

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHU 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 - GLENPANEL LIMITED
PARTNERSHIP APPEAL - SCOPE**

Dated: 25 August 2025

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**SUBMISSIONS FOR OTAGO REGIONAL COUNCIL - GLENPANEL LIMITED
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May it please the Court:

Introduction

- 1 These submissions respond to the Court's direction on 13 August 2025 that the Otago Regional Council (**ORC**) file submissions on scope by 25 August 2025.
- 2 The relief sought by Glenpanel Limited Partnership (**Glenpanel**) is set out in its memorandum of 28 July 2025 (**Glenpanel Memorandum**).
- 3 The format of these submissions is to deal with each head of relief in the Glenpanel Memorandum in turn.
- 4 The relief now sought must be fairly and reasonably within scope of Glenpanel's submission on the proposed Otago Regional Policy Statement 2021 (**pORPS**), approached in a realistic workable fashion, not from the perspective of legal nicety.¹
- 5 The relief sought must also be within scope of Glenpanel's notice of appeal.²

UFD-O1

- 6 The relief sought in the Glenpanel Memorandum is:

UFD-O1 – Form and function of urban areas

The form and functioning of Otago's urban areas:

- (1) reflects the diverse and changing needs and preferences of Otago's people and communities, now and in the future, (including expansion of urban areas); and

¹ *Royal Forest and Bird Protection Society Inc. v Southland District Council* [1997] NZRMA 408 at 413

² *Gertrude's Point Saddlery Ltd v Arthurs Point Outstanding Natural Landscape Society Inc* [2021] NZCA 398 at paragraphs [25] and [26] and *Transit New Zealand v Pearson* [2002] NZRMA 318 at paragraphs [45], [46] and [47]

(2) subject to (1), maintains or enhances the significant values and features identified in this RPS, and the character and resources of each urban area.

Or an alternative to this being the addition of subclause (3):

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

Relief relates to the wrong version of the pORPS

7 The relief sought is marked up against the pORPS as notified by ORC, rather than against the pORPS as decided by ORC.

8 It is difficult to reconcile the relief sought against the decisions version of the pORPS.

9 UFD-O1(1) and (2) as decided read:

“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.”

10 At mediation further (immaterial to this issue) changes from the decisions version were agreed:

“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,”

- 11 As decided UFD-O1(1) and (2) clearly provide for development and change of urban areas and no longer refer to maintaining other significant values and features.
- 12 It is not mentioned in the Glenpanel Memorandum, but Glenpanel did refer to UFD-O1 in its submission. It sought that UFD-O1 be retained and *“ensure it recognises that urban areas will change and grow.”* That is what happened.
- 13 Then, in its notice of appeal it sought that *“Urban growth including extensions to urban areas ... be appropriately supported.”* The appeal on this point appears to overlook that the notified version has been changed by the ORC’s decisions on the pORPS.
- 14 In context of the decisions version of the pORPS, the relief now sought appears redundant and is clearly based on the wrong version of the pORPS.

Glenpanel’s basis for scope

- 15 As to the basis for scope in the Glenpanel Memorandum, that is also based on an error.
- 16 Glenpanel submits³ that there is jurisdiction as consequential relief to the amendment it sought to the definition of “urban area” as follows:
- “that is, or intended to be, predominantly urban in character”.*
- 17 Glenpanel did not seek that relief in either its submission or its appeal.
- 18 The definition of “urban area” as notified used the words:
- “...that is, or is intended to be, predominantly urban in character.”⁴*
- 19 In its submission Glenpanel sought that the definition be retained as notified. It was.

³ Glenpanel memorandum at paragraph 13

⁴ Page 53 of the annotated decisions version of the pORPS (tracked) of the pORPS, here: <https://www.orc.govt.nz/media/s1fdog1h/300824-tracked-annotated-decisions-version.pdf>

- 20 In the annotated decisions version (tracked) of the pORPS it's clear that the definition of "urban area" did not change from that notified.⁵
- 21 It follows that scope for the relief sought cannot be consequential to any change to the "urban area" definition sought by Glenpanel.
- 22 There cannot be scope on the basis submitted by Glenpanel and seeking amendment to the notified version of the pORPS rather than the decisions version in the circumstances outlined above is vexatious.

UFD-O3

- 23 The relief sought in the Glenpanel Memorandum is:

UFD-O3 – Strategic Planning:

Strategic planning is undertaken by the Council or an applicant, in advance of significant development, expansion or redevelopment of urban areas to ensure that ...

