

DATE OF DETERMINATION	5 October 2022
DATE OF PANEL DECISION	4 October 2022
DATE OF PANEL MEETING	5 September 2022
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Peter Harle, Ned Mannoun
APOLOGIES	Nicole Gurran
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 30 August 2022.

MATTER DETERMINED

PPSSWC-224 – Liverpool City Council – DA-50/2021 at 23 CHARLES STREET LIVERPOOL 2170 - Demolition of existing dwellings and the construction of a Residential Flat Building consisting of ground level parking, seven levels of residential accommodation and a roof top communal area.

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Liverpool Local Environmental Plan 2008 (LLEP 2008), that has demonstrated that:

- a) compliance with cl. 4.3 (height development standard) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 (height development standard) of the LEP and the objectives for development in the R4 zone; and
- c) the concurrence of the Secretary has been assumed.

The concurrence of the Secretary to the variation from the standard is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

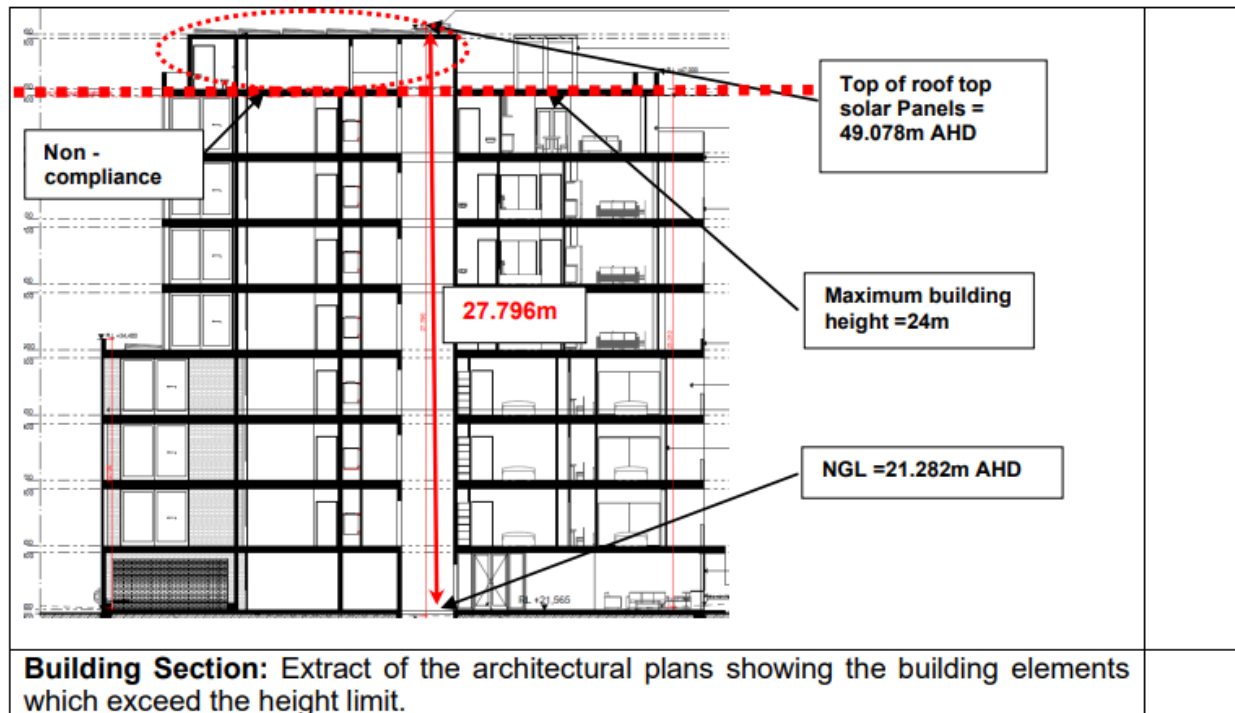
REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height; and approve the application for the reasons outlined in the Council Assessment Report and as set out below.

The primary issues raised during the assessment of the application were the breach of the maximum building height, carparking non-compliance and drainage matters. Taking each of these issues in turn:

Building height:

The proposal seeks a maximum building height of 27.796m (to the top of the rooftop solar panels @ 49.078m AHD). The greatest variation is therefore equivalent to 3.796m or 15.8%.



The Panel considers the height exceedance to be reasonable in the circumstances given that there will be open space on the roof top and given the surrounding residential flat buildings. The exceedance arises as a consequence of parapet, lift overrun and toilet to service the roof top open garden.

Car parking non-compliance: The Panel notes that the Design Excellence Panel supported the minor non-compliance of 10 rather than 11 car spaces as this allowed for improved building amenity in the form a common room for leisure and recreation.

The Panel agrees that whilst 10 car spaces is not compliant, the minor non-compliance is accepted on the basis that this facilitates the communal area being provided on the corner of Mill St and Charles St as a common area for a leisure and recreation.

The Panel has though, as set out below, requested additional conditions of consent in relation to car sharing and incorporation of charging facilities for electric vehicles.

Drainage: The stormwater issue that emerged from the referral commentary related to the stormwater concept design. This has been resolved by provision of additional information and the proposed conditions of consent.

CONDITIONS

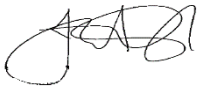



The Development Application was approved subject to the conditions in the Council Assessment Report with the amendments set out below.

By way of letter dated 5 September 2022, the Applicant requested amendments to the proposed draft conditions. The Council has considered those requested amendments and, by way of Addendum Report issued to the Panel on 27 September 2022, a revised set of conditions was recommended, as agreed with

the Applicant. Those conditions incorporate the Panel’s requested additional conditions of consent in relation to car sharing and incorporation of charging facilities for electric vehicles as new conditions 162, 163 and 166.

CONSIDERATION OF COMMUNITY VIEWS

No community submissions were received in relation to the proposal.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Ned Mannoun	 Peter Harle

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-224 – Liverpool City Council – DA-50/2021
2	PROPOSED DEVELOPMENT	Demolition of existing dwellings and the construction of a Residential Flat Building consisting of ground level parking, seven levels of residential accommodation and a roof top communal area.
3	STREET ADDRESS	23 CHARLES STREET LIVERPOOL 2170
4	APPLICANT/OWNER	Applicant: Warwick Stimson - Stimson and Baker Owner: HUME COMMUNITY HOUSING ASSOCIATION COMPANY LTD
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> SEPP (Housing) 2021 (Repealed SEPP Affordable Rental Housing 2009) State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development. SEPP (Biodiversity and Conservation) 2021 (Repealed Greater Metropolitan Regional Environmental Plan No. 2 –Georges River Catchment). State Environmental Planning Policy (Resilience and Hazards) 2021 (Repealed Environmental Planning Policy No.55 – Remediation of Land). SEPP (Transport and Infrastructure) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. Liverpool Local Environmental Plan 2008 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> o Liverpool Development Control Plan 2008. Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 29 August 2022 Council Addendum Assessment Report: 27 September 2022 Clause 4.6 variation for height Written submissions during public exhibition: 1 (in support) Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Monday, 16 May 2022 <ul style="list-style-type: none"> o <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Peter Harle, Ned Mannoun o <u>Council assessment staff</u>: Emmanuel Torres Final briefing to discuss council's recommendation: Monday, 5 September 2022 <ul style="list-style-type: none"> o <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Ned Mannoun, Peter Harle

		<ul style="list-style-type: none">○ <u>Council assessment staff</u>: Patrick Curmi, Emmanuel Torres, Rachel King, Michael Oliveiro
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and as amended by the Addendum Report issued to the Panel on 27 September 2022