

Before a Hearing Panel
at Christchurch

under: the Resource Management Act 1991 and the Canterbury Earthquake (Christchurch Replacement District Plan) Order 2014

in the matter of: submissions and further submissions in relation to the proposed Christchurch Replacement District Plan

and: **Waterloo Park Limited**
Submitter

Memorandum of counsel on behalf of Waterloo Park Limited

Date: 16 December 2014

REFERENCE: JM Appleyard (jo.appleyard@chapmantripp.com)

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MEMORANDUM OF COUNSEL ON BEHALF OF WATERLOO PARK LIMITED

May it please the Panel:

Introduction

- 1 This memorandum is filed on behalf of Waterloo Park Limited (*Waterloo*).
- 2 Direction 1 of the Hearing Panel's *Directions to Submitters to Provide Further Information in the Form of Identifying Specific Relief*, dated 3 December 2014, directs parties to file their specific relief sought in relation to all Stage 1 proposals (other than those proposals considered in Hearings 1-4).

Specific Relief

- 3 Waterloo's original submission, dated 8 October 2014, generally contained specific relief sought. For completeness, this specific relief from Waterloo's original submission is replicated in **Appendix 1** to this memorandum, with some minor amendments for specificity.

Dated: 16 December 2014



JM Appleyard
Counsel for Waterloo Park Limited

APPENDIX 1: SPECIFIC RELIEF

Chapter 2: Definitions

Provision	Proposed modifications (strike out , bold and underlined)
'Ancillary Office' / 'Ancillary Retail'	Delete the definitions of 'ancillary office' and 'ancillary retail' and rely instead on the plain English meaning of ancillary.
Brownfield	<p>Amend the definition as follows:</p> <p>means previously used industrial land or commercial land, or land no longer required by a requiring authority for a designated purpose.</p> <p><u>means abandoned or underutilised business land, or land no longer required by a requiring authority for a designated purpose</u></p>
Cafe	<p>As first relief, delete the definition of 'café' as being unnecessary.</p> <p>As an alternative secondary relief, amend the definition as follows:</p> <p>Café – means a small food and beverage outlet that provides breakfast, lunch, <u>light meals</u>, and snack foods and drinks for sale. A café does not include a restaurant.</p>
Food and Beverage Outlet	<p>Amend the definition of Food and Beverage Outlet as follows:</p> <p>Food and Beverage outlet - means the use of land or buildings primarily for the sale of food and/or beverages prepared for immediate consumption on or off the site to the general public. It includes restaurants, taverns, cafés and takeaway bars, and excludes supermarkets, except that within industrial zones it also excludes restaurants and taverns.</p>
Mixed use	<p>Amend the definition of 'mixed use' to:</p> <p>means a development which combines, in a building or buildings, or <u>development areas, a range of activities, including retail, commercial, medium density</u> residential activity, commercial activities, and or community facilities. located at ground level and fronting the street or public access ways.</p>
Surface water management feature	Delete the definition of 'surface water management feature'.

Chapter 5: Natural Hazards

Provision	Proposed modifications (strike out , bold and underlined)
Rule 5.9.1 and 5.9.2	<p>Amend 5.9.1 to clarify that:</p> <p>Note: There are no permitted activities in respect of Rule 5.9 <u>subdivision under 5.9.2 or residential development in Residential Zones on sites over 1500m² under 5.9.3.</u></p> <p><u>Amend the activity status of rule 5.9.2 to Controlled rather than Restricted discretionary for subdivision in the LAA2 area.</u></p>

