

Attachment B
Peninsula Bay Land Covenants
ANNEXURE SCHEDULE

Continuation of Covenant Provisions:

THE Grantor **HEREBY CREATES** certain land covenants as follows:

1. The land covenants set out in Schedule A are created for the benefit of the land in _____ to the intent that the Servient Lots shall be bound by the provisions stipulations and restrictions set out in Schedule A of this Instrument and so that the owners and occupiers for the time being of the Dominant Lots including the Successors in title may enjoy the benefits of such covenants and enforce the observance of such provisions stipulations and restrictions as the covenants provide for their benefit and in relation to each owner of the Servient Lots including their successors in title from time to time.
2. Such covenants are created so as to bind the Servient Lots for the benefit of the Dominant Lots in respect of the matters set out in Schedule A so that the covenants in Schedule A of this Schedule run with the Servient Lots for the benefit of the Dominant Lots:

Schedule A

THE COVENANTS CREATED ARE AS FOLLOWS:

1. **PURPOSE**

The purpose of these covenants is to protect the market and aesthetic value of the Dominant lots, the privacy, peace and security of the occupants of the Dominant lots, and the quality of the environment touching and concerning the Dominant lots for the benefit of the Dominant lots, Peninsula Bay and the Wanaka community in general.

2. **DEFINITIONS**

In the following covenants:

- (a) Headings are for ease of reference only and do not form part of any covenant nor affect the construction of any covenant.
- (b) Words imputing the singular include the plural and vice versa.

“Access Lot”	means a lot which provides the legal access or part of the legal access to one or more lots, and which is held in the same ownership or by tenancy-in-common in the same ownership as the lot(s) to which it provides legal access.
“Approved”	means approved by Peninsula Bay as may be required by any of the covenants.
“Building”	comprises a building as defined by the Building Act 2004.
“Dwelling”	means and includes a residential dwelling house, or family residence.
“Landscape Feature”	means any substantive structural or landscape design or enhancement feature or utility to be provided on any Lot and visible from any other Lot, Street, Lane, or Right of Way.
“Lane”	means an underwidth roadway available for public use laid out in accordance with the urban design principles utilised by Peninsula Bay.
“Lot”	means any Lot that is subject to these covenants.
“Peninsula Bay Master Plan”	means the Peninsula Bay Master Plan approved by Queenstown Lakes District Council for subdivision and development of Peninsula Bay land and “Stage” refers to the development staging required by such Plan.
“Subdividable Lot”	means a lot identified as a subdividable lot on the Peninsula Bay Master Plan.

“Peninsula Bay”	means Peninsula Village Limited and Wanaka Bay Limited and any successor party or organization nominated by them.
“Right of Way”	means an area of land over which there is registered a legal document giving rights to pass over that land to the owners and occupiers of other land.
“Subdivide”	means any “subdivision of land” as defined by section 218 of the Resource Management Act, 1991.

