

17 February 2026

Local Planning Panel
City of Parramatta
PO Box 32
PARRAMATTA NSW 2124

Dear Members

[S4.55 application DA/93/2023/E to modify the approved mixed use development at 34 Hassall Street, Parramatta](#)

In October 2025 Deicorp lodged a S4.55 application DA/93/2023/E to modify the approved mixed use development at 34 Hassall Street, Parramatta including replacement of commercial office floorspace in podium with hotel accommodation use, and revisions to basement layout, retail tenancy and apartment quantity/type/layout, façade design and landscaping.

A number of amendments were also proposed in relation to conditions of consent.

The City of Parramatta has prepared an assessment report recommending approval for the consideration Local Planning Panel (LPP).

The recommendation for approval is welcomed and is commended to the LPP. However, there are two items in relation to conditions of consent that are contested, as addressed below.

This correspondence is supported by the following documentation:

Document	
Legal Advice	HWLE
Emissions Summary	E-Lab

[Condition No. 93](#)

The applicant has sought to amend Condition No. 93 as follows:

ESD Initiatives

93. Prior to the issue of any the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the Certifying Authority:

*a) The **residential component of the** building and its end uses are to be delivered as an all-electric building and are not to be connected to the natural gas network.*

*b) A dual reticulation (dual pipe) system is to be installed throughout **the non-residential component of** development to support the immediate or future connection to a recycled water network. If a recycled water network is not currently available, the design of the dual reticulation system is to be such that a future change-*

over to an alternative water supply can be achieved without significant civil or building work, disruption or cost. To facilitate this, the dual reticulation system is to have:

- i. One reticulation system servicing drinking water uses, connected to the drinking supply, and*
- ii. One reticulation system servicing all non-drinking water uses.*
- iii. The non-drinking water system is to be supplied with harvested rainwater, with drinking water backup, until such time as an alternative water supply connection is available.*
- c) Rainwater collection and reuse is to be installed, with 200kL storage capacity to serve all nondrinking water uses through the dual reticulation system.*
- d) The building has been designed to achieve a 5 star Green Buildings demonstrated through a design review certification from the Green Building Council of Australia.*
- e) A minimum Level 2 40A fast charger and supporting electric vehicle charging infrastructure is to be installed for every 10 commercial car spaces distributed throughout the car park to provide equitable access.*

Reason: To deliver the sustainability objectives of the DCP.

Council has rejected the requested amendments. The reasons cited by Council and a response are provided below.

Part 93(a)

Condition No. 93(a) requires the entire building be delivered an all-electric building and with no gas connection. However, the application proposes that this is only applied in relation to the residential component of the development and not the non-residential component.

There is no discussion in the assessment report whatsoever as to why this requested amendment has been rejected.

The relevant provision in the Parramatta DCP 2023 is Section 9.8.3 which states:

Objectives

O.01 Reduce the combustion of fossil fuels through electric only connected new buildings, that benefit from the progressive greening of grid supplied electricity in NSW.

O.02 Reduce indoor air pollutants associated with the onsite combustion of gas to improve air quality for occupants.

O.03 Operational cost savings to occupants through the avoidance of gas connection and ongoing connection charges.

O.04 Reduction in need for utility cabinets in the street and on street walls.

Controls

C.01 All new buildings are to use only electricity (grid provided and on-site renewables) for all energy requirements associated with normal operations.

C.02 Where it is demonstrated that the intended use of the building requires a process or equipment that is not able to be served by electricity, fossil fuels may be provided to service that service only. Evidence shall be provided with the application of market testing and equipment supplier advice to confirm that an electricity powered alternative is not technically possible.

The applicant can accommodate and accepts the provision of electricity only for the residential component, however, seeks approval to be able to provide gas to the commercial component of the development. The applicant is focused

on curating a food and beverage destination at the ground floor level of the development, and it is critical that has is available in order to attract high quality food and beverage operators to the development. Put simply, high quality food and beverage tenants rely on has supply for cooking and will not occupy the building without this supply. Moreover, other nearby buildings within the CBD already benefit from gas supply, and the subject building will be at a competitive disadvantage to those buildings in attracting food and beverage tenants.

