

RPS

From: Derek McLachlan <Derek.McLachlan@gallowaycookallan.co.nz>
Sent: Friday, 3 September 2021 3:09 p.m.
To: RPS
Subject: Submission - Daisy Link Garden Centres Limited
Attachments: DAM-306961-2-220-1 submission on Proposed RPS.docx

Follow Up Flag: Follow up
Flag Status: Completed

Categories: LATE, Submission - Sector stakeholder

Please find **attached** submission (in word form) filed on behalf of Daisy Link Garden Centres Limited.

Kind regards

Derek McLachlan
Senior Solicitor

Mobile 027 631 6176 | derek.mclachlan@gallowaycookallan.co.nz



GALLOWAY COOK ALLAN LAWYERS
Level 2, 123 Vogel Street | P O Box 143, Dunedin 9054, NZ | Ph 03 477 7312 | Fax: 03 477 5564

www.gallowaycookallan.co.nz

New [Anti-Money Laundering \(AML\) legislation](#) came into effect as of July 1st 2018 and will apply to all law firms. This requires us to obtain certain personal information from you before proceeding with any work on your behalf. [Read more here.](#)

This email and any attachments are confidential and may be legally privileged. Galloway Cook Allan accepts no responsibility for changes made to this email or to any attachments after transmission from its offices. If you are not the intended recipient please tell us immediately and then delete this email. Thank you

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)*

Daisy Link Garden Centres Limited

2. This is a submission on the **Proposed Otago Regional Policy Statement 2021**.
3. I **could not** gain an advantage in trade competition through this submission. *(See notes to person making submission)*
4. I **am** 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** to be heard in support of my submission
6. If others make a similar submission, I **will** 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: Derek McLachlan

Position: Solicitor

Organisation: Gallaway Cook Allan

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)

Phil Page and Derek McLachlan

e. Email:

Phil.page@gallawaycookallan.co.nz
Derek.mclachlan@gallawaycookallan.co.nz

f. Telephone:

03 4777312

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

123 Vogel street, Dunedin, Po Box 143, 9054.

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>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 (as examples of how to implement the reason outlined within column 3). We also seek consequential or alternative relief that achieves the same.</i>
Urban Area - Definition	Oppose	The definition lacks flexibility for areas that meet urban development criteria, but are not yet recognised within the District Plan (as zoning or alternative methodologies utilised within planning documents). The	The definition of Urban Area should include recognition for unanticipated or out of sequence developments that may provide significant development capacity which are consistent with the following criterion:

		<p>definition restricts the definition of ‘Urban Environment’ as defined by the NPS-UD 2020 which does not necessarily require planning notification or recognition with the District Plan.</p> <p>Urban Environment is defined as a subset of Urban Area, even though it is a broader definition. A subset must be more confined than the overarching definition.</p> <p>This is inconsistent with the concept of ‘responsive planning’ within Objective 6, and Policy 8 of the NPS-UD 2020. The definition makes it unclear how proposed greenfield development (that is not yet zoned or identified within Strategic planning documents) is to be assessed. Specific recognition of the concept of responsive planning should be incorporated into the UFD chapter.</p>	<p><u>Land may be treated as an urban area if it would may provide significant development capacity which:</u></p> <ul style="list-style-type: none"> a. <u>would contribute to a well-functioning urban environment; and</u> b. <u>is well-connected along transport corridors.</u>
UFD-01	Oppose	<p>Sub (1) introduces the concept of ‘needs and preferences’ of Otago’s people. This is inherently conflicted, and unless clearly defined creates uncertainty. UFD-01 is not restricted to matters of relevance as identified within NPS-UD 2020 (which removes the concept of private amenity as a relevant consideration). Sub (1) can be retained as drafted provided amenity considerations are removed from policy and methodology consideration.</p>	<p>Amendments to UFD-01 need to be clear that matters of private amenity are not relevant to rezoning considerations.</p> <p>The form and functioning of Otago’s urban areas:</p> <p>(2) maintains or enhances <u>recognises and provides for</u> the significant values and features identified in this RPS, and the character and resources of each urban area.</p>

