

Covenant Instrument to note land covenant

(Section 116(1)(a) & (b) Land Transfer Act 2017)

Covenantor

NTP DEVELOPMENT HOLDINGS LIMITED

Covantee

NTP DEVELOPMENT HOLDINGS LIMITED

Grant of Covenant

The Covenantor, being the registered owner of the burdened land(s) set out in Schedule A, **grants to the Covantee** (and, if so stated, in gross) the covenant(s) set out in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s).

Schedule A

Schedule, if required

Continue in additional Annexure

Purpose of covenant	Shown (plan reference)	Burdened Land (Record of Title)	Benefited Land (Record of Title) or in gross
Land covenant		[INSERT] to [INSERT]	[INSERT] to [INSERT]
Land covenant		[INSERT] to [INSERT]	In gross

Covenant rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required.

Continue in additional Annexure Schedule if required.

The provisions applying to the specified covenants are those set out in:

[Memorandum number _____, registered under section 209 of the Land Transfer Act 2017].

Annexure Schedule

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ANNEXURE SCHEDULE

A INTERPRETATION

For the purposes of this Land Covenant:

Covenantee means the Developer and the registered owner of any Lot.

Covenantor means the registered owner of any Lot.

Design Guidelines means the Developer's architectural and landscaping guidelines provided to Lot owners as it may be amended by the Developer in writing from time to time.

Developer means NTP Development Holdings Limited.

Dwelling means any dwelling, building or other structure situated on a Lot.

Fencing Plan means the fencing plan created by Kamo Marsh dated [INSERT] included as Schedule 1 to these land covenants.

Fire and Emergency Boundary means a boundary between the property located at 137 Anzac Drive, Christchurch, which as at the date of registration of this land covenant is legally described as [Section 1 Survey Office Plan 485669 and contained in record of title 690596] and Lots 13 – 19 (inclusive).

Lots means lots [1 – 37] (inclusive) comprised in DP [INSERT] and **Lot** means any one of them.

Right of Way means areas [A, B, D, E, F, G, H, I, J, K, L and M] on DP [INSERT]

Right of Way Boundary means a boundary between the Right of Way and Lots 5 - 15 (inclusive).

Road Boundary means a boundary between a Lot and any legal road, which does not include a Right of Way Boundary.

COVENANTS

The Covenantor covenants with the Covenantee as follows:

1. THE COVENANTOR AND THEIR SUCCESSORS IN TITLE SHALL:

1.1. Subdivision

Not further subdivide any of the Lots, whether by way of cross-lease, unit title, subdivision into separate lots or in any other way PROVIDED HOWEVER that this restriction will not apply to a subdivision which has the effect only of adjusting the boundaries between two adjoining Lots.

1.2. Temporary Accommodation

Not permit or suffer the Lot to be occupied or used as a residence either by the erection of temporary structures or the placing thereon of caravans or other vehicles used for human habitation.

1.3. Use Prior to Completion

Not use the Lot as a residence before a Code Compliance Certificate has been issued by the Christchurch City Council unless section 362V(2) of the Building Act 2004 applies.

1.4. Storage and Parking of Vehicles

- (a) Not permit any vehicles (including boats, trailers, caravans and motor-homes but excluding a motor car that is used on a regular basis) to be left, parked or stored on the Lot in any structure such as a gazebo, lean-to or carport that is not fully enclosed, nor shall such vehicle be left, parked or stored on the Lot where it is visible from any road or Right of Way.
- (b) Not park any motor vehicle on the Lot which is visible from any road or Right of Way and which is used on a regular basis except on a formed driveway or dedicated parking space approved by the Developer in accordance with clause 1.20.

1.5. Noxious Weeds and Rubbish

Not allow the accumulation or housing of any rubbish, noxious substances, noxious birds or animals which may be likely to cause nuisance or annoyance to the neighbouring occupiers, or permit grass or weeds to grow to such a height as to become unsightly.

1.6. Animals

Not permit any dog or other pet to be kept in or about the Lot which dog or other pet is likely to cause a nuisance or annoyance to other neighbouring occupiers or detract from the subdivision, and in particular, without otherwise limiting this restriction, not to keep on or about the Lot any dog which in whole or part appears to be a Pit Bull Terrier, Rottweiler, Japanese Akita, Japanese Tosa, Dogo Argentino or Brazilian Fila. The keeping of pigeons is expressly prohibited.