Chapter 7: Transport

Provision	Proposed modifications (strike-out , bold and underlined)
Objective 7.1.1 Integrated transport system	<p>(a) An integrated transport system....</p> <p><u>(v) that provides high quality, safe and efficient transport links between rail, road, port and airport facilities and priority greenfield business areas, and that provides for the use and development of strategic transport infrastructure;</u></p> <p>....</p>
Policy 7.1.1.2 High trip generating activities	<p>7.1.1.2 High trip generating activities</p> <p><u>High trip generating activities are anticipated in the locations identified for accommodating significant urban growth and development, including the greenfield priority growth areas identified in Chapter 6 of the Canterbury Regional Policy Statement, strategic Christchurch International Airport and Lyttelton Port of Christchurch transportation hubs, the City Centre, Key Activity Centres, and Neighbourhood Centres. The transport network is to be managed and upgraded to support trip growth in these locations where such growth is anticipated and planned for. The triggers for assessing the trips generated by new activities are to be set in accordance with the location in which the activity is located. The location and design of high trip generating activities are to be assessed to ensure that they:....</u></p> <p><u>Require that the location and design of high trip generating activities are assessed to ensure that they:</u></p> <p>.....</p>
Rule 7.2.3.10 – High trip generators, Assessment Matter 7.3.19, and associated Table 7.1 – thresholds for full ITAs	<p>(a) That the thresholds for ITA's (both Basic and Full) be reconsidered so as to realign more with the current operative Christchurch City Plan provisions.</p> <p>(b) That in relation to Full ITA's, consideration be given to the situations in which they would actually be necessary, in particular the need for costly modelling, taking into account the potential for actual and potential effects on the transport network, and the ability to request further information under Section 92 of the RMA.</p> <p>(c) That the assessment matters in 7.3.19 be reconsidered to better reflect the above relief.</p> <p>(d) That Table 7.1 be incorporated into the High Traffic Generator rule rather than its current location in the assessment matters.</p> <p>(e) Amend Note 2 under Rule 7.2.3.10 as follows: If an Integrated Transport Assessment has already been approved for the site as part of a <u>granted current</u> resource consent <u>or that holds existing use rights</u>, then this rule does not apply to any development that is within the scope of that Integrated Transport Assessment and in accordance with the resource consent unless the resource consent has lapsed. <u>For clarity, where a proposed development increases the level of traffic associated with a site, Rule 7.2.3.10 shall only apply to the net increase above the existing consented level or that confirmed under existing use rights.</u></p>

Chapter 8: Subdivisions, Development and Earthworks

Provision	Proposed modifications (strike out , bold and underlined)				
Policy 8.1.3.4 – Stormwater disposal	<p>Amend Policy 8.1.3.4(f) as follows:</p> <p>Policy 8.1.3.4(f) Where feasible, utilise stormwater management areas for multiple uses and ensure that have a high quality interface with residential or commercial activities. <u>Council will support and accept the vesting of multi-purpose stormwater areas.</u></p>				
Rule 8.2.3 General Matters; and subsequent section introductions	Amend Section 8.2.3 and subsequent sections to make subdivision that is otherwise compliant with the Plan rules a controlled activity rather than a restricted discretionary activity.				
Rule 8.2.3.2 and 8.2.3.3 - ODPs	<p>a. Delete 8.2.3.1 RD3 and add the same text as Controlled Activity status with a new rule number.</p> <p>b. Delete 8.2.3.3 non-complying rule.</p> <p>c. Amend 8.2.3.2 Discretionary activity rule as follows:</p> <p>Any subdivision activity which does not comply with the standards at Rule 8.2.3.1 RD1-RD2, <u>and Rule 8.2.3.X</u> [<i>insert controlled activity rule number</i>] is a discretionary activity. In determining whether or not to grant or decline consent and impose conditions, the Council will consider the Assessment Matters specified in 8.5 and any other relevant matter.</p>				
Rule 8.3.5.1 Provision of land for open space and recreation	<p><i>Delete rule 8.3.5.1 and replace it as follows:</i></p> <table border="1" data-bbox="416 1066 1603 1369"> <thead> <tr> <th data-bbox="416 1066 887 1150"><u>Activity</u></th> <th data-bbox="887 1066 1603 1150"><u>The Council's Discretion shall be limited to the following Matters</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="416 1150 887 1369"><u>Controlled 1 Provision of land for open space and recreation</u></td> <td data-bbox="887 1150 1603 1369"> <ol style="list-style-type: none"> <li data-bbox="902 1150 1603 1235">1. <u>Where land for reserve(s) is being provided in accordance with the locations shown on any applicable Outline Development Plan area.</u> <li data-bbox="902 1235 1603 1369">2. <u>The location and layout of any land to be provided for reserves for open space and recreation purposes and any requirements for the formation of that land prior to it vesting in the Council.</u> </td> </tr> </tbody> </table>	<u>Activity</u>	<u>The Council's Discretion shall be limited to the following Matters</u>	<u>Controlled 1 Provision of land for open space and recreation</u>	<ol style="list-style-type: none"> <li data-bbox="902 1150 1603 1235">1. <u>Where land for reserve(s) is being provided in accordance with the locations shown on any applicable Outline Development Plan area.</u> <li data-bbox="902 1235 1603 1369">2. <u>The location and layout of any land to be provided for reserves for open space and recreation purposes and any requirements for the formation of that land prior to it vesting in the Council.</u>
<u>Activity</u>	<u>The Council's Discretion shall be limited to the following Matters</u>				
<u>Controlled 1 Provision of land for open space and recreation</u>	<ol style="list-style-type: none"> <li data-bbox="902 1150 1603 1235">1. <u>Where land for reserve(s) is being provided in accordance with the locations shown on any applicable Outline Development Plan area.</u> <li data-bbox="902 1235 1603 1369">2. <u>The location and layout of any land to be provided for reserves for open space and recreation purposes and any requirements for the formation of that land prior to it vesting in the Council.</u> 				

