

From: [Rachel Albers](#)
To: [RPS](#)
Subject: WPDL Submission pRPS21
Date: Friday, 3 September 2021 2:44:45 p.m.
Attachments: [Waterfall Park Developments Ltd-Form 5-submission-pRPS21-3Sept21.pdf](#)

Good afternoon

Please see attached submission on behalf of Waterfall Park Developments Ltd.

Kind regards

Rachel Albers

Office Manager

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Given the current Covid19 situation Brown & Company is working from home. Please note that we are fully equipped to carry out all our work as normal and will continue to provide our usual high levels of service. We are all contactable on our mobiles and via Skype and Zoom.

Written Submission on Proposed Otago Regional Policy Statement 2021

(Submissions must be received by Otago Regional Council by 3 pm Friday 3 September 2021)

To: Otago Regional Council

1. **Name of submitter** *(full name of person/persons or organisation making the submission. Note: The submissions will be referred to by the name of the submitter)*

Waterfall Park Developments Limited (WPDL)

2. This is a submission on the **Proposed Otago Regional Policy Statement 2021 (PORPS)**
3. I ~~could~~ **could not** *(Select one)* gain an advantage in trade competition through this submission. *(See notes to person making submission)*
4. I ~~am~~ **am not** *(Select one)* directly affected by an effect of the subject matter of the submission that
- a. adversely affects the environment; and
 - b. does not relate to trade competition or the effects of trade competition *(See notes to person making submission)*
5. I **wish** ~~do not wish~~ *(Select one)* to be heard in support of my submission
6. If others make a similar submission, I **will** ~~will not~~ *(Select one)* consider presenting a joint case with them at a hearing

7. Submitter Details

- a. **Signature of submitter** *(or person authorised to sign on behalf of submitter)*



- b. **Signatory name, position, and organisation** *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

Name **Jeffrey Brown**

Position **Director**

Organisation **Brown & Company Planning Group**

c. Date

3 September 2021

Address for service of submitter (*This is where all correspondence will be directed*)

d. Contact person (*name and designation, if applicable*)

Rachel Albers

e. Email:

rachel@brownandcompany.co.nz

f. Telephone:

03 409 2258 / 022 531 0427

g. Postal address (*or alternative method of service under [section 352](#) of the Act*):

PO Box 1467, Queenstown

8. My submission is:

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>	<i>Column 4</i>
<i>The specific provisions of the proposal that my submission relates to are:</i> <i>(Please enter the relevant objective, policy, method, or</i>	<i>I support or oppose the specific provisions or wish to have them amended.</i> <i>(Please indicate "support" or</i>	<i>The reasons for my views are:</i>	<i>I seek the following decision from the local authority:</i>

<p><i>'other' provision reference where possible. For example, 'AIR-O1'.)</i></p>	<p><i>"oppose" or "amend")"</i></p>		<p><i>(Please be as clear as possible – for example, include any alternative wording for specific provision amendments.)</i></p>
<p>General</p>	<p>Oppose</p>	<p>WPDL acknowledges that, under section 80A of the Resource Management Act (Act), the ORC is required to use the freshwater planning process set out in Part 4 of Schedule 1 of the Act when:</p> <ul style="list-style-type: none"> • preparing a freshwater planning instrument; or relevantly here, • for the parts of the planning instrument that relate to freshwater, when preparing an instrument that relates to freshwater and other matters. <p>In the case of the latter point above, section 80A(3) is very clear that for the other matters addressed by the planning instrument, a conventional (Schedule 1, Part 1) or streamlined (Schedule 1, Part 5) process must be followed.</p> <p>Thus, while the freshwater planning process must be followed for the parts of the PORPS that relate to freshwater, it must not be followed for the parts that do not. In this regard, the issues and topics addressed by the PORPS, pursuant to sections 59 and 62 of the Act, are plainly much broader than freshwater, and include ecosystems and indigenous biodiversity; energy, infrastructure and transport; hazards and</p>	<p>WPDL submits that ORC should, and is obligated at law to, adopt a conventional (Schedule 1, Part 1) or streamlined (Schedule 1, Part 5) process for the parts of the PORPS that do not relate to freshwater.</p>

		<p>risks; historical and cultural values; natural features and landscapes, and urban form and development.</p> <p>Given the breath of these matters, and the clear direction in section 80A(3) of the Act, WPDL submits that the use of the freshwater planning process for the entire PORPS is inappropriate. It is also unavailable and invalid at law, and thus subject to review.</p> <p>The implications for submitters concerned with matters other than freshwater, and related outcomes, are significant. For example:</p> <ul style="list-style-type: none"> • The constitution of the freshwater hearings panel is focused on freshwater aspects and not on the other important matters addressed by the PORPS; and • Appeal rights are very limited. 	
IM-P1 – Integrated Approach	Oppose	The ordinary principles of interpretation should apply to the PORPS. In this circumstance clauses 1, 2 and 3 of IM-P1 do not further assist with interpretation, and the implications of clause 4 are unclear.	Delete Policy IM-P1
IM-P2 – Decision Priorities	Oppose	This policy reflects the objective of the National Policy Statement for Freshwater Management 2020. Applying this hierarchy as a mandatory decision-making framework within Otago is likely to cause implementation difficulties as in certain circumstances there will need to be a more	Delete Policy IM-P2