3. COVENANTS

GENERAL PROVISIONS

- (3.1) No second hand, relocatable building or temporary structure may be brought on to the Servient Lots (or any one of them) except a builder’s shed at the commencement of, and for the duration of construction, of any dwelling being erected on the Servient Lots or any one of them.
- (3.2) No Lot shall be used for any form of temporary residential purposes either by the construction of temporary buildings or by the placement of caravans, modular homes, mobile homes, motor homes, house trailers, buses, tractors, huts, tents and/or vehicles able to be used for human habitation except for a builder’s shed at the commencement of, and for the duration of construction, of any dwelling being erected on the Lot.
- (3.3) No building erected on any Lot may be occupied or used as a residence unless such building has been substantially completed in accordance with these Covenants and any Local Authority Building Consent requirements.
- (3.4) All Buildings must be constructed on-site from new or high quality recycled materials.
- (3.5) No Buildings shall be erected on any Lot using concrete or treated wooden piles without providing a solid and durable skirting board or other enclosure around the exterior of the Building(s) from ground height to the underside of the wall cladding.
- (3.6) The Servient Lots must be maintained in a neat and tidy condition and to a standard that grass and other ground cover does not exceed a height of 150 mm. Until a dwelling is erected on a Lot Peninsula Bay shall be entitled to enter on to the Lot without prior notice and carry out any mowing of grass needed to ensure compliance with this requirement.
- (3.7) No use may be made of adjacent land, footpaths, or recreation areas abutting any Lot for access or dumping of rubbish. Servient Lot owners shall reinstate, replace and be responsible for all costs arising from damage to the landscaping, roads, footpaths, kerbing, berms, concrete or other structures arising directly or indirectly from any Lot owners use and occupation of a Lot. Prior to the commencement of construction of any dwelling or building on any Lot the Lot owner shall construct a suitable ramp to the satisfaction of Peninsula Bay across the berm and footpath to protect these areas from damage by vehicular traffic accessing the Lot.
- (3.8) All construction works required to complete a dwelling on any Servient Lot shall be completed within a period of 18 months from the date of commencement of construction work for the dwelling, and earthworks and landscaping works associated with such dwelling similarly shall be completed within 6 months of dwelling completion or within one growing season after dwelling completion (whichever is the later).
- (3.9) No garages or outbuildings shall be erected on any Servient Lot except in conjunction with or following construction of a dwelling and all such Buildings shall be constructed with permanent materials of timber, stone or other permanent materials in character with the dwelling on each Servient Lot. No building may be located within a 2 metre setback from any Lot boundary (other than those identified as being a subdividable lot on the Peninsula Bay Master Plan).
- (3.10) Portable gas cylinders or bottles may not be used on any Lot or in any Building for any permanent cooking, water heating or domestic heating purposes (except gas bottles for outdoor and barbecue use) unless a reticulated community gas supply is unavailable for connection to the Lot.
- (3.11) Diesel, petrol, oil or gas tanks which have a capacity of over 100 litres are prohibited on any Lot or within any Building unless approved by Peninsula Bay.
- (3.12) Lots that have rear vehicular access available are not permitted to have vehicular access to the Lot from any main street frontage. This provision shall only apply to Lot 176, Lots 178 - 180 and Lots 214 – 218. Parking is prohibited on the carriageway area of any Access Lot or Right of Way.

FENCING PROVISIONS

- (3.13) The Lot Owner shall be bound by a Fencing Covenant within the meaning of Section 2 of the Fencing Act 1978 in that neither Peninsula Bay nor the Queenstown Lakes District Council shall be liable to pay for or contribute towards the cost of the construction or maintenance of any fence between any adjoining Lots.
- (3.14) Fencing facing onto roadways and reserve areas within 4.5 metres of the boundary shall not exceed 1.2 metres in height. Fencing facing onto reserve areas shall be open type (i.e. post and rail). All other fencing shall not exceed 1.8 metres in height.
- (3.15) Trees, shrubs or other plants on any Lot shall not protrude beyond a graduated plane drawn at 2.50 metres in height from the legal boundaries of the Lot to the average height of the ridgeline of the dwelling constructed on the Lot. No trees, shrubs or other plants on any Servient Lot shall exceed a maximum height of 7 metres.

“height” is to be taken from original subdivision ground level of a Lot at issue of title to that Lot.

LANDSCAPE FEATURES

- (3.16) No Landscape Feature may exceed a height of 2 metres above the original subdivision ground level of a Lot without the expressed written approval of Peninsula Bay. All attachments to any Buildings or structures on any Lot (including satellite dish, mast, or any exterior ornamental decoration or garden or Landscape feature) of more than a minor nature, must be approved by Peninsula Bay.
- (3.17) All external air conditioning units must be properly screened and noise proofed to ensure they are not a nuisance to neighbours.

DRAINAGE

- (3.18) No discharge into the wastewater or stormwater systems from a Lot of a soluble or insoluble nature that is detrimental to water quality or drainage systems is permitted. The Lot owner responsible for any such discharge shall meet the costs of any remedial action undertaken for any breach of this Covenant.

SUBDIVISION AND DEVELOPMENT

- (3.19) No Lot may be further subdivided (other than those identified as being a subdividable lot on the Peninsula Bay Master Plan which may be subdivided into two lots but may not be further subdivided). The prohibitions on further subdivision in these covenants includes the granting of a cross-lease, company lease, unit title, stratum estate, proportional title, time share or any other type of separate ownership in respect of any part of any Lot or Building(s) on any Lot.
- (3.20) No Lot Owner shall oppose, object to, frustrate, or take any action, or encourage or cause others to oppose, object to, frustrate or take any action that might in any way prevent or hinder Peninsula Bay from progressing or completing the Peninsula Bay development or any associated development Peninsula Bay may require.
- (3.21) Peninsula Bay reserves the right to alter or vary the Peninsula Bay Stage Plans or Peninsula Bay Masterplan (including the right to add, alter or vary or cancel any easements or land covenants) in such manner as Peninsula Bay considers necessary or desirable and no Lot Owner shall be entitled to make any objection or claim for compensation in respect of any such variations nor shall any compensation be payable in respect of any such alterations or variations provided that any amended plan shall not substantively alter the nature of the proposed development.