Section 9.8.3(2) of the DCP clearly contemplates that there will be circumstances where an exception to the requirement for an all-electric building is appropriate, and this is one such situation.

Notwithstanding, it is also important to note that the request only relates to a very small portion of the overall development with 597 apartments being provided as all-electric.

Finally, the objective of Section 9.8.3 to reduce the combustion of fossil fuels is not compromised by the proposed amendment. Please refer to the Emissions Summary prepared by E-Lab dated 16 February 2025 which provides a high-level estimate of annual operational energy consumption for the development, showing electricity and gas contributions for each component. This demonstrates that the proposal would only result in a gas percentage of total emissions of just 1.1% of the development.

The requirement of all-electric for the non-residential component would only result in negligible different in relation to total emissions from the building, noting that with gas it is already only 1.1% of the overall, and accordingly there is no genuine basis to insist on electric for the non-residential component.

Having regard to the significant detrimental impact that only electric would have to the viability of the non-residential component, the proposed amendment is entirely reasonable and should be supported by the LPP.

Part 93(b)

The application proposes to amend Condition No. 93(b) to not require the provision of dual water system for the residential component of the building.

Legal advice prepared by HWLE accompanies this submission which confirms that clause 7.24 clearly aims to reduce the consumption of potable water as it requires that a dual water reticulation system be installed so that recycled water can be provided for some internal and external uses, particularly considering the objective of the clause. Accordingly, Clause 7.24 fits the definition of a "competing provision" as it is a provision which requires a consent authority to be satisfied about a matter before granting development consent and therefore is of no effect in relation to the residential component of the development.

Put simply, the condition is unlawful.

Council's assessment argues that the requirement for a dual water reticulation system for the residential component is *not* a competing provision on the grounds that it is intended to achieve:

- operational cost savings for occupants
- increase resilience and water security
- reduce the technical and financial barriers to upgrading buildings to connect to future non-drinking water supply infrastructure.

However, by definition the very purpose of a dual water reticulation system is to achieve the above claimed benefits as a direct result of a reduction of the consumption of potable water. On this basis, the condition is unlawful as it relates to the residential component and must be deleted as requested.

Notwithstanding the above, it is noted that the suggestion of cost savings is completely undermined by the fact that the installation of the system equates to approximately \$4,500 per apartment, which will be passed on the purchaser. This is an immediate cost to the purchaser, however, with no foreseeable cost recovery in the future noting that there is zero certainty or visibility in relation to who is provided recycled water provision and when this might happen.

Condition No. 121

Condition No. 121 relates to requirements for landscaping.

During the course of the assessment, the applicant made a series of amendments to the landscaping design, including substantial embellishment of areas of the podium on Level 3 to address Council feedback. This included the provision of in-situ planters in locations that are not above habitable areas on Level 2.

However, where the landscaping beds are located above habitable areas below, Deicorp now use GRC planters to avoid water-proofing issues in the future and difficulty of addressing water-proofing above habitable areas. The GRC planters are proposed along the north side of Level 3 and are suitably sized to accommodate trees which will grow to a height of at least 6 metres.

Notwithstanding this, the Council have proposed the following draft amendment to Condition No. 121(e):

(e) Level 3 landscaping shall be amended to reflect the following requirements:

i. The GRC planters to be replaced to provide permanent, in situ concrete planters that are integrated into the design and provide ample contiguous planting. Compliance with ADG requirements for planting on structure shall be demonstrated through revised documentation.

ii. Further activation of the northern and western boundary shall be provided.

iii. Improve trafficability around the proposed communal gathering / BBQ area to ensure efficient use of space and sufficient thoroughfare.

The only basis indicated in the assessment report for the replacement of the GRC planters is to (page 28 of 88 of the assessment report):

.....to ensure the original design intent is still achieved.

Given that the GRC planters are appropriately sized to achieve mature planting appropriate to this location of the podium, there is no compromise to the achievement of the design intent for this area that would require an in-situ planter.

