# DRAFT LONG TERM COUNCIL COMMUNITY PLAN (LTCCP)

## SUBMISSION TO CHRISTCHURCH CITY COUNCIL

**Submission:**


Name: Clearwater Land Holdings Limited
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Date: 4 May 2004


Clearwater Land Holdings Limited wishes to be heard in support of its submission.

**Reserve Contribution Policy**

It is noted that Christchurch City Council has decided to establish its reserve contribution policy within the provisions of the Local Government Act 2002. Section 203 of the LGA requires that development contributions for reserves must not exceed the greater of:

*"(a) 7.5% of the value of the additional allotments created by a subdivision; and*
*(b) the value equivalent of 20 square metres of land for each additional household unit created by the development."*

The historical background to reserve contributions as set out in Appendix 1, Page 79, Volume 3 concludes that:

*"contributions towards reserve within Christchurch City have been able to be required at a rate of at least 7.5% of the land being subdivided (cash or land) since the 1800's. In many circumstances, more has been able to be required (10% or 130m²). The Council has generally required the maximum allowable contribution to be provided for reserves in Christchurch City. This has resulted in the level of reserves - open space, amenity plantings, recreation opportunities, etc - that the City's residents currently enjoy and expect to be able to continue to enjoy."*

In general, we believe that under the Local Government Amendment Act 1979 an appropriate level of reserves have been set aside within residential subdivisions (7½% or 130m²) and we submit that the Council should generally continue to require vesting of reserve land within subdivisions wherever possible.

We are very concerned that the Council may make a practise of dispensing with reserves within new subdivisions and simply *"take the cash"* to purchase and develop reserves elsewhere. We believe strongly that most larger subdivisions (say 40 lots or greater) require recreational reserves within the subdivision and that residents expect a neighbourhood reserve nearby. The practise of taking reserve contribution in cash should, in general, be limited to situations where the subdivision

or development is already adequately served by reserves or the provision of reserves is impracticable. The temptation of the Council to require a cash contribution for larger subdivisions (where the cash contribution would be substantial) should be avoided at all cost and we would urge the Council to take a responsible stance on this matter.

In the case of Clearwater, open space constitutes more than 90% of Clearwater's land area, including land for recreation, riparian enhancement, lakes, streams, general landscape improvements and public walkways. Clearwater's development is predicated on a high quality resort community environment in the context of unique and spacious surroundings. The provision and enhancement of open space is fundamental to the development of Clearwater. Any restrictions on Clearwater's ability to provide open space or public facilities as a result of any cash financial contribution requirement could critically affect the viability of the development. It could also undermine the quality of environment that is promoted and protected for the benefit of Clearwater residents, visitors and workers and for the public generally.

**Basis of Valuation to Calculate Land Equivalent**

We are very concerned about the method the Council intends to use to determine the value of land when land is vested rather than cash contribution.

We strongly object to the basis of valuation to calculate land equivalent (4.1.8.4, Page 73, Volume 3). The requirement is that the Council will appoint a registered valuer to provide an undeveloped land value for the land to vest as reserve and this value should then be reconciled with the cash value of the contribution based on developed allotments as described in the formula in 4.1.8.2. This method is fundamentally flawed as the Council is proposing to establish a cash value based on developed lot values and then apply that cash value to acquire reserve land at undeveloped land rates. This method is unreasonable and unjustified and will enable the Council to acquire land at a vastly greater rate than the present 130m² per lot. Furthermore, the method is clearly ultra vires as the value of the land acquired would be substantially greater than the maximum permitted value of 7.5% of the developed lots.

The proposed method will introduce disparity in the amount of reserve land required for various subdivisions, depending on the undeveloped land value. We believe this is inequitable and that there is an expectation within the community that the amount of reserves to be provided should be consistent (regardless of the value of the undeveloped land or its relationship to developed lot values).

We submit that the value of the land to vest as reserve must be assessed at *"fair market value"* having regard to the enhancement of the land through the subdivision works carried out by the developer. Once land has been zoned for development purposes, its value should be based on development potential, taking into account the potential realisation from sale of allotments and then deducting construction and other associated costs that would be incurred in developing the subdivision. This produces a block value for the reserve land substantially higher than *"undeveloped land"* value. The *"undeveloped land"* value at which a developer purchases a block is obviously cheaper than this because in its undeveloped state no roading or services have been provided.

**Appointment of Registered Valuer**

Clauses 4.1.8.3 and 4.1.8.4 (Pages 72-73, Volume 3) state that the Council will appoint a registered valuer to provide valuations to apply to the formula in 4.1.8.2 but there is no ability for the subdivider to contest the valuation. We object to the fact that there is no means for the subdivider or developer to challenge the valuation established by the Council's valuer. We are strongly of the view that all valuations must be contestable before being applied to the reserve contribution formula. In the event of any dispute, the valuation should be determined through arbitration and could easily be arbitrated between the granting of subdivision consent and issuing of Section 224 certificate.

