

From: [Sarah Eveleigh](#)
To: [RPS](#)
Subject: Submission by Infinity Investment Group Holdings Ltd (Matter: 2201634)
Date: Friday, 3 September 2021 5:21:35 p.m.
Attachments: [ALToituCarbonZero_480px1.png](#)
[Submission on pORPS - Infinity Investment Group Holdings Ltd.pdf](#)

Good afternoon,

Please find attached a submission on behalf of Infinity Investment Group Holdings Limited.

Regards,

Sarah Eveleigh

Partner

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Written Submission on Proposed Otago Regional Policy Statement 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)

Infinity Investment Group Holdings Limited

2. This is a submission on the **Proposed Otago Regional Policy Statement 2021**.

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

- adversely affects the environment; and
- 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 Sarah Eveleigh
Position Counsel for Infinity Investment Group Holdings Limited
Organisation Anderson Lloyd

- 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)

Sarah Eveleigh

- e. **Email:**

sarah.eveleigh@al.nz

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d: +64 3 335 1217

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

Anderson Lloyd, PO Box 13831, Christchurch 8141

8. Infinity Investment Group Holding Limited's submission is:

- Infinity Investment Group Holdings Limited (**Infinity**) is a well-established developer producing land subdivisions for residential, rural residential and commercial use throughout the South Island. Within the Otago region, this has included a number of successful developments in Wanaka. Infinity is respected for producing high quality developments, as evidenced by numerous awards received. Infinity also holds shares in a number of related entities, including New Zealand Cherry Corp Limited (**NZCC**). NZCC is an established Central Otago business which operates a substantial and vertically integrated cherry production, processing and sales operation, based in Cromwell. NZCC is also currently pursuing a plan change to enable rural lifestyle development.
- This submission focusses on the management of rural land, including highly productive land, and provision for further housing development to meet the needs of the community. Balance is needed in managing these potentially competing demands on the land resource. Infinity's view is that the current proposed RPS places too much primacy on protection of highly productive land and the wider rural land resource, and does not provide

sufficient flexibility to consider the needs for residential, rural residential and rural lifestyle development (hereafter referred to as 'housing development') and to provide for this in appropriate circumstances.

3. While the merits of retaining highly productive land for productive use is acknowledged, when determining the future use of a particular area of highly productive land regard should also be had to the relative merits of use of that land for productive uses compared with its potential use for housing development. In relation to the merits of retaining land for productive use, relevant factors include the extent of highly productive land available, the range of potential productive uses (noting that many areas of Otago will only support a limited number of crops), and the social and economic value of productive use, including whether those productive activities are in oversupply or are uneconomic. In relation to the merits for housing development, relevant considerations include the unmet demand for housing (including provision of choice in housing types and location), proximity to urban areas, ability to efficiently service the land, and suitability of the land for housing development.
4. Infinity notes that a discussion document addressing a proposed National Policy Statement for Highly Productive Land (**NPS-HPL**) was released in August 2019. A final NPS-HPL has not been gazetted is indicatively scheduled to occur before the end of 2021. While the extent of amendments to the proposed NPS-HPL are not yet known, Infinity also considers that the proposed RPS does not reflect the balance contained in the draft, particularly as expressed in proposed Policy 6 (consideration of requests for plan changes) and proposed Policy 7 (consideration of resource consent applications for subdivision and urban expansion on highly productive land).
5. In relation to the wider rural land resource (where this is not identified as highly productive land), the proposed RPS is overly restrictive in respect of future urban, rural residential or rural lifestyle development, both on current rural land and in proximity to rural land where this may impact on rural uses. It is acknowledged that these are issues that need to be managed, however the proposed RPS seeks to limit development to that which can demonstrate an "operational need" to locate there. That is notwithstanding other policy directives which address important values and features, productive capacity, rural character and amenity, enablement of productive uses and rural industry, and reverse sensitivity. The policy does not enable consideration of the value of the land for rural uses, or the benefits associated with alternative use.
6. The restrictive approach to development of rural land will result in a failure to address the housing crisis, with respect to both supply and affordability, and accordingly fail to deliver on central government's urban growth agenda. Particular attention is drawn to amendments to national direction for urban growth contained in the National Policy Statement for Urban Development 2020, which direct local authorities to be responsive to development proposals.
7. Specific relief sought is set out in the table below. In addition, Infinity seeks any further, other or consequential relief necessary to give address the matters raised in this submission, including any further relief necessary to give effect to the NPS-HPL when this is gazetted.