- 24 There is no UFD-O3 in the decisions version of the pORPS.
- 25 As a result of ORC decisions on the Hearing Panel's recommendations UFD-O3 was deleted.⁶
- 26 Glenpanel's notice of appeal does not seek reinstatement of UFD-O3.
- 27 The list of provisions appealed at paragraph 6(a) of the Glenpanel notice of appeal does not include UFD-O3.
- 28 Paragraphs 6(b) and (c) of the Glenpanel notice of appeal refer to matters raised, and outcomes sought, in its submission. Its submission does raise UFD-O3.
- 29 But apart from the reference to matters raised in submission, there is nothing in the notice of appeal to indicate that Glenpanel seeks reinstatement of UFD-O3, or relief of the nature now specified.
- 30 The relief sought is outside the scope of Glenpanel's notice of appeal.

⁵ Glenpanel is noted as an appellant on the "urban area" definition in the annotated decisions version of the pORPS, but its notice of appeal does not mention this definition save for referencing the original submission. This appears to be an error.

⁶ Page 277 of the annotated decisions version (tracked) of the pORPS, here: <https://www.orc.govt.nz/media/s1fdog1h/300824-tracked-annotated-decisions-version.pdf>

UFD-O4

31 The relief sought in the Glenpanel Memorandum is:

UFD-O4 – Development in Rural Areas

(3) only provides for urban expansion, rural lifestyle and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning (including through private plan changes or consent applications) or zoned within district plans as suitable for such development; and

32 As a result of ORC decisions on the Hearing Panel's recommendations UFD-O4 was moved to LF-LS – Land and Soil and the limb on which relief is sought, UFD-O4(3) was deleted.⁷

Agreement not to pursue relief on UFD-O4

33 In the mediation agreement for LF – Land and freshwater dated 4 December 2024 Glenpanel agreed:

“Glenpanel Limited is not pursuing their relief in relation to UFD-O4 and its appeal point is resolved on that basis.”

34 ORC assumes the relief now sought in the Glenpanel Memorandum to be an error, and that relief on UFD-O4 will not be pursued.

35 If that is not the case, then ORC seeks leave to file affidavit evidence as to the fact of the mediation agreement referred to above and will submit in reply that pursuing relief agreed to be withdrawn is vexatious or an abuse of process.

No scope in any event

36 For completeness, ORC further submits that:

36.1 UFD-O4(3) was deleted in the decisions version of the pORPS.

36.2 Glenpanel's notice of appeal does not seek reinstatement of UFD-O4(3).

36.3 The list of provisions appealed at paragraph 6(a) of the Glenpanel notice of appeal does not include UFD-O4.

⁷ Pages 193 and 194 of the annotated decisions version (tracked) of the pORPS, here: <https://www.orc.govt.nz/media/s1fdog1h/300824-tracked-annotated-decisions-version.pdf>

- 36.4 Paragraphs 6(b) and (c) of the Glenpanel notice of appeal do refer to matters raised, and outcomes sought, in its submission.
- 36.5 Glenpanel's submission does seek amendment to UFD-O4, but not of the nature now sought.
- 36.6 In the remainder of Glenpanel's notice of appeal there is no indication that Glenpanel pursues any appeal on UFD-O4 seeking relief of the nature now sought, or at all.
- 37 The relief sought is therefore outside scope of Glenpanel's submission and it's notice of appeal.

UFD-M5

- 38 The relief sought in the Glenpanel Memorandum is:
- ... identify and provide for locations that are suitable for urban expansion, if any, in accordance with UFD-P4, which may include some expansion into ONF/Ls.
- 39 There is no UFD-M5 in either the notified or decisions version of the pORPS.
- 40 The relief is assumed to relate to UFD-M2(5).
- 41 UFD-M2 is listed at paragraph 6(a) of the Glenpanel notice of appeal as a provision appealed.
- 42 However, the remainder of Glenpanel's notice of appeal does not indicate that relief is sought of the nature in the Glenpanel Memorandum ie for a method enabling urban expansion into outstanding natural features and landscapes.
- 43 Glenpanel's submission does not refer to UFD-M2 nor seek a method enabling urban expansion into outstanding natural features and landscapes.
- 44 The relief sought is therefore outside scope of Glenpanel's submission and it's notice of appeal.

UFD-E1

45 The relief sought in the Glenpanel Memorandum is:

This more detailed determination must, however, be informed by evidence and information collated through appropriately scaled strategic planning processes which will identify how purported constraints to urban development, such as hazards, landscapes, highly productive land, and limits are responded to (or overridden by the need for urban expansion) ...

46 UFD-E1 is listed at paragraph 6(a) of the Glenpanel notice of appeal as a provision appealed.

47 But the remainder of Glenpanel's notice of appeal does not indicate anything of the nature now sought ie that constraints are explained as "purported" and an additional response to constraints is for them to be "overridden" by the need for urban expansion.

48 The Glenpanel submission on the pORPS does not mention UFD-E1, nor seek amendment to the pORPS of this nature.

49 The relief sought is therefore outside scope of Glenpanel's submission and it's notice of appeal

DATED 25 August 2025



Simon Anderson
Counsel for the Otago Regional Council

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