

Lake Hood Covenants

RESTRICTIVE COVENANTS - STAGE 5

1. Interpretation

1.1 In this document the following terms have the following meanings unless the context requires otherwise:

- (a) "Aquatic Park Trust" means the Ashburton Aquatic Park Charitable Trust;
- (b) The "Grantee" means the registered proprietor of the dominant tenement(s) set out in Schedule A.

Restrictive Covenants

A. THE Grantor for a period of 21 years from June 2004 shall not:

- 1.** Subdivide any of the allotments on the plan of subdivision. For the purposes of this clause "subdivide" shall have the meaning given to the expression "subdivision of land" set out in Section 218 of the Resource Management Act 1991 **PROVIDED HOWEVER** that any boundary adjustment that does not create a separate building site shall not be in breach of this condition.
- 2.** Use or permit to be used the within described land for any trading or commercial purpose, otherwise than as may be agreed in writing by the Aquatic Park Trust.
- 3.** Erect or permit to be erected upon any of the allotments:-
 - (i) More than one dwelling and one associated outbuilding unless the Aquatic Park Trust's approval in writing is first obtained.
 - (ii) Any dwelling with an internal ground floor area of less than 120m² excluding any garaging or outbuildings.
 - (iii) Any dwelling that is not built on site from an individual design.
 - (iv) Any dwelling or outbuilding that has not first received the Aquatic Park Trust's approval of the detailed construction plans (see clause B.1., below).
 - (v) Any dwelling or outbuilding otherwise than in accordance with the detailed construction plans as approved by the Aquatic Park Trust (see clause B.1., below).
 - (vi) Any building on the land of the kitset, 'A' frame or prefabricated style or form of manufacture.



- (vii) Any building on the land with an external wall cladding, of greater than 20%
 - (a) of James Hardie Weatherboard, (but excluding that company’s “Linea” or subsequent products) smooth type or similar smooth product or any plank wider than 180mm; or
 - (b) of corrugated iron, Coloursteel or other metallic cladding whether or not they shall be unpainted or painted and/or coated during or subsequent to manufacture. [By way of explanation, the wall cladding of the dwelling and outbuilding are to have a consistent quality and may be brick, stone, or plaster (whether cement or coating over polystyrene block or sheathing)].
- (viii) Any building on the land forming any external wall elevation without articulation of at least 1.00 linear metre off the main plane in any length over 15.00 linear metres (the intent of which, without limitation to the foregoing, is to prevent the erection of long walls which are unsightly because they do not contain visual breaks either by way of windows or material deviations from the line of the wall).
- (ix) Any pre-used building on the land.
- (x) A building on the land with roof cladding of corrugated iron whether unpainted or painted **PROVIDED THAT** Decramastic and coloursteel (other than corrugated iron) products or products of similar construction precoated in the manufacturing process shall not be in breach of this restriction.
- (xi) A building or other structure with an exterior cladding comprising second hand building materials (excluding recycled bricks) unless prior written approval from the Aquatic Park Trust is obtained.
- (xii) Any garage outbuilding or fence except in permanent materials.
- (xiii) Any garage outbuilding or fence that has not received the Aquatic Park Trust’s approval of the detailed construction plans (see clause B1, below).
- (xiv) Any building within 4 metres of a front, waterway or lakeside boundary.





