

IN THE ENVIRONMENT COURT  
CHRISTCHURCH REGISTRY

ENV-2024-CHC-

I TE KŌTI TAIAO O AOTEAROA  
ŌTAUTAHI ROHE

**UNDER** the Resource Management Act 1991 (the  
**RMA**)

**IN THE MATTER** of an appeal pursuant to Schedule 1,  
clause 14 of the Act

**AND**

**IN THE MATTER** of the Non-Freshwater Parts of the  
Proposed Otago Regional Policy  
Statement 2021

**BETWEEN** **OTAGO REGIONAL COUNCIL**  
Respondent

**AND** **GLENPANEL LIMITED PARTNERSHIP**  
Appellant

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**NOTICE OF APPEAL ON BEHALF OF GLENPANEL LIMITED PARTNERSHIP**

**DATED 16 MAY 2024**

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**TO:** The Registrar  
Environment Court  
**CHRISTCHURCH**

1. Glenpanel Limited Partnership appeals against parts of the decision of the Otago Regional Council (**ORC** or **Council**) in respect of the Proposed Otago Regional Policy Statement 2021 (**PORPS**).

#### **BACKGROUND AND DECISIONS APPEALED**

2. Glenpanel Limited Partnership made a submission on the PORPS (**Submission**).
3. Glenpanel Limited Partnership is not a trade competitor for the purposes of section 308D of the RMA.
4. The Decision was received on 28 March 2024, and again on 30 March 2024. ORC advised (on its website) that *“the appeal period ... ends on 16 May 2024”*.
5. The Decision was made by ORC. This followed the recommendations made by the Hearing Panel appointed to hear and make recommendations on submissions.
6. Glenpanel Limited Partnership appeals all parts of the Decision that:
  - (a) relate to, or affect, the provisions (and any equivalent, updated, reordered or replacement provisions) raised in its Submission, these include but are not limited to: NFL-O1; NFL-P1 to P2, NFL-M1 to M-4; NFL-E1; NFL-PR1, NFL-AER1 to AER2; UFD-O1; UFD-P1 to P5; UFD-P10; UFD-M1 to M2; UFD-E1; UFD-PR1; UFD-AER1 to AER13; and
  - (b) the matters or issues raised in its Submission; and
  - (c) the outcomes sought in its Submission.

## **GENERAL REASONS FOR APPEAL**

### **General reasons**

7. General reasons for the appeal are that the Provisions:
  - (a) do not promote the sustainable management of resources in accordance with section 5 of the RMA in that they:
    - (i) do not manage the use, development, and protection of natural and physical resources which enable people and communities to provide for their social, economic, and cultural well-being and for their health and safety, as required by section 5 of the RMA;
    - (ii) do not sustain the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations, as required by section 5 of the RMA;
  - (b) do not promote the efficient use and development of natural and physical resources; and
  - (c) do not recognise and provide for, or otherwise acknowledge, and/or prioritise, the property rights of landowners; and
  - (d) 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;
  - (e) do not include policies and methods that represent the most appropriate way to achieve the objectives of the PORPS, as required by section 32 of the RMA.

### **Specific reasons**

8. Without limiting the generality of paragraph 2.1, the more specific reasons for appealing include:

### **Urban form and development**

- (a) Urban growth including extensions to urban areas needs to be appropriately supported, including where district plans have failed to “catch-up” to need and other changing circumstances. Generally, provided that infrastructure can be appropriately addressed, extensions to urban areas should be clearly supported.

### **Outstanding natural features and landscapes**

- (b) The actual identification of outstanding natural features and landscapes has become fundamentally flawed, such that features and landscapes which are not outstanding (to any objectively reasonable member of the community) are categorised as such, and are blighted from reasonable use by their landowner, without compensation of the taking of the land by the relevant Council for setting it aside as a reserve (scenic, or otherwise).
- (c) There needs to be a return to common sense and a level of “outstandingness” as well as “naturalness” that warrants categorisation as an outstanding natural feature or landscape, such as recognised by the Environment court in *Wakatipu Environmental Society Incorporated and Ors v Queenstown-Lakes District Council* [2000] NZRMA 59 at [99]:
- ... ascertaining an area of outstanding natural landscape should not (normally) require experts. Usually an outstanding natural landscape should be so obvious (in general terms) that there is no need for expert analysis.
- (d) There also, where an outstanding natural feature or landscape categorisation is warranted, a need to provide a clearer direction for activities that are clearly not inappropriate. For example, where the only reason that a feature or landscape is recognisable as “outstanding” (subject to the approach identified at (b) above) is that it has been significantly modified by, for example farming, then

activities that support ongoing farming are not only *not* inappropriate, but are essential to be supported if the feature or landscape is to remain outstanding. More specifically, farm buildings, and farm housing for the owner/ farmer and their workers needs to be specifically recognised as appropriate or otherwise supported at a policy level.

- (e) Simply put, the only way to protect such outstanding natural features and landscapes in the long term, is to allow its reasonable use. Or, if the Council wants them as a scenic or other reserve, then it should acquire it as one to protect it. The provisions of the PORPS need to address this.

**Relationship between urban form and development and outstanding natural features and landscapes**

- (f) Property rights and the needs of the community must be prioritised over the outstanding natural features and landscapes, particularly where:
  - (i) any such categorised features and landscapes are not in fact truly outstanding and are sufficiently natural (to any objectively reasonable member of the community);
  - (ii) the outstanding natural features and landscapes are already compromised, for example because of existing urban and other development on them (which makes it unfair for the particular landowner to be unable to develop their land in a similar manner); and/ or
  - (iii) 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.

**RELIEF SOUGHT**

9. Glenpanel Limited Partnership seeks:
- (a) the amendments sought to the relevant provisions (or their any equivalent, updated, reordered or replacement provisions) of the PORPS as sought in its Submission;
  - (b) any other amendments to the Provisions to address the matters or issues raised in its Submission and in this Appeal;
  - (c) without limiting the above, any other amendments to:
    - (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;
  - (d) any alternative or other amendments to address the matters raised in this appeal, and to achieve the intent of this appeal (including as raised in the general and specific reasons given in this appeal);
  - (e) any similar, alternative, consequential and/or other relief as necessary to address the issues raised in this appeal; and
  - (f) that the PORPS be withdrawn or rejected in its entirety, or, at least all appeals suspended, pending the outcome of this Government’s signalled changes to national direction, including a replacement to the RMA.

**Attachments**

10. Glenpanel Limited Partnership attaches the following documents to this notice:
- (a) A copy of Glenpanel Limited Partnership's submission (**Attachment A**);
  - (b) A copy of the relevant decision (**Attachment B**); and
  - (c) A list of names and addresses of persons to be served with a copy of this notice (**Attachment C**).

**Signature:** **GLENPANEL LIMITED PARTNERSHIP** by its duly authorised agent



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**Lara Burkhardt**  
Counsel for the Appellant

**Date:** 16 May 2024

**Address for service of Appellant:**

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**Advice to recipients of copy of notice of appeal***How to become party to proceedings*

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, —

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

*How to obtain copies of documents relating to appeal*

The copy of this notice served on you does not attach a copy of the appellant's submission and the decision appealed. These documents may be obtained, on request, from the appellant.

*Advice*

If you have any questions about this notice, contact the Environment Court in Auckland.



**Attachment A**

**Submission**

**Attachment B**

**Decision of the respondent**

## Attachment C

## Names and addresses of persons to be served with copy of appeal

(Names and email addresses as provided by Council, with duplicates deleted; noting that a number of submitters did not have address for service provided, and have not been included.)

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