		<p>Sub (2) requires a standard of ‘maintain or enhance’ which conflicts with the concept of development. This is not possible in most circumstances.</p> <p>Additionally, sub (2) appropriately recognises significant values and features as identified within the RPS, however introduces an unqualified ‘character and resource’ of each urban area. This has the potential to introduce amenity considerations. Sub (2) should be restricted to values identified within the RPS.</p>	
UFD-03	Oppose	<p>sub (1) identifies that strategic planning is undertaken in advance of significant development or redevelopment of urban areas. This may not be possible for some Greenfield developments which have yet to be rezoned.</p> <p>UFD-03 should incorporate the concepts of ‘responsive planning’ . This recognises that there may be appropriate areas of land that have not been assessed as part of strategic planning that remain entirely suitable for development.</p>	<p>Strategic planning is undertaken in advance of <u>in order to identify areas of potential</u> significant development, expansion or redevelopment of urban areas to ensure that;</p> <p>(1) there is <u>at least</u> sufficient development capacity supported by integrated infrastructure provision for Otago’s housing and business needs in the short, medium and long term,</p>
UFD-04	Oppose	<p>Sub (1) requires standard of ‘avoid’ impacts on significant values and features. This standard could effectively prohibit development before balancing the benefits of residential development to the region.</p>	<p>Development in Otago’s rural areas occurs in a way that:</p> <p>(1) avoids <u>recognises and provides for</u> impacts on significant values and features identified in this RPS;</p>

		<p>The effects standard should be consistent with that identified within UFD-01 sub (2).</p> <p>The wording 'protect' is more consistent with the Cabinet paper on Highly Productive Land which includes a draft Objective - <i>Protect highly productive land from inappropriate subdivision, use and development</i></p> <p>Sub (3) only recognises areas that have been identified through strategic planning process and already identified within the plan. While this is important it should not exclude other possible development opportunities.</p> <p>Sub (4) provides a limited exemption for sub (3). Sub (4) should recognise the concept of responsive planning as identified in policy 8 of the NPS-UD 2020.</p>	<p>(2) avoids as the first priority, <u>protect</u> land and soils identified as highly productive by LF-LS-P19 unless there is an operational need for the development to be located in rural areas;</p> <p>(3) 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; and</p> <p>(4) outside of areas identified in (3), maintains and enhances the natural and physical resources that support the productive capacity, rural character, and long-term viability of the rural sector and rural communities; <u>and</u></p> <p>(5) <u>Provides opportunities for unanticipated or out-of-sequence developments that provide significant development capacity that:</u></p> <ol style="list-style-type: none"> a. <u>would contribute to a well-functioning urban environment;</u> b. <u>is well-connected along transport corridors.</u>
UFD- P1	Oppose	<p>UFD-P1 identifies that strategic planning is undertaken in advance of significant development or redevelopment of urban areas. This may not be possible for some Greenfield developments which have yet to be rezoned.</p> <p>UFD-P1 should incorporate the concepts of 'responsive planning' (as now required within proposed drafting of UFD-01). This</p>	<p>Strategic planning processes, undertaken at an appropriate scale and detail, precede <u>provide for</u> urban growth and development and...</p> <p><u>(9) provides opportunities for out of unanticipated or out of sequence developments that provide significant development capacity.</u></p>

		recognises that there may be appropriate areas of land that have not been assessed as part of strategic planning that are entirely suitable for development.	
UFD-P2	Oppose it part	UFD-P10 identifies that Council must meet, at least, housing bottom lines identified within APP10, however this is not consistent with the drafting of UFD-P3 which only seeks to enable development in order to meet bottom lines.	Amendments made directly within UFD-P3 below.
UFD-P3		UFD-P3 enables intensification where certain criteria are met. A significant omission within this criteria is that Council's must now meet 'at least' minimum development capacity. P3 doesn't address a proposal that provides a buffer above the minimum density requirements.	<p>Within urban areas intensification is enabled where it:</p> <p>(2) is well-served by existing or planned development infrastructure and additional infrastructure <u>or alternative infrastructure solutions can be provided</u>;</p> <p>...</p> <p>(2) addresses an identified shortfall for housing or business space, in accordance with UFD-P2, <u>or contributes significant development capacity in order to exceed bottom lines identified within APP10.</u></p>
UFD-P4	Oppose	UFD-P4 seeks to facilitate expansion where certain criteria are met. We note that: (1) sub (6) seeks to avoid, as a first priority development on highly productive land. We seek consistency with the term 'protect' (as proposed in UFD-04) after	Expansion of existing urban areas is facilitated where the expansion:.. (6) <u>avoids, protects</u> as the first priority, highly productive land identified in accordance with LF-LS-P19, <u>while recognising the benefits of provided significant residential capacity.</u>

		<p>having undertaken a balancing exercise having regard to the benefits of significant development capacity.</p> <p>If the requested amendments (or similar) are not adopted then this submission extends to an opposition of LF-LS-P19 (which refers to this UFD-P4).</p>	
UFD-M1 – Strategic planning	Oppose	Seek additional methods to be inserted to provide for out of sequence developments.	<p>Insert new paragraph:</p> <p>(8) <u>Must provide opportunities for for out of unanticipated or out of sequence developments that provide significant development capacity.</u></p>