- (xv) Any boundary fence or fence within the section built of galvanized iron, polite, cement board panels. No fence or live hedge shall exceed 2 metres in height; and no fence within the front yard, adjacent to a waterway or boundary fence in front of dwellings within 6.00 metres from the road or waterway frontage boundary shall exceed 1.2 metres in height. For the purpose of this covenant, A3(xv), “road” includes any accessway for the benefit of two or more lots, and the meaning of “road frontage boundary” is similarly enlarged.
 - (xvi) Any garden shed, clothesline or letterbox except such as may be aesthetically sensitive in terms of design and location, and any garden shed or clothesline shall be sited in such a way as not to be visible from the street.
 - (xvii) Any fence beside, adjacent or near to, or having the effect of masking or obscuring the Aquatic Park Trust’s fence located or to be located on the roadside embankment of Allotments 41 to 48 both inclusive.
4. Live on site in temporary accommodation on the land whilst the principal dwelling is in the course of construction.
 5. Construct any road or right of way on any part of the said land, which provides access to any other land adjoining the Aquatic Park Trust’s land without the prior approval of the Aquatic Park Trust.
 6. Permit recreational or commercial vehicles or trailers to be regularly located on the street or footpath or in front of the building line of the dwelling on the land.
 7. Permit or suffer to be upon the land any hoardings, caravans, derelict vehicles, huts or sheds used as dwellings or temporary dwellings.
 8. Carry out landscaping on the road frontage of the Local Authority owned land except in accordance with the general overall landscaping of the road reserve by the Aquatic Park Trust, or without prior written approval by the Aquatic Park Trust. The Grantor shall use his best endeavours to water and maintain any plantings and frontages to the standard reasonably required by the Aquatic Park Trust.
 9. Bring on to, raise, breed or keep any animals or livestock on the land or in the buildings on the land except to keep a maximum of two family domestic animals limited to dogs or cats unless prior written approval is given by the Aquatic Park Trust.



10. Allow any animal (including dogs and other domestic pets) to be kept in or about the lot and buildings thereon which is likely to cause a nuisance or annoyance to other occupiers in the subdivision or to detract from the subdivision as a whole. In particular and regardless of the foregoing the transferee shall not keep on the lot or in any on site building or structure any dog which in whole or part resembles the Put Bull Terrier, Rottweiler or Doberman Pinscher breeds.
11. Use or permit the use of any lot for institutional residential purposes. For the purposes of this clause “institutional residential purposes” shall include but not be limited to the use of the property for housing purposes by central or local government agencies or public or private health sector agencies.
12. Use adjacent or abutting land and footpaths for access or dumping of rubbish.
13. Withhold consent unreasonably to any application for planning approval for any commercial or other activity approved by the Aquatic Park Trust [including, but not by way of limitation the raising or lowering of the water level in the lake] or a Special Liquor Licence relating to any specific activity which is to take place on any land that is owned by the Aquatic Park Trust and which activity is approved by the Aquatic Park Trust.
14. Construct any building jetty or retaining wall (“Jetty Structures”) on the foreshore without the Aquatic Park Trust’s consent and shall not otherwise act contrary to the Aquatic Park Trust’s rules regarding foreshore structures. Without limitation to the Aquatic Park Trust’s power to make and amend these covenants and the Aquatic Park Trust’s rules regarding foreshore structures it is recorded that as at the date of creation of these covenants it is the Aquatic Park Trust’s current intention to:
 - (a) restrict such structures to, in the case of a jetty, a foot print with a maximum plan size of 20m² extending into the waterway by no more than 2.20 linear metres; and to
 - (b) require that all Jetty Structures shall be of permanent materials of sufficient section and grade of materials as to maintain an aesthetically pleasing structure able to stay true to line & level when exposed to the weather; and to
 - (c) require that detailed construction plans are to be submitted to the Aquatic Park Trust for the Aquatic Park Trust’s approval (see clause B.1., below).

B. THE Grantor shall:-

1. Submit for the Aquatic Park Trust’s approval detailed construction plans for any dwelling, building, jetty, or retaining structure or wall to be erected on the land. Those detailed construction plans must comply with the design guidelines of the Aquatic Park Trust in effect from time to time (copies of which may be obtained from the Secretary to the Aquatic Park Trust) and must be submitted to the Secretary of the Aquatic Park Trust 30 days prior to the lodgement of applications for all necessary building and resource consents or, where neither building nor resource consents are required, 30 days prior to the commencement of construction.

If the Aquatic Park Trust fails to communicate approval or disapproval of the detailed construction plans to the Grantor within 30 days after the said plans have been submitted to them, then approval of the plans shall be deemed to have been given.

The Aquatic Park Trust has sole discretion (to be exercised reasonably) to approve or reject detailed construction plans and the grant of approval shall not in any way bind the Aquatic Park Trust in its consideration of further applications for approval.

The Aquatic Park Trust shall have the right to appoint an agent to act on its behalf in processing plan approval requests.





