

COUNCIL ASSESSMENT REPORT

Panel Reference	2016SYE078
DA Number	54/2016
LGA	Burwood
Proposed Development	Demolition of all residential buildings, and construction of a part 5 part 8 storey residential flat building of 120 dwellings over 2 basement levels containing 159 spaces
Street Address	1-13 Gloucester St, 42 & 44 Park Rd Burwood.
Applicant/Owner	Prime Platinum Investments
Date of DA lodgement	22 April 2016
Number of Submissions	21 submissions and a petition with 79 signatures
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 4A of the EP&A Act)	
List of all relevant s79C(1)(a) matters	- Burwood Local Environmental Plan 2012, State Environmental Planning Policy 65 – Design Quality of Residential Flat Development, SEPP (Infrastructure) 2007, SEPP No 55 – Remediation of Land - Burwood Development Control Plan - Suitability of the site for development - Public Interest - Submissions
List all documents submitted with this report for the Panel's consideration	Assessment Report Recommended Conditions CI 4.6 Objection
Report prepared by	SJB Planning on behalf of Burwood Council
Report date	29 June 2017

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **No**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Property:	1-13 Gloucester Avenue and 42-44 Park Road, Burwood
Application:	DA 54/2016 – Demolition of all residential buildings and construction of a part five (5) part eight (8) storey residential flat building of 120 dwellings over two (2) basement car parking levels - 2016SYE078
Applicant:	Prime Platinum Investments
Location:	Gloucester Avenue (west side), Victoria Street (south side) and Park Road (east side).
Zoning:	B4 Mixed Use Zone – <i>Burwood Local Environmental Plan (BLEP) 2012</i>

Proposal

The application comprises a site containing eight (8) residential lots with frontages to Gloucester Avenue, Victoria Street and Park Road. The application seeks consent for 115 dwellings and basement car parking for 153 vehicles. The proposed development, level by level, proposes:

- Basement 2 – Containing 80 car spaces, 12 bicycle spaces, car wash bay and residential storage
- Basement 1 – Containing 79 car spaces, six (6) motorcycle spaces and storage
- Ground Floor – Containing 17 dwellings (6 x one (1) bed, 8 x two (2) bed and 3 x three (3) bed)
- Level 01 – Containing 20 dwellings (7 x one (1) bed and 13 x two (2) bed)
- Level 02 – Containing 21 dwellings (7 x one (1) bed, 13 x two (2) bed and 1 x three (3) bed)
- Level 03 – Containing 23 dwellings (7 x one (1) bed, 13 x two (2) bed and 1 x three (3) bed)
- Level 04 – Containing 18 dwellings (6 x one (1) bed, 11 x two (2) bed and 1 x three (3) bed)
- Level 05 – Containing six (6) dwellings (6 x two (2) bed) and roof top communal space
- Level 06 – Containing six (6) dwellings (6 x two (2) bed)
- Level 07 – Containing six (6) dwellings (6 x two (2) bed)
- Roof Level – Containing communal open space

The proposed building is a single structure presenting a predominant five (5) storey presentation to Gloucester Avenue, Victoria Street and Park Road. At the Gloucester Avenue and Victoria Street corner, an eight (8) storey corner element is proposed.

The elevations have been articulated with varying use of materials and fenestration to break up the building mass, particularly to Gloucester Avenue.

Vehicular access is provided by two (2) one-way basement ramps. Entry is via the Park Road frontage and exit is via the Gloucester Avenue Frontage.

Background

The Application was lodged on 22 April 2016, along with supporting architectural, landscape and stormwater plans.

The application, having a CIV greater than \$20 million, is deemed to be Regional Significant Development for which the Sydney Planning Panel is now the consent authority. The application as lodged was briefed to the then Sydney East Joint Regional Planning Panel. The result of the briefing was that the application was not supported in the form lodged due to concerns over lack of justification for the height variation, unacceptable residential amenity particularly relating to solar access and unsatisfactory building setbacks and building separation, the built form relationship to 15 Gloucester Avenue, heritage impacts on 48-50 Park Road and unacceptable deep soil landscape provision.

Amended plans were prepared in response to the JRPP briefing feedback. The approach to the amended design had been to propose a single building, rather than four (4) separate buildings. This approach has reduced the predominant height from six (6) storeys to five (5) storeys with an eight (8) storey element at the Gloucester Avenue and Victoria Street corner.