1.7. Signs

Not permit any advertisement, sign or hoarding of a commercial nature (excluding a professionally made "For Sale" sign) to be erected on any part of the Lot or Dwelling.

1.8. Dwelling Height

Not erect on Lots 1, 2, 5, 6, and 30 a Dwelling greater in height than a single storey. The Developer may, at the Developer's sole discretion, approve of a Dwelling with the living areas situated within the roof cavity of the Dwelling provided that there are no windows set into the roofline or gable area and that the only natural light permitted in the roof cavity is from skylights set into the roof.

1.9. New Materials

Not erect or permit to be erected on the Lot any Dwelling using anything other than new materials PROVIDED THAT second-hand bricks may be allowed for exterior cladding at the Developer's discretion. No pre-lived in or pre-built Dwelling, either in whole or in part, shall be transported on to the Lot.

1.10. Non-permitted Cladding Materials

Not construct any Dwelling on the Lot with an external cladding of unrelieved flat sheet fibrolite, hardiflex or similar materials PROVIDED THAT this restriction shall not apply to the cladding of soffits or gable ends.

1.11. Painting

Not leave the outside of any Dwelling unfinished, or any exterior walls or doors unpainted or unstained PROVIDED THAT this clause shall not apply where natural timber cladding or decorative brick, stone or concrete are used.

1.12. Building Materials

Not use as a roofing material any material other than tiles (clay, ceramic, concrete, decramastic, pre-coated pressed steel) of a single colour or pre-painted long-run pressed steel (the use of zincalume shall not be permitted) or any building materials which are highly reflective (including reflective window coatings). Preferred building materials are detailed in the Design Guidelines.

1.13. Boundary Fencing

(a) Compliance with District Plan and Fencing Covenants

The Covenantor must at all times ensure they comply with the rules in the Christchurch District Plan as well as the provisions contained in this clause 1.13 as it relates to fencing of the Lot. The Covenantee does not warrant that any fence complying with these covenants will also comply with the District Plan and as such it is the Covenantor's responsibility to ensure they are at all times compliant with the District Plan. For the avoidance of doubt even if the Covenantor applies for and receives a resource consent from the Christchurch City Council in relation to fencing of the Lot, they must still also comply with the provisions contained in this clause 1.13.

(b) Permitted Fencing

- (i) The Covenantor shall not permit any other boundary fence to be erected or constructed on the Lot, except that which is of a size, specification and in the location as detailed in the Fencing Plan.
- (ii) Unless otherwise approved by the Developer in writing, the Covenantor shall not permit any other fence or other structure, other than a letterbox, to be erected in the area between the Road Boundary or Right of Way Boundary and a line drawn parallel to the Road Boundary or Right of Way Boundary in line with that part of the Dwelling closest to the Road Boundary or Right of Way Boundary.
- (iii) Where the Developer has, as part of the development of these Lots, installed a fence (including the entrance feature referred to in clause 1.30) on the Lot, the Covenantor shall not remove or modify such fence, including (without limitation), the attaching of any form of 'wind break', 'privacy screening' or decorative addition of any kind. Should a Covenantor wish to increase their privacy of the Lot it is suggested suitable landscaping and plantings be used inside of any fence which has transparent elements.

(c) Right of Way / Lots 32 - 37 (inclusive)

With the exception of the boundary fencing detailed in the Fencing Plan, the Covenantor of Lots 32 – 37 (inclusive) shall not erect any other fence in the area between the Right of Way and a line drawn parallel to the Right of Way in line with that part of the Dwelling closest to the Right of Way.

(d) Road Boundary with Eureka Street / Lots 1 – 3 (inclusive), 30 and 31

With the exception of the boundary fencing detailed in the Fencing Plan, the Covenantor of Lots 1 – 3 (inclusive) and 30 and 31 shall not erect any other fence in the area between the Road Boundary with Eureka Street and a line drawn parallel to the Road Boundary with Eureka Street in line with that part of the Dwelling closest to the Road Boundary with Eureka Street.

(e) **Boundary Fence / Lots 13 – 19 (inclusive)**

With the exception of the boundary fencing detailed in the Fencing Plan, the Covenantor of Lots 13 – 19 (inclusive) shall not erect any other fence in the area between the Fire and Emergency Boundary and a line drawn parallel to the Fire and Emergency Boundary in line with that part of the Dwelling closest to the Fire and Emergency Boundary.