<p>8.4.1.1 RD2 & 8.4.1.3 Non-complying</p>	<p>a. Amend the RD2 site description as follows: Industrial Heavy General (Waterloo Park) Zone (Islington)</p> <p>b. Delete 8.4.1.3 non-complying activities; and make RD2(2) a restricted discretionary activity.</p>
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Chapter 16: Industrial

Provision	Proposed modifications (strike out , bold and underlined)
Industrial General (Islington Park) Zone title	Amend all references to 'Industrial General (Islington Park) Zone' to: Industrial General (<u>Waterloo Park</u>) Zone.
16.1.1.4 Activities in the industrial zones	Amend Policy 16.1.1.4 as follows: a. Maintain and support the function of industrial zones while providing for limited non-industrial activities that: <ul style="list-style-type: none"> i. are ancillary in scale and on the same site as a permitted activity; ii. are not appropriate in more sensitive environments due to their potential noise, odour or other environmental effects; iii. comprise yard based or trade suppliers in the Industrial General Zone; iv. provide an emergency service which may generate adverse effects; or v. support the needs of workers and businesses in the zone for food and beverages, commercial services, <u>retailing</u>, and the care of children. b. Avoid any activity in <u>the</u> Industrial <u>Heavy</u> zones with the potential to hinder the establishment or ongoing operation of industrial activities. c. Avoid the use of industrial zones for non-industrial activities that could are <u>likely to have a significant adverse effect on adversely affect</u> the strategic role of the Central City, District, and Neighbourhood centres as focal points for commercial, community, residential and other activities.
16.1.1.5 Office development;	Amend Policy 16.1.1.5 as follows: a. Avoid office development in industrial areas other than where it is: <ul style="list-style-type: none"> i. Ancillary to a permitted activity on the same site; <u>or</u> ii. Located in the Industrial Park zone while supporting the function of the zone for primarily industrial activities seeking a park like environment; <u>or</u> iii. <u>Directly opposite a residential area; or</u> iv. <u>Located in a Brownfield Regeneration Overlay Area identified on the Planning Maps or an Outline Development Plan;</u> <u>or</u> v. <u>Not at the scale of an office park and is designed to meet the needs of office-based businesses that are not suitable for Central City or District Centre locations such as the need for large vehicle fleets, or serving rural or industry-based clients.</u>