The issue of water-proofing and mitigating future leakage into habitable rooms is a genuine issue and where there is no compromise to the achievement of a suitable landscape outcome as a result of the use of GRC planters, there is no basis for the insistence of in-situ planters. Accordingly, it is requested that draft Condition 121(e)(i) is deleted:

(e) Level 3 landscaping shall be amended to reflect the following requirements:

~~*i. The GRC planters to be replaced to provide permanent, in situ concrete planters that are integrated into the design and provide ample contiguous planting. Compliance with ADG requirements for planting on structure shall be demonstrated through revised documentation.*~~

ii. Further activation of the northern and western boundary shall be provided.

iii. Improve trafficability around the proposed communal gathering / BBQ area to ensure efficient use of space and sufficient thoroughfare.

Should you have any questions concerning the above, please contact Aaron Sutherland on 0410 452 371, or alternatively at aaron@sutherlandplanning.com.au

Yours faithfully

A handwritten signature in black ink, appearing to read 'A Sutherland', with a stylized flourish at the end.

Aaron Sutherland

Sutherland & Associates Planning Pty Ltd

Our Ref: JEH:1298449

4 December 2025

Poonam Chauhan
Senior Development Manager
Deicorp
Level 2, 161 Redfern Street
REDFERN NSW 2016

Email: PChauhan@deicorp.com.au

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Dear Poonam

**Advice regarding Clause 7.24 of the Parramatta Local Environmental Plan 2023 and DA/93/2023/D
Site: 34 Hassall Street, Parramatta**

1. We refer to your request for advice regarding clause 7.24 of the *Parramatta Local Environmental Plan 2023 (PLEP)* and the proposed modification application DA/93/2023/E (**Modification Application**), which sought among other things, the deletion of condition 93.
2. In preparing this advice we have reviewed;
 - a. development consent DA/93/2023/D as modified (**the Consent**),
 - b. the Section 4.55 Planning Statement prepared by Sutherland & Associates Planning (**Sutherland report**); and
 - c. letter from City of Parramatta Council dated 20 November 2025 in relation to the Modification Application
3. Clause 7.24 of the PLEP provides:

7.24 Dual water systems

 - (1) *The objective of this clause is to ensure the security of water supply in Parramatta City Centre.*
 - (2) *Development consent must not be granted to the erection of a building unless the consent authority is satisfied the building uses a dual water reticulation system containing pipes for potable water and recycled water for all inside and outside water uses.*
4. Clause 7.24 has been included since the PLEP came into effect on 2 March 2023
5. Clause 7.24 relates to the erection of a building in Parramatta City Centre and inside and outside water uses and therefore applies to the various uses approved in the buildings approved by the Consent. The clause is drafted in terms that a consent authority must not grant consent unless it is

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Project 34 Hassall St, Parramatta

Project No. P00616

Client Deicorp

Author Elif Saygili

Revision 1

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Mixed-used Development – Emissions Summary

Purpose

This memo provides a high-level estimate of annual operational energy consumption for the proposed mixed-use development, showing electricity and gas contributions for each component. The assessment quantifies the proportional energy use of residential, hotel and retail components to inform planning.

Methodology

- Residential energy consumption is derived from the approved BASIX Energy assessment and is fully electric.
- Hotel and retail energy consumption are based on NABERS reverse calculator outputs, with electricity and gas separately quantified.

Total Development Operational Energy

Component	Electricity*	Gas*	Total*	% of Total Emission	Gas % of Total Emissions
Residential	2,980	0	2,980	84%	0%
Hotel	510	40	550	16%	1.0%
Retail	10	0.5	10.5	0.3%	0.01%
Total	3,500	40.5	3,540	100%	1.1% overall

**All values in t CO₂-e*

Conclusion

Based on the estimate of energy in the above outputs and assumptions:

- Uses Electricity for all of the residential component
- Uses gas for just cooking and hot water in the hotel (estimated at 20% energy use)
- Uses gas for retail cooking (estimated at 20% retail load)

Although gas accounts for approximately 3.5% of the total energy consumption across the development, it contributes only around 1% of total operational emissions, because gas is a relatively low-emission fuel compared with electricity.

