

1. PURPOSE

1.1 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 affecting the Dominant Lots for the benefit of the Dominant Lots, IYL, and its associated community in general.

2. DEFINITIONS

In the following covenants:

2.1 Headings are for ease of reference only and do not form part of any covenant nor affect the meaning of any covenant.

2.2 Words imputing the singular include the plural and vice versa.

“Approved” means approved by IYL either in accordance with clause 4.1 or as may otherwise be required by any of the covenants.

“Building” comprises a building as defined by the Building Act 2004 (or latest version).

“Dominant Lots” means the land listed as the dominant tenements in Annexure Schedule 1.

“Dwelling or Dwellinghouse” means and includes a residential dwelling house, or family residence.

“Landscape Feature” means any visible structural or landscape design or enhancement feature or utility to be provided on any Lot.

“Lot” means any Lot that is subject to these covenants and in respect of any Lot that is further subdivided with the written approval of IYL in accordance with clause 3.41 means each of the newly created allotments (to the exclusion of the relevant former Lot)..

“Lot Owner” means the owner of any Lot.

“IYL” means Infinity Yaldhurst Limited and any successor party or organisation nominated by it or by any successor party or organisation to deal with applications required for approvals by IYL under any of these covenants.

“Yaldhurst” means the development situated at Yaldhurst Road, Christchurch being carried out by IYL.

“Yaldhurst Building Covenants” means the Yaldhurst Building Covenants document published, maintained and amended by IYL from time to time.

“Yaldhurst Design Guidelines” means the Yaldhurst Design Guidelines document published, maintained and amended by IYL from time to time.

3. COVENANTS

Building Construction and Lot Development

3.1 No more than one Dwellinghouse may be constructed on any Lot.

3.2 All Buildings to be used as a Dwellinghouse must have a ground floor area of not less than 35m² (exclusive of any garage under the same roof structure).

3.3 No re-locatable Buildings may be brought onto any Lot nor any other previously used Building be transported to or re-erected on any Lot unless previously agreed in writing by a duly authorised representative of IYL.

3.4 All Buildings must be constructed on-site from new or high quality recycled materials unless previously agreed in writing by a duly authorised representative of IYL.

3.5 Exterior cladding for all Buildings on any Lot (except for the cladding of soffits or gable ends) shall be of the following materials:

- a. Brick, or
- b. Natural stone, or
- c. River rock, or
- d. Textured plaster over brick, or polystyrene or other suitable sub-base for plaster, or
- e. Stained or painted timber weather-board, wooden shingles, timber board & batten, or
- f. Surface coated concrete block, or
- g. Solid plaster or glazing or
- h. Such other materials as may be approved by IYL.

3.6 All roofing material on any Building shall be either:

- a. Tiles, (including clay, ceramic, concrete, decramastic, pre-coated or pressed steel), or
- b. Steel (comprising pre-painted, longrun pressed or rolled steel), or
- c. Shingle, or
- d. Slate, or
- e. Membrane roofing, or
- f. Such other roofing material as may be approved by IYL.

3.7 No reflective or visually obtrusive roof, wall or joinery materials, colours or mirror glass may be used for any Building.

3.8 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.

3.9 No garages or subsidiary Buildings shall be erected on any Lot except in conjunction with or following construction of the main Building and all such Buildings shall be constructed with permanent materials comprising timber, stone or other permanent materials in character with the main Building on each Lot.

3.10 A Dwellinghouse must be constructed on the Lot in compliance with these Covenants, the Yaldhurst Building Covenants, the Yaldhurst Design Guidelines document and all relevant regulatory requirements and in accordance with the Building plans approved in accordance with Clause 4. Construction of the Dwellinghouse must commence within two (2) years of settlement of purchase by the Lot Owner. The Lot Owner acknowledges and IYL gives no warranty or undertaking that similar conditions or requirements will be imposed in respect of other Lots within Yaldhurst.

3.11 No Lot (or any part of the Lot) may be sold or otherwise disposed of until a Dwellinghouse has been constructed on the Lot in compliance with Clause 3.10. IYL may, in its absolute discretion, grant a dispensation to this requirement. Any dispensation must be confirmed in writing by an authorised representative of IYL. If IYL consents to the sale or transfer of the Lot to a third party prior to the construction of a Dwellinghouse on the Lot, on-sale purchasers of the Lot will be bound by this covenant and Clause 3.10.