16.1.1.7 Brownfield redevelopment and Planning Maps	<p>a. Identify the Industrial General (Waterloo Park) Zone as a Brownfield regeneration area, either through an overlay on the Planning Maps, or alternatively through the Waterloo Park Outline Development Plan. In addition, Planning Map 36 should also be amended to specifically refer to 'Industrial General (Waterloo Park) Zone', rather than the current 'IG' (Industrial General) Zone notation over Waterloo Park.</p> <p>b. Amend Policy 16.1.1.7 as follows: To support the redevelopment of brownfield sites for residential, commercial, or mixed use activities where:...</p>						
16.1.2.2 Development in greenfield areas	<p>Amend Policy 16.1.2.2 as follows:</p> <p>a. To achieve environments in greenfield priority areas with larger setbacks and landscaping, reflecting their location at the interface with adjoining rural zones and in prominent locations, some of which act as gateways to the city.</p> <p>b. Manage the development of greenfield areas in a manner aligned with the delivery of infrastructure including upgrades to networks, to avoid adverse effects on networks serving these areas.</p> <p>b. To align the delivery of infrastructure including upgrades to networks to enable and facilitate the development of greenfield priority areas.</p>						
Industrial General (Islington Park) Zone	Retain the separate zone and rule package for Waterloo Park.						
Rule 16.2.4.1.1 Permitted Activities - ODP	<p>Amend the Permitted Activity table as follows:</p> <table border="1" data-bbox="412 959 1373 1129"> <thead> <tr> <th colspan="2"></th> <th><u>Activity Specific Standards</u></th> </tr> </thead> <tbody> <tr> <td>PX</td> <td><u>The development of Key Structuring Elements and infrastructure shown on the Outline Development Plan contained in Appendix 16.7.2</u></td> <td>a. <u>Development is to be in general accordance with the Outline Development Plan area.</u></td> </tr> </tbody> </table>			<u>Activity Specific Standards</u>	PX	<u>The development of Key Structuring Elements and infrastructure shown on the Outline Development Plan contained in Appendix 16.7.2</u>	a. <u>Development is to be in general accordance with the Outline Development Plan area.</u>
		<u>Activity Specific Standards</u>					
PX	<u>The development of Key Structuring Elements and infrastructure shown on the Outline Development Plan contained in Appendix 16.7.2</u>	a. <u>Development is to be in general accordance with the Outline Development Plan area.</u>					
ODP – Appendix 16.7.2	<p>a. Delete the ODP shown in Appendix 16.7.2(i) and replace with the ODP attached at Appendix 2 to this submission.</p> <p>b. Make consequential amendments to the underlying ODP for Appendix 16.7.2(ii) and 16.7.2(iii).</p>						

Rule 16.2.4.1.1 Permitted Activities – Food and Beverage Outlets	Amend the Permitted Activity table as follows:	
P7	<u>Food and Beverage Outlet</u>	<u>Activity Specific Standards</u> a. <u>Nil</u> <u>a. The maximum gross leasable floor area per tenancy shall be 150m²</u> <u>b. The activity shall only operate between the hours of 7am and 7pm</u>
Rule 16.2.4.1.1 Permitted Activities and 16.2.4.1.3	a. Delete RD5 (gyms), RD6 (preschools), and RD7(Commercial services). b. Amend the Permitted Activity table as follows:	
PX	<u>Gymnasiums</u>	<u>Activity Specific Standards</u> a. <u>Nil</u>
PX	<u>Commercial Services</u>	a. <u>Nil</u>
PX	<u>Preschool</u>	a. <u>Any pre-school activity shall not be located in the air noise contour (50 Ldn dBA) identified on the planning maps.</u>
PX	<u>Signage and advertising</u>	a. <u>Nil</u>