**Maximum Rate of Contribution - 4.1.8.2**

We are concerned that for rural allotments the value shall be based on *"the equivalent value of a house site of 1000m² within each allotment"* and how such a valuation can be determined when there are no such properties for sale in the market place to provide valuation comparisons. How can a valuation be established for a 1000m² portion of a rural lot?

We object to the five year limit imposed between creation of the allotment and construction of the building (or vice versa) beyond which time no credit applies for reserve contribution previously provided. We request that the five year limit be deleted.

We object to the requirement for:

*"Cash equivalent of the value of 2m² of land for each additional 100m² of new, net, non-residential, building floor area created, at the time of building consent, less any contribution made at the time of previous subdivision."*

We request that this requirement be deleted on the basis that reserve contribution has already been provided and non-residential developments do not create demand to justify any additional reserves.

**Mean Value of Allotments**

We object to 4.1.8.3 where presumably all individual allotment values will be used to determine a mean value to be applied to the formula in 4.1.8.2. There are often situations where it is inappropriate to apply a mean value of all the lots, such as when balance allotments substantially larger and more valuable than other allotments are included in the subdivision, or where the purpose of the allotment is for on-sale and development and it is not appropriate to impose reserve contribution. Such allotments should be excluded from the mean value calculation.

**Remissions**

We support the philosophy of granting remissions from reserve contribution where certain criteria have been met (Page 85, Volume 3). However, we are concerned about many of the criteria, that some of the requirements are either inappropriate or too onerous, and that the Council has too much discretion in considering which of the criteria may qualify a particular subdivision for a remission.

With regard to development works undertaken to form and develop a reserve, there is concern at the basic development standards (Page 81, Volume 3) above which the Council will not grant remission. We believe some of the requirements are overly prescriptive and in some cases inappropriate. For example:

*"2. Planting of specimen trees that attain a mature height of at least 15 metres and are a minimum of 2 metres in height at the time of planting, between 10 and 15 metres apart, over 30% of the total area."*

Hence if trees are not spaced between 10 and 15m apart the work does not qualify for remission. Or if specimen trees are chosen that grow to less than 15m height no remission is granted. These requirements are too prescriptive.

Under Surface Water Management (Page 86, Volume 3) the words *"through fulfilment of some or all of the following circumstances"* suggest that the Council may decide only a small number of the listed items need to be addressed to qualify a particular subdivision for a 20% remission, or then again it could require that all of the criteria be met. This is far too arbitrary.

Some of the criteria listed under Surface Water Management (pages 86-87) appear more as a *"wish list"* setting out how the Council wants to see reserves designed generally, rather than specifically relating to surface water management reserves. For example, we submit that most of the *"location"* criteria have no particular relevance to surface water management and the following should be deleted (page 86):

*Being land:*

- *of at least 200m wide fronting a local street which immediately adjoins a living zone or zones.*
- *adjoining or linking through to existing land for open space and recreation purposes.*
- *within 5-10 minutes walk from both the living and business areas they are intended to serve.*
- *which, for district parks, is within 400m walking distance of the nearest bus stop.*
- *safely accessed by pedestrians via an on-site public car-park, or an immediately adjoining public car-park, or a pedestrian crossing or pedestrian islands on the road or roads immediately adjoining it.*
- *located in an area of low rural and/or urban amenity values and/or bio-diversity.*

We submit that none of these criteria relate to surface water management reserves any more than they relate to recreation reserves in general, and that remissions from reserve contribution should be granted in respect of <u>all</u> reserves meeting the location criteria, not just surface water management reserves.

Notwithstanding the above, we submit that the requirement that a reserve must have at least 200m frontage to a local street to qualify for remissions is excessive. We request that this requirement be amended along the lines *"where the profile of the reserve is enhanced with substantial frontage to a street adjoining a living zone"* then remissions should apply.

The design criteria listed for both Surface Water Management (page 87) and Esplanade Reserves or Strips (Page 88) includes *"on which there is good visual and a physical separation of at least 5m*

*between paths and tracks and the waterway"*. We believe that paths can be successfully designed well within 5m of a waterway, as is evidenced by paths and boardwalks throughout the city. We request that this requirement be deleted.

We submit that the maximum remissions on development contributions for open space and recreation are too low (Page 85, Volume 3). We request that remission of *"up to 20% in all other circumstances"* be increased to 30%. We also note that *"a combined total of 50%"* remissions will be too low for a subdivision or development that meets several remission criteria (existing allotments and buildings, surface water management, esplanade reserves or strips, heritage items, vegetation/trees, natural features/ecology/habitats, artworks in public places, social/affordable housing).

**Regulatory Services - Land Use and Subdivision Consents**

The LTCCP sets out performance measures for the processing of applications for land use and subdivision consents in accordance with the Resource Management Act (Page 105, Volume 2).

The stated performance measures include:

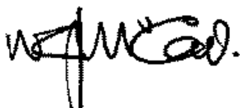
*"Process 100% of subdivision applications within 20 working days"*, and

*"Approve 100% of engineering plans within 20 working days of receipt of accepted plans"*.