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>
<p>LF-LS-O11 – Land and soil</p> <p>The life-supporting capacity of Otago’s soil resources is safeguarded and the availability and productive capacity of highly productive land for primary production is maintained now and for future generations.</p>	Amend	<p>Infinity considers the objective is overly directive towards maintenance of the availability and productive potential of highly productive land in all circumstances. Amendments are proposed to reflect that maintenance should be supported, but may not be appropriate in all circumstances. This reflects direction in the proposed NPS-HPL that highly productive land should be protected from inappropriate subdivision and development.</p>	<p>Amend as follows:</p> <p>The life-supporting capacity of Otago’s soil resources is safeguarded and <u>maintenance of the availability and productive capacity of highly productive land for primary production is maintained</u> now and for future generations <u>is supported</u>.</p>
<p>LF-LS-P19 – Highly productive land</p> <p>Maintain the availability and productive capacity of highly productive land by:</p> <ol style="list-style-type: none"> 1. identifying highly productive land based on the following criteria: <ol style="list-style-type: none"> a. the capability and versatility of the land to support primary production based on the Land Use Capability classification system, b. the suitability of the climate for primary production, particularly crop production, and c. the size and cohesiveness of the area of land for use for primary production, and 2. prioritising the use of highly productive land for primary production ahead of other land uses, and 3. managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD-P4, UFD-P7 and UFD-P8. 	Amend	<p>Infinity considers the objective is overly directive towards maintenance of the availability and productive potential of highly productive land in all circumstances. Amendments are proposed to reflect that maintenance should be supported, but may not be appropriate in all circumstances.</p> <p>Infinity supports the use of multiple criteria to identify highly productive land, however considers there are additional matters that should be considered. The proposed NPS-HPL identifies the following matters that may be relevant to the identification of highly productive land:</p> <ul style="list-style-type: none"> • the current or future potential availability of water; • access to transport routes; • access to appropriate labour markets; • supporting rural processing facilities and infrastructure; • the current land cover and use and the economic, social, environmental and cultural benefits it provides; and • water quality issues or constraints that may limit the use of the land for primary production (particularly for more intensive forms of primary production). <p>Infinity considers that at the least the consideration of current or future potential availability of water, and of water quality issues or constraints that may limit the use of the land for primary production (particularly for more intensive or sensitive forms of primary production), are fundamental and should be incorporated into LF-LS-P19.</p>	<p>Amend to include consideration of current or future potential availability of water:</p> <p><u>Support</u> Maintain the availability and productive capacity of highly productive land by:</p> <ol style="list-style-type: none"> 1. identifying highly productive land based on the following criteria: <ol style="list-style-type: none"> a. the capability and versatility of the land to support primary production based on the Land Use Capability classification system, b. the suitability of the climate for primary production, particularly crop production, and c. the size and cohesiveness of the area of land for use for primary production, and <u>d. the current or future potential availability of water, and</u> <u>e. water quality issues or constraints that may limit the use of the land for primary production (particularly for more intensive forms of primary production), and</u> 2. <u>supporting</u> prioritising the use of highly productive land for primary production ahead of other land uses, and 3. managing urban development in rural areas, including rural lifestyle and rural residential areas, in accordance with UFD-P4, UFD-P7 and UFD-P8.
<p>UFD-O4– Development in rural areas</p> <p>Development in Otago’s rural areas occurs in a way that:</p>	Amend	<p>UFD-O4(2) proposes an policy of avoidance of development on highly productive land. This is overly restrictive and does not achieve the necessary balancing of competing demands on use of the land.</p>	<p>Amend as follows:</p> <p>Development in Otago’s rural areas occurs in a way that:</p>