Kind Regards,

E-LAB Consulting | Sustainability

Elif Saygili

Elif.Saygili@e-lab.com.au

satisfied that "the building uses a dual water reticulation system containing pipes for portable water and recycled water for all inside and outside water uses".

6. We have reviewed the Sutherland Report and see from the Modification Application that the application seeks the deletion of conditions 93 and 94 of the Consent. Conditions 93 (b) requires the provision of a dual reticulation system. According to the Sutherland Report, the basis for the deletion is that the requirements of condition 93 and 95 are competing requirements aimed to reduce consumption of main supplier portable water, reduced greenhouse gas emissions, and improve the thermal performance of development, see page 19. This is sought on the basis of clause 2.2 of the *State Environmental Planning Policy (Sustainable Buildings) 2022 (BASIX SEPP)*.
7. Clause 2.2 is in Chapter 2 of the BASIX SEPP which relates to Standards for Residential Development - BASIX. The cause is reproduced below in full:

2.2 Standards not affected by environmental planning instruments or development control plans

- (1) *A competing provision of an environmental planning instrument or development control plan, whenever made, is of no effect to the extent to which the provision aims—*
 - (a) *to reduce consumption of mains-supplied potable water or greenhouse gas emissions related to the use of—*
 - (i) *a building, or*
 - (ii) *the land on which a building is located, or*
 - (b) *to improve the thermal performance of development, or*
 - (c) *to quantify and report on the embodied emissions attributable to development.*
- (2) *Subsection (1) does not—*
 - (a) *displace a competing provision to the extent to which the provision applies to part of BASIX development or BASIX optional development that will not be used for residential purposes, or*
 - (b) *apply to a competing provision that encourages, or offers incentives for, the adoption of measures beyond the measures required by provisions of the kind referred to in the definition of **competing provision**.*
- (3) *In this section—*

competing provision of an environmental planning instrument or development control plan means a provision that—

 - (a) *establishes a development standard, or*
 - (b) *requires a consent authority to consider a matter when determining a development application, or*
 - (c) *requires a consent authority to be satisfied about a matter before granting development consent, or*
 - (d) *requires a consent authority to impose a condition on a development consent, or*
 - (e) *affects the granting of a development consent or the conditions with which a development consent is granted.*

8. The question arises as to whether clause 7.24 of the Parramatta LEP is a competing provision, and whether it has the aim of one of the matters in clause 2.2 (a)- (b) of the BASIX SEPP.

9. Clause 7.24 fits the definition of a "competing provision" as it is a provision which requires a consent authority to be satisfied about a matter before granting development consent.
10. The competing provision is of no effect to the extent to which the provision aims to do one of the things listed in (a) to (c). the Sutherland Report indicates that the provision (although he was referring to the condition) aimed to
- (a) to reduce consumption of mains-supplied potable water or greenhouse gas emissions related to the use of—
- (i) a building.
11. We agree that clause 7.24 aims to reduce the consumption of potable water as it requires that a dual water reticulation system be installed so that recycled water can be provided for some internal and external uses, particularly considering the objective of the clause.
12. Clause 2.2 of the BASIX SEPP only applies to residential development as it is within Chapter 2, so it would not apply for non-residential uses. See also that clause 2.2(2)(a) says the competing provision will not be displaced for part of a development that will not be used for residential purposes.
13. We undertook a brief review of the case law and could not find anything helpful in relation to clause 7.24 of the PLEP. We found no reference to the current clause 7.24 of the PLEP, but the terms are the same as the historic clause 7.22 of the *Parramatta Local Environmental Plan 2011*.
14. The only cases we found that refers to either clause is:
- (a) [Rapisarda Holdings Pty Ltd as Trustee for the Rapisarda Property Trust v City of Parramatta Council \[2025\] NSWLEC 1562](#)
- Which refers to the historic clause 7.22 at [28]:
- [28] Pursuant to the requirements of PLEP, cl 7.22, from the agreed conditions of consent and the parties' submission I accept that the proposed building will use a dual water reticulation system.*
- This related to a mixed use development.
15. We are happy to discuss the above.

Yours sincerely



Jane Hewitt
Partner
HWLE Lawyers

+61 2 9334 8639
jhewitt@hwle.com.au