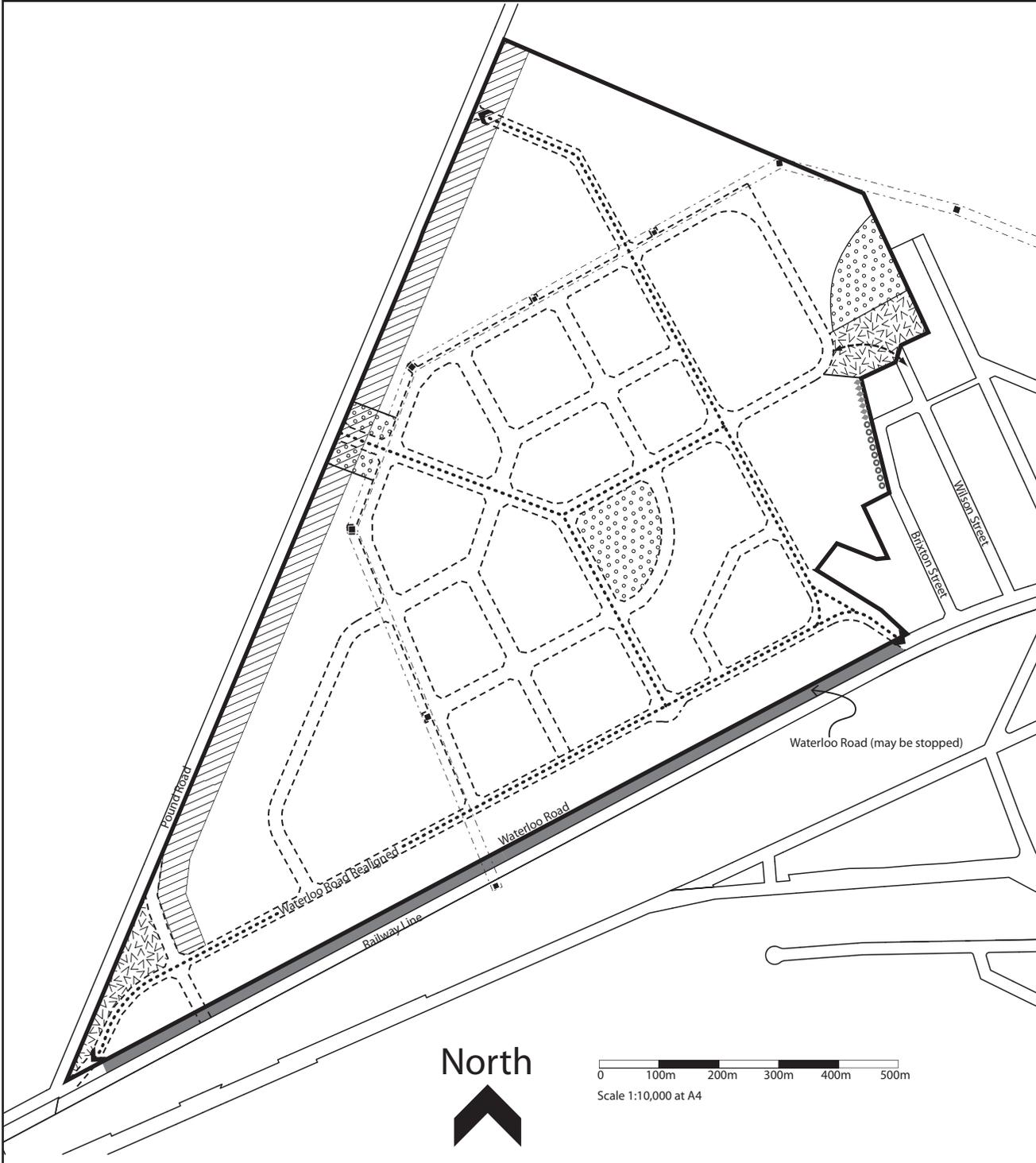
Rule 16.2.4.1.1 Permitted Activities – Ancillary Office and Retail (P6 & P12)	Amend the Permitted Activity table as follows:	
	<u>P6</u>	<u>Ancillary Retail Activity, unless specified below</u>
	<u>Activity Specific Standards</u>	
	<u>Any Ancillary Retail activity shall:</u>	
	<p>a. occupy no more than 250m² or 25% of the gross floor area of all buildings on the same site, whichever is the lesser; and</p> <p>b. be located at the front of buildings facing the street, except on rear sites; and</p> <p>c. have visually transparent glazing on the ground floor elevation facing the street for a minimum of 20% of that elevation.</p>	
<u>P12</u>	<u>Ancillary Office Activity</u>	
<u>Any Ancillary Office activity shall:</u>		
<p>a. occupy no more than 500m² or 30% of the gross floor area of all buildings on the same site, whichever is the lesser; and</p> <p>b. be located at the front of buildings facing the street, except on rear sites; and</p> <p>c. have visually transparent glazing on the ground floor elevation facing the street for a minimum of 20% of that elevation</p>		
<u>PX</u>	<u>Office Activity</u>	
a. <u>Nil</u>		
<u>PX</u>	<u>Retail Activity</u>	
a. <u>Nil</u>		
<u>PX</u>	<u>Residential Activity located outside the air noise contour (50 Ldn dBA) identified on the planning maps.</u>	
a. <u>Any bedroom must be designed and constructed to achieve an external to internal noise reduction of not less than 35 dB D^{tr, 2m, n1w}+C^{tr}</u>		
16.2.4.3	a. Add new Built Form Standard with a Restricted Discretionary status	