All applications to the Aquatic Park Trust for approval of construction plans must be accompanied by a declaration by the applicant that the plans comply with the restrictive covenants attaching to the land in question, that the plans comply with any applicable rules of the Huntington Park Property Owners Association, and that the plans comply with any relevant regulations of the Ashburton District Council. Failure to provide such a declaration, or should the declaration prove to be incorrect, approval will not be given, or if approval has already been given, this approval will be deemed to have been revoked and the applicant will be in breach of this covenant. If a waiver of a restrictive covenant or deviation from any local body rules is sought, this will only be given if requested in writing as part of the said declaration. No waiver of variation is to be implied by the approval of any plans where a waiver or variation is not specifically sought.

This clause shall also apply to any changes to detailed construction plans already approved or disapproved by the Aquatic Park Trust except that:

- (a) Where such changes are compulsory (i.e. required by the local or territorial authority) the period for the submission and approval of the plans shall be 15 days (excluding the period from 24 December to 5 January of the following year);
 - (b) Where such changes are optional the Aquatic Park Trust shall be entitled to recover its reasonable costs of review of the changed plans.
2. Maintain the section to an acceptable standard (in the Aquatic Park Trust's opinion) and shall not allow it to become unsightly or a fire hazard. In the event that grass or weeds are allowed to exceed 150 mm in height the Aquatic Park Trust reserves the right to have the section mowed and the Grantor agrees to accept liability for such cost plus 50%.
 3. Ensure that the exterior of the dwelling building or other structure visible to the public will not remain in an unfinished state for more than six months from commencement of the erection of such dwelling, building, or other structure. All drives and pathways visible to the public shall be fully constructed in a permanent dust free surface such as concrete, decorative stones, cobblestone interlocking paving and/or bitumen sealing. Such work will be completed in a proper tradesman-like manner within 12 months of the commencement of the construction of the dwelling. If such works are not completed in the times specified then the Aquatic Park Trust may have the works completed by its employees or agents and the Aquatic Park Trust shall be entitled to recover the costs of such completion works plus a premium of 50% of such costs from the Grantor.
 4. Not damage, alter, modify, or deal with in any way the fence between Huntingdon Avenue and Lots 41 - 48. The Grantor indemnifies the Aquatic Park Trust against any costs arising as a result of a breach of this covenant.



C. THE Aquatic Park Trust

1. Reserves the right to vary, modify or waive any of the forgoing covenants so that the Ashburton Aquatic Park Charitable trust's reasonable expectations of standards for the subdivision are met, and without limitation to the forgoing, the Aquatic Park Trust reserves the right to exempt from the restrictions relating to subdivision and multiple dwellings in clause A1 and A3 hereof, Lots 27, 28, 29, 30, 46, 47, and 48 so that the Aquatic Park Trust's reasonable expectations of standards for the subdivision are met.
2. Shall not be liable to the Grantor or Grantee or any third party for any actions it takes or fails to take in respect of the within covenants and the Grantee agrees, on behalf of the Grantee and any other person claiming an interest through the Grantee's property, not to pursue or make any claim for damages against the Grantor in respect of any actions the Grantor takes or fails to take in respect of the within covenants.
3. For the avoidance of doubt the rights contained in clause C.1. may only be exercised by the Trustees of the Ashburton Aquatic Park Charitable Trust.

D. IN the event the Grantor is in breach of any of the conditions contained in clauses A or B above apart from the condition contained in clause B.3. hereof then he will at the request of the Aquatic Park Trust desist from such breach, and remedy such breach. If such remedy is not completed within a reasonable time then the Aquatic Park Trust may have such breach remedied by its employees or agents and the Aquatic Park Trust shall be entitled to recover the costs of such remedy plus a premium of 50% of such costs from the grantor. Without limitation to the foregoing the Aquatic Park Trust (Ashburton Aquatic Park Charitable Trust) shall have the right to lodge a caveat over the Grantor's title in respect of which the breach exists and to maintain said caveat until such time as the breach is remedied. For the avoidance of doubt this is acknowledged by the Grantor to give rise to a caveatable interest.

E. DISPUTE RESOLUTION

ALL disputes and differences arising in relation to this document must be referred to arbitration in accordance with the Arbitration Act 1996 (both the first and second schedules applying).