<ol style="list-style-type: none"> 1. avoids impacts on significant values and features identified in this RPS, 2. avoids as the first priority, 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, 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 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. 		<p>Amendments are proposed to support use of highly productive land for primary productive activity, while enabling consideration of development in appropriate circumstances. These amendments reflect proposed NPS-HPL Policy 7.</p> <p>The proposed RPS generally separates urban development and expansion from rural lifestyle and rural residential development. Infinity supports this distinction. UFD-O4 as drafted does not align with this approach. Under proposed UFD-O4(3), rural lifestyle and rural residential development can only occur in areas identified through strategic planning or already zoned for this use. However the strategic planning policies (UFD-P1 and UFD-P2) do not specifically address rural lifestyle and rural residential development, and focus on urban development capacity. While rural residential and rural lifestyle development areas may be identified through strategic planning, it is also appropriate to enable this where consistent with UFD-P8, which addresses the establishment and expansion of rural lifestyle and rural residential zones.</p>	<ol style="list-style-type: none"> 1. avoids impacts on significant values and features identified in this RPS, 2. avoids as the first priority, land and soils supports the use of land identified as highly productive by LF–LS–P19 unless for primary productive activity, while also having regard to: <ol style="list-style-type: none"> a. <u>the extent to which the development will impact on the existing and future use of the land for primary production;</u> b. whether there is an operational <u>a practical and functional need for the development to be located in rural areas,</u> c. <u>the potential for reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities, and</u> d. <u>the environmental, economic, social and cultural benefits of the proposed development compared to the long-term benefits that would occur from the continued or potential use of the land for primary production,</u> 3. only provides for urban expansion <u>in locations identified through strategic planning or zoned within district plans as suitable for such development,</u> 4. <u>provides for 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, or where consistent with UFD-P8, and</u> 4- 5. outside of areas identified in (3) <u>and (4),</u> 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.
<p>UFD–P4 – Urban expansion Expansion of existing urban areas is facilitated where the expansion:</p> <ol style="list-style-type: none"> 1. contributes to establishing or maintaining the qualities of a well-functioning urban environment, 2. will not result in inefficient or sporadic patterns of settlement and residential growth, 3. is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way, 4. addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents, 5. manages adverse effects on other values or resources identified by this RPS that require specific management or protection, 6. avoids, as the first priority, highly productive land identified in accordance with LF–LS–P19, 7. locates the new urban/rural zone boundary interface by considering: 	Amend	<p>UFD-P4(6) proposes an policy of avoidance of development on highly productive land. This is overly restrictive and does not achieve the necessary balancing of competing demands on use of the land. Amendments are proposed to support the use of highly productive land for primary productive uses, while enabling consideration of development in appropriate circumstances. These amendments reflect proposed NPS-HPL Policy 7.</p>	<p>UFD–P4 – Urban expansion Expansion of existing urban areas is facilitated where the expansion:</p> <ol style="list-style-type: none"> 1. contributes to establishing or maintaining the qualities of a well-functioning urban environment, 2. will not result in inefficient or sporadic patterns of settlement and residential growth, 3. is integrated efficiently and effectively with development infrastructure and additional infrastructure in a strategic, timely and co-ordinated way, 4. addresses issues of concern to iwi and hapū, including those identified in any relevant iwi planning documents, 5. manages adverse effects on other values or resources identified by this RPS that require specific management or protection, 6. avoids as the first priority, land and soils supports the use of land identified as highly productive by LF–LS–P19 unless for primary productive uses, while providing for appropriate urban expansion <u>having regard to:</u> <ol style="list-style-type: none"> a. <u>the extent to which the development will impact on the existing and future use of the land for primary production;</u> b. whether there is an operational <u>a practical and functional need for the development to be located in rural areas,</u>

<ul style="list-style-type: none"> a. adverse effects, particularly reverse sensitivity, on rural areas and existing or potential productive rural activities beyond the new boundary, and b. key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for; or c. reflects a short or medium term, intermediate or temporary zoning or infrastructure servicing boundary where provision for future development infrastructure expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated. 			<p><u>c. the potential for reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities, and</u> <u>d. the environmental, economic, social and cultural benefits of the proposed urban expansion compared to the long-term benefits that would occur from the continued or potential use of the land for primary production,</u></p> <ul style="list-style-type: none"> 7. locates the new urban/rural zone boundary interface by considering: <ul style="list-style-type: none"> a. adverse effects, particularly reverse sensitivity, on rural areas and existing or potential productive rural activities beyond the new boundary, and b. key natural or built barriers or physical features, significant values or features identified in this RPS, or cadastral boundaries that will result in a permanent, logical and defensible long-term limit beyond which further urban expansion is demonstrably inappropriate and unlikely, such that provision for future development infrastructure expansion and connectivity beyond the new boundary does not need to be provided for; or c. reflects a short or medium term, intermediate or temporary zoning or infrastructure servicing boundary where provision for future development infrastructure expansion and connectivity should not be foreclosed, even if further expansion is not currently anticipated.
<p>UFD-P7 – Rural Areas The management of rural areas:</p> <ul style="list-style-type: none"> 1. provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS, 2. outside areas identified in (1), maintains the productive capacity, amenity and character of rural areas, 3. enables primary production particularly on land or soils identified as highly productive in accordance with LF-LS-P19, 4. facilitates rural industry and supporting activities; 5. directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8, 6. restricts the establishment of residential activities, sensitive activities, and non-rural businesses which could adversely affect, including by way of reverse sensitivity, the productive capacity of highly productive land, primary production and rural industry activities, and 7. otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate an operational need to be located in rural areas. 	<p>Amend</p>	<p>Infinity considers "maintain" in UFD-P7(2) is a higher threshold than is appropriate in relation to productive capacity outside of highly productive areas and amenity considerations. If strictly interpreted this has the potential to significantly constrain any non-rural use.</p> <p>Infinity considers UFD-P7(6) needs to incorporate reference to mitigation of reverse sensitivity effects, and notes that this is consistent with the approach in the proposed NPS-HPL Policy 5. This also recognises that some reverse sensitivity effects can be effectively mitigated.</p> <p>UFD-P7(6) also presents inappropriately wide scope for restricting activities in relation to potential for adverse effects through use of the word 'could'. Infinity considers this is too wide-ranging, and greater certainty is required.</p> <p>UFD-P7(7) creates an unnecessarily high bar to "demonstrate an operational need". Much of the Otago region is zoned rural by default because it has not been developed, not because it is particularly suited to rural use or unsuited to development. The policy does not enable consideration of the value of the land for rural use or the merits of alternative uses. When other clauses in the policy have already been satisfied, Infinity considers it is not necessary to restrict activities in this way in the RPS.</p>	<p>Amend as follows:</p> <p>The management of rural areas:</p> <ul style="list-style-type: none"> 1. provides for the maintenance and, wherever possible, enhancement of important features and values identified by this RPS, 2. outside areas identified in (1), maintains <u>has regard to</u> the productive capacity, amenity and character of rural areas, 3. enables primary production particularly on land or soils identified as highly productive in accordance with LF-LS-P19, 4. facilitates rural industry and supporting activities; 5. directs rural residential and rural lifestyle development to areas zoned for that purpose in accordance with UFD-P8, 6. restricts the establishment of residential activities, sensitive activities, and non-rural businesses which are likely to <u>could</u> adversely affect, including by way of reverse sensitivity where this is not appropriately mitigated, the productive capacity of highly productive land, primary production and rural industry activities, and 7. otherwise limits the establishment of residential activities, sensitive activities, and non-rural businesses to those that can demonstrate an operational need to be located in rural areas.