1.15. Letterbox

Not erect a Dwelling without contemporaneously erecting a new letterbox of a design, colour and cladding consistent with the Dwelling, or as approved by the Developer in accordance with clause 1.20.

1.16. Front Yard

Not to install artificial grass or similar, nor to seed or permit to grow any lawn grass or similar on the Lot in the area between the Road Boundary and/Right of Way Boundary and a line drawn parallel to the Road Boundary or Right of Way Boundary at the point where the Dwelling is at its closest to the Road Boundary or Right of Way Boundary. Preferred landscaping plants and shrubs for this area are detailed in the Design Guidelines.

1.17. Completion of Landscaping, Driveways and Paths

Not permit the Dwelling to be occupied unless all driveways and paths are completed in permanent materials, all wooden boundary fences are stained or painted, and all unpaved areas are properly grassed or landscaped.

1.18. Satellite Dishes

Not place or allow to be placed on the Lot or Dwelling any aerials or satellite dishes unless the same comply with the following requirements:

- (a) have a maximum diameter of one metre; and
- (b) are situated at least four metres from the front façade of the Dwelling; and
- (c) are mounted below the ridgeline of the roof of the Dwelling.

1.19. Garden Sheds, Garden Ornamentation, Gas Bottles, Rubbish Bins and Clothes

Not place or allow to be placed on the Lot or Dwelling any garden shed (or similar minor ancillary structure to the Dwelling), brightly painted or decorated ornaments or fixtures, gas bottles, rubbish and/or recycling bins which are reasonably visible by any person standing on the footpath of any legal road or right of way, or allow any washing or other articles to be hung for drying or any other purpose, either inside or outside of the upstairs part of any two storey Dwelling, where it is visible from outside the boundaries of the Lot.

1.20. Developer to Approve Plans

Not commence any work on the Lot:

- (a) without submitting to the Developer and receiving its approval for all building plans, including site plans (showing the position of the vehicle crossing), specifications, fencing and landscaping plans (which shall be prepared by a qualified landscape designer and builder). Sole discretion lies with the Developer in approving building and site plans, specifications, fencing and landscaping plans, which shall comply with the Design Guidelines provided by the Developer to the Developer's satisfaction; and

- (b) which does not conform to the plans approved by the Developer. Any variation to or deviation from the approved plans will be a breach of this clause and subject to the provisions of clause 3.

PROVIDED THAT this clause 1.20 will cease to apply and be of no further effect from the date that a Code Compliance Certificate is issued for the first Dwelling to be built on the Lot if such Code Compliance Certificate relates to a Dwelling approved of by the Developer in accordance with this clause 1.20,

AND FURTHER PROVIDED THAT the Covenantor acknowledges that the Developer has no legal responsibility or liability for the enforcement, enforceability or applicability of these covenants, nor does the Developer undertake to enforce or monitor compliance with these covenants on an ongoing basis.

1.21. Construction Fencing

Not commence construction on the Lot until temporary fencing has been erected on the entire length of all unfenced boundaries. The temporary fence must comprise removable wire or shade cloth (or other see-through material), be a minimum of 1.2 metres in height and have a rigid frame and in all circumstances be acceptable to the Developer at their sole discretion, and provide only one vehicle access to the Lot from the road or right-of-way.

1.22. Construction Zone Areas

Not commence construction on the Lot until a vehicle crossing of no more than four metres in width has been installed in a position approved by the Developer, the kerb cut down at the crossing and the driveway from the road to the Lot formed and suitably based. The Covenantor shall not make any use of the adjoining Lots (whether occupied or not) any berms (except at designated crossings) or footpaths for construction work or for access by vehicles.

1.23. Health and Safety Requirements

Not permit any construction unless the building site complies at all times with the requirements of the Health and Safety at Work Act 2015 (and its amendments) or any enactment passed in its substitution.

1.24. Delivery of Materials

Not undertake or permit during the course of construction the loading, unloading, delivery or storage of building materials other than within the boundaries of the Lot.

1.25. Building Rubbish

Not carry out any construction unless an adequate rubbish skip is present at all times (and regularly emptied or replaced) nor allow during the course of construction any rubbish to blow outside the boundaries of the Lot.