We have grave concerns that at present the Council is nowhere near achieving these performance measures and there is no evidence to suggest the situation will change once the LTCCP takes effect. Recent experience would suggest that processing of applications for large subdivisions can take several months for non-notified consents. Similarly, engineering plans can take months to be approved. In submission we would suggest that the combined time for processing and approval of engineering plans should be 20 working days, rather than 20 working days from when the amended plans have been received until they are approved.

Time delays with Christchurch City are one of the biggest issues facing developers at present and we would urge your Council to take action and rectify the situation. The Resource Management Act establishes statutory timeframes, which for large subdivisions are consistently not being achieved. We are greatly concerned that projects are taking several months to be approved, there is no accountability for not achieving statutory timeframes, and that there is nothing in the LTCCP to suggest that this situation will change.

Submitted by



**Warren J McCall**
On behalf of Clearwater Land Holdings Limited

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6 May 2004

Christchurch City Council
PO Box 237
**CHRISTCHURCH**

Dear Sir/Madam

**SUBMISSION ON DRAFT LTCCP**

Further to the submission lodged earlier today on behalf of Clearwater Land Holdings Limited, we attach a letter from Anderson Lloyd Caudwell dated 6 May 2004 and request that this be accepted as a supplementary document to the submission.

Yours faithfully
**DAVIE, LOVELL-SMITH LIMITED**

**W J McCALL**

WJM/sjm

Enc

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6 May 2004

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**BY EMAIL**

**VIA DAVIE LOVELL SMITH**

Dear Sir / Madam

**LTCCP - CLEARWATER LAND HOLDINGS LIMITED SUBMISSION**

We act for Clearwater Land Holdings Limited.

Further to the submission lodged earlier today on behalf of our client by Davie Lovell Smith, we make the following submissions regarding the draft Long Term Council Community Plan (**LTCCP**) on behalf of our client.

Please note that we have not undertake a comprehensive review of the LTCCP to identify any additional issues beyond those raised in the Davie Lovell Smith submission.

**Reserve Contribution Policy**

The Council's policy objectives (paragraph 1.1, page 59, Volume 3 LTCCP) should be consistent with the provisions of the Local Government Act 2002 (**LGA**). The Council should only be entitled to obtain contributions where development results in the Council incurring capital expenditure for infrastructure, reserves or community facilities.

The policy objectives should also include recognising and encouraging private initiatives that promote open space and recreation facilities within Christchurch City. This statement should be reflected elsewhere in the LTCCP (eg Community Outcomes, 'Protection of Natural Environment' page 6 and 'Environment Health' page 16, volume 2 LTCCP; Council Activities, 'Parks and Open Spaces', pages 80 and 87, volume 2 LTCCP).

There are also important limitations applying to the requirement for development contributions (section 200 LGA). Relevantly, the Council must not require a development contribution if, and to the extent that, the developer will fund or otherwise provide for the reserve. This is particularly important for further development of Clearwater and the proposal to rezone and expand the Open Space (Clearwater) Zone, which is an example where the practice of taking reserve contribution in cash should clearly be limited.

Given that the LGA enables the Council to define different contributions to different parts of the district, it is appropriate for the LTCCP to take express account of the Clearwater development proposals as part of the Council's forward planning.

**Basis of Valuation to Calculate Land Equivalent**

We agree that there are some issues with the methodology. Paragraph 4.1.8.2 of the LTCCP is poorly drafted and ambiguous. It should clearly reflect the provisions of the LGA, which provide (section 203) that development contributions for reserves must not exceed the greater of 7.5% of the value of the additional allotments created by a subdivision and the value equivalent of 20 square metres of land for each additional household unit created by the development.

**Appointment of Registered Valuer**

We agree that this should be subject to review before being applied to the reserve contribution formula. Alternatively, an independent valuation based on rate levies may be appropriate.

**Mean Value of Allotments**

We are unsure why a mean value is applied, given that paragraph 4.1.8.2 refers to total value of allotments. Where balance allotments create no additional demand (eg for open space or reserve purposes), they should not be included in the total value calculation.

**Remissions**

We agree that the criteria are unnecessarily prescriptive. The same comment can be made in respect of the standards for reserves (page 60, volume 3, LTCCP).

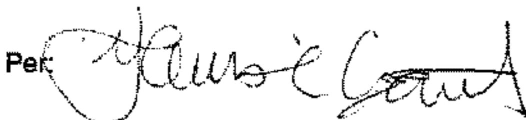
The LTCCP does not take adequate account of innovative developments such as Clearwater and the implementation of the waterways management strategy. There should be provision for a full exemption from requirement to pay development contributions in appropriate circumstances.

**Regulatory Services – Land Use and Subdivision Consents**

We have no particular issue with the performances measures set by the Council, provided that they are achievable.

We trust that these comments assist.

Yours faithfully
**ANDERSON LLOYD CAUDWELL**

Per: 

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