		nuanced and balanced approach to decision making.	
LF-VM-O2 (7)	Amend	<p>This part of the objective, for the Upper Lakes rohe, seeks to protect the high quality waters of the lakes and their tributaries. Some water bodies, for example Lake Hayes, are degraded. The objective should promote the improvement of degraded water bodies.</p> <p>Amending the objective for this outcome would ensure that Policy LF-FW-P7 (1) better links to and achieves Objective LF-VM-O2 (7).</p>	<p>Amend Objective LF-VM-O2 (7) (a) as follows:</p> <p>(7) <i>in addition to (1) to (6) above:</i></p> <p>(a) <i>in the Upper Lakes rohe, the high quality waters of the lakes and their tributaries are protected, <u>and if degraded are improved</u>, recognising the significance of the purity of these waters to Kāi Tahu and to the wider community,</i></p> <p>...</p>
UFD-P8 (1)	Oppose	<p>The policy requires that the establishment, development or expansion of rural lifestyle (RL) and rural residential (RR) zones only occurs where the land is adjacent to existing or planned urban areas and ready access to employment and services is available.</p> <p>The reasons for the submission are as follows:</p> <p>(a) Requiring that RL / RR development only occurs where the land is adjacent to existing or planned urban areas is impracticable for many existing proposed or potential future locations for RL / RR development, which may require a rural location distant from an urban area, for the following reasons:</p> <p>(i) The market desire for RL / RR areas that are distant from urban areas to better provide for the rural</p>	Delete Policy UFD-P8 (1)

		<p>amenities that this sector of the market seeks;</p> <ul style="list-style-type: none"> (ii) The recognition that RL / RR may be the most appropriate use of some land areas, whether adjacent to an urban area or not, taking into account the specific attributes of the land in question, including its landscape and visual amenity values; rural character (which may already be shaped by existing RL / RR or other development; nature conservation values; and presence or otherwise of potential sensitivities or reverse sensitivities; (iii) That the requirement for RL / RR development to be restricted where ready access to employment and services is available is impractical and inappropriate; (iv) Locating RL / RR development beside urban development creates a weak zone boundary open to challenge because of availability of services; (v) The policy does not provide for the extension of an existing RL / RR area which may otherwise be appropriate; (vi) The need to ensure that land at the periphery of urban areas, in many 	
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		<p>cases, is able to be used for future urban expansion. This need would essentially be foreclosed if the land is developed for RL / RR purposes;</p> <p>(vii) The policy is impracticable when considered alongside UFD-(P8) (2) (discussed below) because in many cases the two policies would not be able to co-exist; on the one hand, Policy (1) requires RL / RR areas to be adjacent to urban areas, and on the other hand, Policy (2) requires land adjacent to urban areas to be protected for urban expansion by not allowing RL / RR development.</p> <p>(b) The policy is contrary to and does not, either on its own or in combination with other policies, implement relevant objectives, including:</p> <p>(i) Objective UFD-O2 (10) (<i>The development and change of Otago's urban areas ... achieves consolidated, well designed and located, and sustainable development in and around existing urban areas as the primary focus for accommodating the region's urban growth and change</i>) because limiting RL / RR activities only to areas adjacent to urban areas may not achieve consolidated and sustainable development and limits the ability for urban</p>	
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		<p>peripheral land to be the primary focus for urban growth and change; and</p> <p>(ii) Objective UFD-O4 (3) (<i>Development in Otago's rural areas occurs in a way that ... only provides for urban expansion, rural lifestyle and rural residential development and the establishment of sensitive activities, in locations identified through strategic planning or zoned within district plans as suitable for such development</i>) because suitable strategic planning may identify, or district plan zonings may cover, land that is suitable for RL / RR development that is not adjacent to urban areas.</p> <p>(c) The policy is contrary to Part 2 of the Act, including in that:</p> <p>(i) Under s5 of the Act, the policy does not enable well-being for people or communities in that its constraint on where RL / RR development can occur would foreclose the opportunity for RL / RR in appropriate locations not adjacent to urban areas;</p> <p>(ii) Under s7 of the Act, the policy does not take into account the finite nature of rural resources and the potential for some areas to be able to accommodate appropriate RL /</p>	
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		RR development and without affecting the potential future expansion of urban areas.	
UFD-(P8) (2)	Amend	<p>This policy states that despite the direction in UFD-(P8) (1), RL / RR zones also avoid land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential.</p> <p>In principle this policy is supported, because it is practicable to ensure that there is sufficient land for urban growth and that that land is not foreclosed from accommodating urban growth by RL / RR development (unless that development conforms with a plan that demonstrates how RL / RR development can be absorbed into an urban configuration).</p> <p>The policy should be amended by deleting the reference to Policy UFD-(P8) (1) and rewording as necessary.</p>	<p>Amend Policy UFD-(P8) (2) as follows:</p> <p><i>UFD-P8 – Rural lifestyle and rural residential zones</i></p> <p><i>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</i></p> <p><i>(1) the land is adjacent to existing or planned urban areas and ready access to employment and services is available,</i></p> <p><i>(2) despite the direction in (1), also avoids land identified for future urban development in a relevant plan or land reasonably likely to be required for its future urban development potential, where the rural lifestyle or rural residential development would foreclose or reduce efficient realisation of that urban development potential, is avoided.</i></p> <p>...</p> <p>[and subsequent renumbering]</p>
<p>WPDL seeks the following decision from the Otago Regional Council:</p> <p>(a) That a conventional or streamlined planning process is adopted for those parts of the PORPS that do not relate to freshwater, in accordance with section 80A(3) of the Act;</p> <p>(b) That the relief sought in the table in Part 8 of this submission is accepted, or that the PORPS is amended in a similar or such other way as may be appropriate to address the matters raised in this submission; and</p>			

(c) Any consequential changes, amendments or decisions that may be required to give effect to the matters raised in this submission.