1.26. Washing of Vehicles

Not during the course of construction allow any vehicles to be washed down other than within the boundaries of the Lot, provided such washing does not contravene any rules, requirements or standards of the Christchurch City Council and/or Environment Canterbury.

1.27. Portable Toilet Facility

Not permit the Covenantor's construction workers or contractors to use the Lot or any other area on DP [INSERT] for toileting purposes. Prior to construction

commencing, the Covenantor shall provide a suitable portable toilet facility for use by the Covenantor's construction workers and contractors.

1.28. Retaining Wall

- (a) In respect of Lots [1, 2, 3, 30 and 31] maintain and keep in a clean and tidy condition, the retaining walls that are or are to be constructed on or near the Road Boundary with Eureka Street.
- (b) Notwithstanding the foregoing the Covenantor agrees to allow the Covenantee the right at any time and at all times to inspect, maintain and repair the retaining walls.

1.29. Landscaping

In respect of Lots [1, 2, 3 and 30] maintain and keep in a tidy condition the landscaping and plants and shrubs that are or are to be planted between the retaining wall and fence along the Road Boundary with Eureka Street and any tree planted by the Developer on the Lot. Should any plant, shrub and or tree become dead, diseased or damaged, such plant, shrub and/or tree shall be replaced by the Covenantor with one of a similar species, and in same location, in the next following planting season of 1 April to 30 September in any given year.

1.30. Entrance Features

- (a) In respect of Lots [3 and 30] maintain the [stone, wood and/or metal] entrance features that are or are to be constructed as part of the entrance situated in areas shown as [INSERT] and [INSERT] respectively on DP [INSERT] in a clean and tidy condition.
- (b) The Covenantor shall not place, erect or permit to be placed or erected any structure or any plant to grow upon the Lot which will obscure the visibility of the entrance features.
- (c) Notwithstanding the foregoing the Covenantor agrees to allow the Covenantee the right at any time and at all times to inspect, maintain, repair, remove and replace the entrance feature.

2. DISPUTE RESOLUTION

- 2.1.** Except as it relates to the exercise of any discretion, opinion, approval or consent requested of the Developer under these covenants, if any dispute arises between the parties concerning the covenants, then the parties shall enter into negotiations in good faith to resolve their dispute.
- 2.2.** If the dispute is not resolved within twenty working days of the date on which the parties began their negotiations, then the parties shall submit to the arbitration of an independent arbitrator appointed jointly by the parties. If the parties agree, that person appointed may act as an expert and not an arbitrator.
- 2.3.** If an arbitrator cannot be agreed upon within a further ten days, then an independent arbitrator will be appointed by the President for the time being of the Canterbury branch of the New Zealand Law Society.
- 2.4.** Such arbitration will be determined in accordance with the Arbitration Act 1996 (and its amendments) or any enactment passed in its substitution.

3. DEFAULT PROVISIONS

- 3.1.** If there should be any breach or non-observance of any of these covenants and without prejudice to any other liability which the Covenantor may have to any person having the benefit of this covenant, the Covenantor will upon written demand being made by the Developer or any Covenantee:
- (a) Pay to the person making such demand as liquidated damages the sum of \$100.00 (One Hundred Dollars) per day for every day that such breach or non-observance continues after the date upon which written demand has been made.
 - (b) Remove or cause to be removed from the Lot any Dwelling, vehicle, garage, building, fence or other structure erected or placed on the Lot in breach or non-observance of the above covenants.
 - (c) Replace any building materials used in breach or non-observance of the above covenants.
 - (d) Reimburse the costs the Developer and/or any Covenantee directly incurs on a dollar for dollar basis as a result of a breach or non-observance, including (but not limited to), those associated with correcting such breach or non-observance.
- 3.2.** Any demand made by a Covenantee will be deemed to have been served to the Covenantor if sent to the Covenantor's postal address of the Lot, or where the Lot is a vacant section, the demand will be deemed to have been properly served if sent to the e-mail address of the lawyer or law firm that signed and certified the transfer of the Lot to the Covenantor.

4. AUTOMATIC CANCELLATION

- 4.1** The covenants in this instrument will immediately cease to apply to any Lot (or part thereof) which is intended to vest in the Crown or any territorial authority as a road or reserve, upon any survey plan relating to such vesting being approved as to survey and being accepted for deposit by Land Information New Zealand.

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