3.12 All construction works required to complete a Dwelling on any Lot including any required painting or staining of exterior surfaces shall be completed within a period of twelve (12) months from the date of commencement of construction work. Earthworks and landscaping works associated with such development (including lawns, drives, paths and fencing) visible from the street similarly shall be completed within three (3) months of receipt of a Code Compliance Certificate for the Dwelling.

3.13 No Building on any Lot may be occupied as a residence in any way until:

- a. The Code Compliance Certificate(s) has been issued by either the Christchurch City Council or an approved Building Certifier; and
- b. The Buildings have been completed in accordance with all the terms of these Covenants; and
- c. All exterior work, decoration and final interior window coverings are completely installed; and
- d. All areas viewable from the street are in a tidy state. These areas must be completed in accordance with your approved landscape plan within three (3) months of receipt of Code of Compliance.

3.14 Any external air conditioning units must be properly screened so as not to be visible from the street and noise proofed to ensure they are not a nuisance to neighbours.

3.15 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 IYL.

3.16 Driveways, driveway crossings and entranceway locations and plans and specifications must be approved by IYL prior to construction.

3.17 Lots that have rear vehicular access available from a lane or right of way may not have vehicular access to the Lot from the street frontage unless approved in writing by IYL and subject at all times to any restriction or requirement of the Christchurch City Council. Parking is prohibited on any access lane or right of way unless specifically provided for within the lane or otherwise approved by IYL.

3.18 No Building shall be erected, altered, placed or permitted to remain on any Lot other than Buildings designed for residential use and associated garage(s) and outbuildings. IYL and its designated representative(s) and/or builders approved by IYL may use residential Buildings as show homes or offices, provided such use is in furtherance of the primary purpose of construction and sale of Lots and dwellings within the Yaldhurst development.

3.19 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 IYL from progressing or completing the present Yaldhurst development or any future development of Yaldhurst. Such covenant extends to and includes (without limitation) development planning, zone changes, resource consents for land uses and subdivisions, Consent Authority or Environment Court applications, Territorial Authority Building Consent matters, or any other necessary consent process, any civil works, plan or survey approval, or land title dealing involving IYL and/ or its parent company. The benefit of this covenant also applies to IYL and for any adjoining or neighbouring properties now or hereafter owned by IYL and/or its parent company.

Landscape Features

3.20 Construction of any Landscape Features on any Lot shall not be commenced until the plans and specifications have been approved by IYL.

3.21 No Landscape Feature may exceed a height of 2m above the original sub-division ground level of a Lot without the express written approval of IYL.

3.22 Clotheslines and letterboxes must be unobtrusive and of good quality in terms of design and location. The positioning of any clothesline shall be on the rear half of each Lot with appropriate screening to ensure it will not be highly visible from the street. The positioning of any letterbox shall be adjacent to but not on the road reserve.

3.23 All attachments to any Buildings or structures on any Lot (including television antenna, solar hot water panels, satellite dish, mast, garden statues, fountains or any other exterior ornamental decoration or similar garden or Landscape Feature) must not be of a nature that would devalue the neighbouring properties in the opinion of IYL. Any such offending item must be removed or screened to IYL's satisfaction.

3.24 The location of and construction of swimming pools (including fencing and screening on any Lot), must be approved by IYL.

Building & Lot Maintenance

3.25 No Lot Owner shall display or permit to be displayed on any Lot or Building any advertisement, sign or hoarding (except for compulsory statutory signage, real estate signage pending sale and builder's signage during construction and pending sale). All such signage (including its construction and location) must comply with relevant Christchurch City Council requirements and first be approved by IYL.

3.26 No livestock, poultry or animals which may be likely to cause a nuisance to any other Yaldhurst resident shall be raised, bred or kept on any Lot or in any Buildings; provided, however, that dogs and cats, or other common domesticated household pets that are not dangerous or annoying may be raised and kept. Such permitted pets shall be kept on the owner's Lot and if a dog it shall not be allowed off the owner's Lot except under controlled supervision.

