 It's not mentioned in Glenpanel's scope submissions, but this section of the notice of appeal¹⁷ goes on to say: "*particularly where... there is an overwhelming community need to use the land resource (eg for housing), noting that people and communities are an important part of the environment.*"

69 But the only specific relief sought in the notice of appeal is:¹⁸

- "(i) direct that to features and landscapes are only categorised as outstanding natural features or landscapes if they truly "outstanding" and are sufficiently "natural" to such an obvious extent that an objectively reasonable member of the community would consider them so;
- (ii) for features and landscapes that are appropriately categorised as outstanding natural features or landscapes, to direct for private property rights to prevail unless a Council acquires the land for a scenic or other reserve purposes;"

70 A notice of appeal must state precise details of the relief sought for reasons of procedural fairness. Other submitters must be able to ascertain what the appeal is about to determine whether they should join the appeal.

71 In the Glenpanel notice of appeal the reasons refer to prioritising the needs of the community over outstanding natural features and landscapes, particularly where there is an overwhelming community need to use land, for example for housing.

72 But the only specific relief sought relates to when landscapes and features should be classified as outstanding, and that even then private property rights should prevail.

73 This is not enough to alert a submitter reading the notice of appeal that the appellant may seek the relief now specified.

UFD-M2(5) and UFD-E1

74 Glenpanel now asserts scope for its appeal on these provisions only as consequential amendments to its relief on OFD-O1.

75 For the reasons above ORC submits that there is no scope for the relief sought on OFD-O1 and/or that the appeal should be struck out under section 279(4) of the RMA as frivolous and/or vexatious.

¹⁷ Glenpanel notice of appeal, paragraph 8(f), here: https://www.orc.govt.nz/media/rkqjthc1/notice-of-appeal-glenpanel-limited-partnership-16-may-2024_redacted.pdf

¹⁸ Glenpanel notice of appeal, paragraph 9(c)

DATED 19 September 2025



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To: The Registrar
Environment Court
Christchurch

And to: Queenstown Lakes District Council
Dunedin City Council
Royal Forest and Bird Protection Society of New Zealand Inc.
Waterfall Park Developments Limited