<p>UFD-P8 – Rural lifestyle and rural residential zones The establishment, development or expansion of rural lifestyle and rural residential zones only occurs where:</p> <ol style="list-style-type: none"> 1. the land is adjacent to existing or planned urban areas and ready access to employment and services is available, 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, 3. minimises impacts on rural production potential, amenity values and the potential for reverse sensitivity effects to arise, 4. avoids, as the first priority, highly productive land identified in accordance with LF-LS-P16, 5. the suitability of the area to accommodate the proposed development is demonstrated, including: <ol style="list-style-type: none"> a. capacity for servicing by existing or planned development infrastructure (including self-servicing requirements), b. particular regard is given to the individual and cumulative impacts of domestic water supply, wastewater disposal, and stormwater management including self-servicing, on the receiving or supplying environment and impacts on capacity of development infrastructure, if provided, to meet other planned urban area demand, and c. likely future demands or implications for publicly funded services and additional infrastructure, and 6. provides for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS. 	<p>Amend</p>	<p>Infinity considers that UFD-P8(1) should allow for flexibility to ensure rural lifestyle or rural residential development is located in areas best suited for this. There are likely to be a number of locations that are best suited to rural lifestyle or rural residential activity, particularly given extensive criteria in other objectives and policies, but which are not immediately adjacent to an existing urban area.</p> <p>UFD-P8(4) proposes an policy of avoidance of development on highly productive land. This is overly restrictive and does not achieve the necessary balancing of competing demands on use of the land. Amendments are proposed to require particular consideration of these competing values where development is proposed on highly productive land. These amendments are consistent with the proposed NPS-HPL Policy 7.</p>	<p>Amend as follows:</p> <p>The establishment, development or expansion of rural lifestyle and rural residential zones only occurs <u>in locations which are suitable, having regard to where:</u></p> <ol style="list-style-type: none"> 1. the land is adjacent <u>proximity</u> to existing or planned urban areas and ready access to employment and services is available, 2. despite the direction in (1), also avoiding <u>land</u> 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, 3. minimises <u>impacts</u> on rural production potential, amenity values and the potential for reverse sensitivity effects to arise, 4. avoids, as the first priority, for <u>highly productive land</u> identified in accordance with LF-LS-P16: <ol style="list-style-type: none"> a. <u>the extent to which the development will impact on the existing and future use of the land for primary production;</u> b. <u>whether there is an operational a practical and functional need for the development to be located in rural areas,</u> c. <u>the potential for reverse sensitivity effects and proposed methods to avoid or mitigate potential adverse effects on, and conflicts with, lawfully established activities, and</u> d. <u>the environmental, economic, social and cultural benefits of the proposed activity compared to the long-term benefits that would occur from the continued or potential use of the land for primary production,</u> 5. the suitability of the area to accommodate the proposed development is demonstrated, including: <ol style="list-style-type: none"> a. capacity for servicing by existing or planned development infrastructure (including self-servicing requirements), b. particular regard is given to the individual and cumulative impacts of domestic water supply, wastewater disposal, and stormwater management including self-servicing, on the receiving or supplying environment and impacts on capacity of development infrastructure, if provided, to meet other planned urban area demand, and c. likely future demands or implications for publicly funded services and additional infrastructure, and 6. provides <u>providing</u> for the maintenance and wherever possible, enhancement, of important features and values identified by this RPS.
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