Any dog which in whole or in part, resembles any of the Pit Bull Terrier, the Japanese Tosa, the Dogo Argentino

or the Fila Brasileiro breeds and any other potentially aggressive or noisy breed of animal is prohibited if it causes a nuisance in any way. No permitted pet shall be allowed to make noise in a manner or of such volume as to annoy or disturb other Lot Owners. Any Lot Owner who allows or keeps a pet on their Lot is responsible for any loss or liability of any kind arising from the keeping of such pet. The keeping of pets by a Lot Owner shall be subject to any other restrictions required by IYL from time to time in the interests of maintaining a good residential environment.

3.27 Buildings and Landscape Features must be maintained and not be allowed to deteriorate to a point where the standard of presentation is either:

- a. Less than that represented in the rest of the Yaldhurst developed residential area, or
- b. Inadequate, taking into account fair wear and tear and the original condition at the time that the residential Building on the Lot was occupied as a residence and the condition of its neighbourhood properties.

3.28 Lots must otherwise be kept and maintained in a neat and tidy condition at all times, including the grounds, lawns, gardens and the Local Authority owned road frontage to each of the Servient Lots. Grass and other ground cover must not exceed a height of 120mm.

3.29 Lot Owners must not alter the original subdivision contour and levels of the Lots without prior approval from IYL.

3.30 No tree shrub or other vegetation shall:

- a. Protrude beyond 3m in height within 2m of any Lot boundary.
- b. Protrude beyond 5m in height within the area of any Lot between 2m and 5m on the easternmost and southernmost boundary of any Lot.
- c. Protrude beyond an absolute height of 7m elsewhere on the Lot.

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

To ensure reasonable amenity to each Lot, if any tree shrub or other vegetation on any Lot is very substantially shading or very materially affecting the outlook or view from any neighbouring Lot or is creating any significant nuisance and that Lot Owner neglects or refuses for a period of thirty (30) days following notice in writing to them from the affected Lot Owner(s) requesting reduction to the height and/or the canopy area or remedying of the nuisance involved with such tree, shrub or other vegetation, then the parties involved shall be bound to resolve the same by arbitration in accordance with Clause 6 (Dispute Resolution).

Fencing Provisions

3.31 The Lot Owner shall be bound by a Fencing Covenant within the meaning of Section 2 of the Fencing Act 1978 in that neither IYL nor the Christchurch City Council shall be liable to pay for or contribute towards the cost of the construction or maintenance of any fence between any Lot and any adjoining land owned by IYL or the Christchurch District Council.

3.32 A Lot Owner who takes title to a Lot having a boundary fence already constructed on a Lot boundary which has been paid for in full by an adjoining Lot Owner(s) shall be liable to reimburse each such Lot Owner for one half of the actual cost of that boundary fence (if not already reimbursed by any other party). Such cost shall not exceed \$90.00 (plus GST) per linear metre for the fence. The cost shall be annually adjusted based on the all groups Consumer Price Index effective from 1st January 2016.

3.33 All fences on the side and rear Lot boundaries shall be constructed and maintained in accordance with the Yaldhurst Design Guidelines and:

- a. Shall not exceed 1.8m.
- b. Side fences and rear fences must be erected prior to any building construction.
- c. The maximum height of any fence in the required building setback from a road boundary shall be 1.2m.
- d. Must be contiguous with neighbouring fencing.
- e. Any Lot which abounds a reserve must be fenced to a maximum height of 1.2m and have a minimum visual permeability/openness of 50% (e.g. Warner fence) – except where required to screen a bin storage area as detailed in the Design Guidelines, or unless otherwise approved by IYL.

3.34 Fencing requirements may be varied by IYL where desirable to ensure a high standard of appearance or where fencing is undesirable or unnecessary in the view of IYL.

Land Use Restrictions

3.35 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.

3.36 Lot Owners must not use any Lot for any primary purpose other than for residential occupation unless previously agreed in writing by a duly authorised representative of IYL. Ancillary purposes are governed by the planning provisions under any regulatory land use controls applicable from time to time.

3.37 No Lot shall be sold, leased, transferred, assigned or otherwise disposed of to any Governmental agency or Territorial Authority for the purposes of public or institutional housing without the prior approval of IYL.

3.38 No inflammable, explosive or noxious materials are to be stored or used on any Lot or in any Building. The Lot Owner must not allow any offensive activity to be conducted or permitted to exist upon any Lot, or in any Building, nor shall anything be done or permitted to exist on any Lot or in any Building that may be or may become an annoyance or private or public nuisance. An annoyance or private or public nuisance includes loud sounds or noises or offensive smells.