COVENANT COMPLIANCE

- (3.22) Peninsula Bay may enforce these covenants in the same manner as a Lot owner and in particular where a Lot owner does not comply with any covenant Peninsula Bay may request such owner in writing to remedy such non compliance within a specified time (not to be less than 14 days from the date of such request) and in default of such non compliance being remedied within such period Peninsula Bay may employ a suitably qualified or experienced person to enter such Lot and carry out any work necessary to achieve compliance with the covenant(s) involved and may recover as a debt due from the defaulting Lot owner all costs incurred by the Peninsula Bay in such remedial work.
- (3.23) Peninsula Bay will use its best endeavours to ensure observance of these covenants but shall not have any legal responsibility or liability for any lack of enforcement or enforceability or application of any of these Covenants. The Lot owners agree to keep Peninsula Bay fully indemnified from any claim, liability, loss or action arising against it or its agents in respect of these covenants having regard to their intent to provide for the interests of Lot owners inter se and their individual obligations of observance and rights of enforcement of the covenants.

(3.24) Peninsula Bay may in respect of any Lot waive the application or enforcement of any covenant for reasonable cause where no material or significant disadvantage would (in the sole discretion of Peninsula Bay) accrue to any other Lot.

4. APPROVAL PROCESS FOR BUILDINGS AND SITE DEVELOPMENT

(4.1) Prior to submitting a Building Consent application to any Consent Authority for any necessary approvals and prior to the commencement of Building construction the owner of each Lot shall obtain the written approval of Peninsula Bay in respect of: -

- (a) Site Plan showing the location of all buildings, landscaping and vehicular access points
- (b) Floor Plan(s)
- (c) Elevations showing all exterior finishes and colours

Peninsula Bay undertakes to use its best endeavours to respond to each application so submitted no later than 5 working days after receipt of items (a) to (c) above. Peninsula Bay may decline to approve any or all aspects or details of the proposed Building plans or Landscape plans that Peninsula Bay in its sole determination considers prejudicial to the underlying objectives and purpose of the covenants.

In determining whether or not to approve the plans and specifications in part or in whole, Peninsula Bay will take into account the appearance of the proposed dwelling in relation to the appearance of other dwellings already in the subdivision to the intent that the appearance of the proposed dwelling should generally be compatible with the range of style, design and appearance of other dwellings proposed to be built or actually built within the Peninsula Bay subdivision.

Approval of plans by Peninsula Bay does not constitute any representation that plans are otherwise compliant with these covenants or any applicable building regulations or District Plan building or other land use requirements and compliance with all such covenants and requirements constitutes a separate Lot Owner responsibility and obligation.

- (4.2) Peninsula Bay may in writing delegate the approval process set out above to a nominated and suitably qualified party.
- (4.3) All building construction work shall comply with the requirements of the Peninsula Bay Building Construction and Lot Development covenants. It is the responsibility of each Lot Owner to ensure that builders, workmen, and suppliers fully comply with these covenants.

5. DISPUTE RESOLUTION

(5.1) Should any dispute arise concerning any aspects of these covenants that cannot be resolved by agreement between the parties involved the Servient and Dominant Lot owners are bound to resolve the same by arbitration in accordance with the Arbitration Act 1996 (“the Act”), and the following provisions shall apply:

- (a) There should be a single arbitrator who shall be appointed by the President for the time being of the Otago District Law Society (or any successor organization) as a sole arbitrator.
- (b) The arbitrator shall determine all questions in issue between the parties including questions as to the scope of the dispute and as to procedure.
- (c) The arbitrator’s award shall be binding on all parties to the dispute.
- (d) Any party to a dispute may initiate the arbitration in accordance with the provisions of the Act.

Continuation of Attestation

<p>PENINSULA VILLAGE LIMITED by</p> <p>..... Paul Croft Managing Director</p> <p>Signature of Transferee</p>	<p>Signed in my presence by the Transferee Signature of Witness</p> <p>..... Witness to complete in BLOCK letters</p> <p>Witness name</p> <p>Occupation</p> <p>Address</p>
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