<p>Restricted discretionary activities RD3</p>	<p><u>Within 13km of the end of Christchurch International Airport runways, there shall be no creation of waterbodies that form a Bird Strike Risk Activity, except for stormwater facilities for the disposal and/or treatment of stormwater. Any stormwater facilities must be designed, operated and managed (including the margins and plantings) to avoid attracting bird species which constitute a hazard to aircraft. The stormwater system shall be certified by a suitably qualified person to the following standards:</u></p> <ul style="list-style-type: none"> <u>b. The design, operation and management of the stormwater system shall avoid attracting bird species which constitute a hazard to aircraft;</u> <u>c. Stormwater infiltration basins are designed to fully drain within 48 hours of the cessation of a 2% AEP storm event;</u> <u>d. Rapid soakage overflow chambers in sufficient numbers and with sufficient capacity to minimise any ponding of stormwater outside of the infiltration basin areas;</u> <u>e. The use of plant species within the basin (including its margins) that are suitable for inundation by stormwater and are not attractive to birds; and</u> <u>f. Basin size and side slope dimensions that are suitable for stormwater management and are not attractive to birds.</u> <p><u>Any application arising from non-compliance with this rule will only require written approval from Christchurch International Airport Limited.</u></p> <p>b. <u>Add a new assessment matter as follows:</u></p> <ul style="list-style-type: none"> <u>a. The extent to which the proposed bird strike risk activity will be attractive to birdlife that might pose a bird strike risk to the operation of Christchurch International Airport Limited;</u> <u>b. Whether a management plan has been developed that demonstrates there will be ongoing operation and maintenance of the stormwater system or Bird Strike Risk Activity to minimise bird strike risk for the life of the stormwater system or activity, and whether that plan has been developed in consultation with Christchurch International Airport Limited.</u>
<p>16.2.4.3 Restricted discretionary activities RD4</p>	<ul style="list-style-type: none"> a. Delete rule RD4 and insert it into 16.2.4.1.2 as a controlled activity. b. Support the retention of the proposed statement that: <i>“Any application arising from non-compliance with this rule will not require written approvals and shall not be publicly or limited notified”.</i>
<p>16.2.4.1.4</p>	<p>Delete 16.2.4.1.4 D2 Parking lots and parking buildings.</p>

Discretionary activities D2	
16.2.4.1.5 Non Complying activities NC1	Delete rule 16.2.4.1.5 text and replace with the following: <u>In the Industrial General (Waterloo Park) Zone, trade waste disposal is constrained to a daily average trade waste sewage flow not exceeding 0.09L/s/ha and the average daily trade waste sewage discharge from the entire 114 ha Industrial General (Waterloo Park) Zone shall be less than or equal to 863m³/ day.</u>
16.2.4.1.5 NC2	a. Delete 16.2.4.1.5 NC2. b. Add the text of NC2 as a new fully discretionary rule under 16.2.4.1.4.
16.2.4.1.1 (P15), 16.2.4.1.5 (NC5), 8.3.4.1 RD5 (subdivision Chapter) - Activities near transmission lines	Amend 16.2.4.1.1 (P15), 16.2.4.1.5 (NC5), 8.3.4.1 RD5 (subdivision Chapter) so that the required setback distances align with site-specific evidence that demonstrates that a reduced setback is appropriate.
16.2.4.2 Built form standards	a. Retain the proposed built form standards, subject to the below amendments. b. Amend the Matters of discretion relating to the height of buildings under 16.6.1.1 by adding a new matter as follows: <u>Vi The extent to which the proposed building height is driven by the functional requirements of industrial activities and processes, or enables a more efficient use of the site.</u>
16.2.4.2.4 & 16.2.3.4 - Sunlight	Amend the rule to provide clarity as to the required recession plane and what constitutes a southern site boundary.
16.2.4.2.7 Cycle links	Delete rule 16.2.4.2.7.

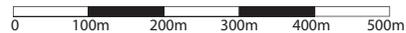
APPENDIX 2: AMENDED ODP

Concept Plan - Business 8 Zone (Islington)



Key

-  Development Plan Area
-  Indicative Location of New Roads
-  Electricity Transmission Corridor
-  Indicative Stormwater Management Area
-  Indicative other Open Space
-  Cycle Route
-  Off Road Pedestrian Cycle Link
-  Pound Road Frontage
-  Landscape Buffer - (10m Landscaped treatment area + 10m limited use area. 40m where max building height of 12m)
-  Landscape Buffer - (15m Landscaped treatment area + 10m limited use area. 40m where max building height of 12m)



Scale 1:10,000 at A4