3.39 No Lot, driveway or common area shall be used for the purpose of long term vehicle parking, repair or maintenance. No unregistered, non-licensed or expired license or inoperable vehicles of any kind shall be permitted to remain on any Lot (unless parked inside the garage).

3.40 No recreational or commercial vehicles boats or trailers are to be regularly located on the road or in front of the Building line of the main Building constructed or to be constructed on the Lot.

3.41 No Lot may be further subdivided nor shall any further easements be agreed to, granted or registered on any Lot, including rights of way unless approved in writing by IYL.

Enforcement

3.42 IYL 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 IYL may request such owner in writing to remedy such non-compliance within a specified time (not to be less than fourteen (14) days from the date of such request). At the end of the specified time and where the Lot Owner remains in default in remedying such non-compliance, IYL may employ a suitably qualified or experienced person to enter such Lot and carry out 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 IYL in such remedial work.

3.43 IYL may take steps to ensure observance of these covenants but shall not have any legal responsibility or liability for any lack of enforcement or enforceability or application or waiver of any of these Covenants or any consents or approvals given by IYL under these covenants. The Lot Owners agree to keep IYL 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.

4. APPROVAL PROCESS FOR BUILDINGS AND SITE DEVELOPMENT

4.1 Prior to submitting Building plans and Building consent applications to any Consent Authority for any necessary approvals and prior to the commencement of building construction the Lot Owner of each Lot shall obtain the written approval of IYL (such approval to be considered in an impartial and reasonable manner) in respect of:

- a. Site plan (location of building on the lot showing proposed access from the streets or rights of way and off-street parking);
- b. Floor plan (with dimensions and elevations);
- c. Completed exterior finishes checklist;
- d. A landscape plan for the Lot;
- e. Proposed fencing (shown either on the site plan or landscape plan).

IYL undertakes to use its best endeavours to respond to each application submitted no later than four (4) working days (as that term is defined in the Property Law Act 2007) after receipt of items (a) to (c) above.

4.2 All building construction work must be carried out in accordance with and comply with the Yaldhurst Building Covenants and each Lot Owner is required to enter into and agree to comply with such Covenants (intended to ensure all on site works are undertaken in a safe and competent manner) as a requirement for approval of IYL to all building works.

4.3 Each Lot Owner agrees to execute and comply with the Yaldhurst Design Guidelines and Yaldhurst Building Covenants which are provided and maintained by IYL. It is the responsibility of each Lot Owner to ensure that builders, sub-contractors, workmen and suppliers fully comply with these covenants.

4.4 IYL may delegate such approval process to a nominated and suitably qualified party.

5. VESTING OF ROADS AND RESERVES

5.1 The Lot Owner consents to the deposit of any survey plan ("Survey Plan") by IYL in respect of Yaldhurst which has the effect of vesting any land in any local authority, territorial authority or the Crown. The Lot Owner agrees that the covenants in this Instrument shall cease to apply in respect of the land to vest upon the date of lodgement with Land Information New Zealand (or any such replacement entity) of the required documents to deposit the Survey Plan. The Lot Owner covenants that this clause will be deemed to be the consent of the Lot Owner to the deposit of the Survey Plan (including under section 224(b) (i) Resource Management Act 1991 (or any like or similar provision in any variation, consolidation or replacement Act)) and for the removal of the covenants in this Instrument from any Land for Utilities.

5.2 If it is determined by IYL that additional written consent is required from the Lot Owner to the deposit of any Survey Plan under clause 5.1, then:

- (a) at the request of IYL, the Lot Owner, at its cost, will immediately give such written consent to IYL; and
- (b) in addition to clause 5.1 and 5.2(a), the Lot Owner irrevocably appoints IYL or its successor in title as its attorney to sign any consent necessary in the required form to deposit any Survey Plan. No person dealing with the Lot Owner as the attorney in this capacity need inquire if IYL is validly exercising its powers as attorney under this clause 5.2.

6. DISPUTE RESOLUTION

6.1 Should any dispute arise concerning any aspects of these covenants that cannot be resolved by agreement between the parties involved, the 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 shall be a single arbitrator who shall be appointed by the President for the time being of the Canterbury branch of the New Zealand Law Society (or any successor organisation) 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 arbitration in accordance with the provisions of the Act.