Further amendments were provided to provide a landscape buffer to the rear of the site, landscaping to the Gloucester Road frontage and setbacks to side and rear boundaries above four (4) storeys.

The application was publicly exhibited from 13 May to 3 June 2016. A total of 21 submissions were received raising objections, included a petition containing 79 signatures.

Statutory Requirements

Heads of Consideration

The Application has been assessed under the provisions of Section 79C of the *Environmental Planning and Assessment (EP&A) Act 1979*, as amended key planning instruments and considerations include:

- The provisions of the Burwood Local Environmental Plan (BLEP) 2012
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65)
- SEPP (Infrastructure) (ISEPP) 2007
- SEPP No. 55 - Remediation of Land (SEPP 55)
- The provisions of Burwood Development Control Plan (BDCP) 2013
- The impact of the development in relation to:
 - Residential amenity
 - Height of building variations
 - Impact on adjoining development
- The suitability of the site for development
- The public interest
- Social and economic impact
- Submissions made under the *EP&A Act 1979* and Regulations

These matters are considered in this Report.

Locality

The site's location is indicated in Figure 1 below.

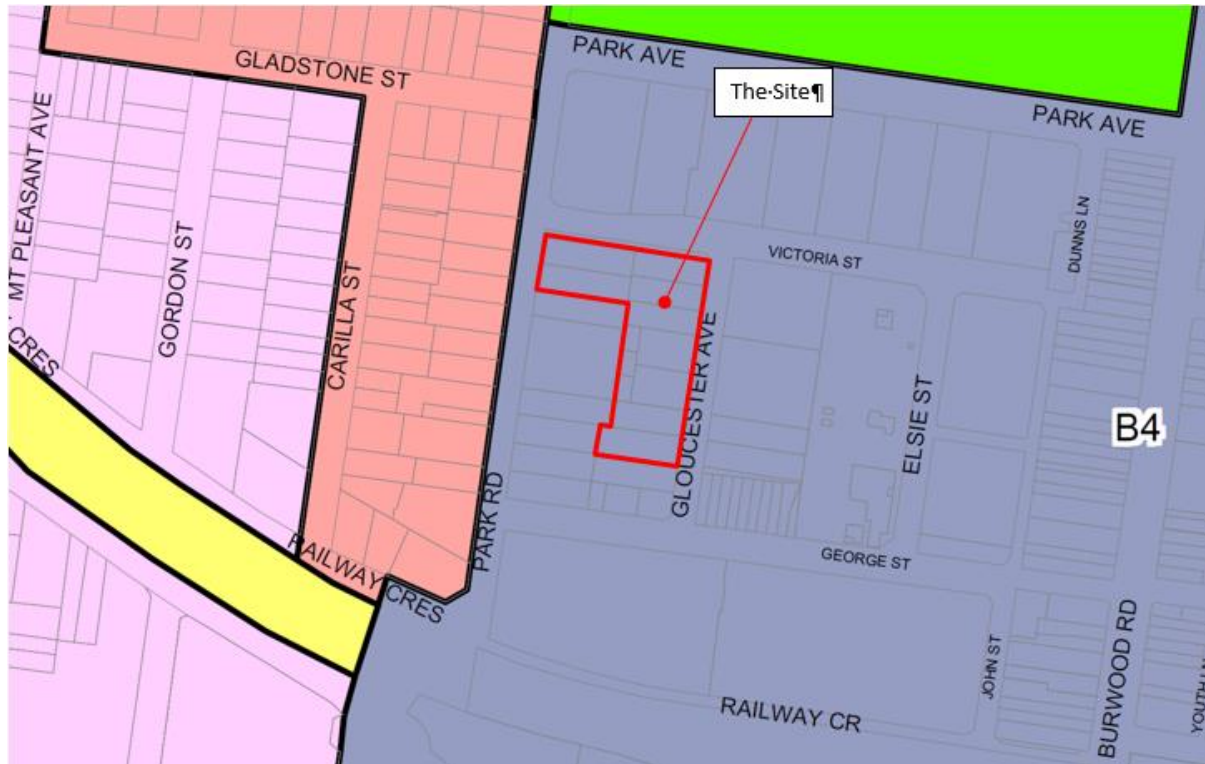


Figure 1 – Site location and zoning

Site and surrounding area

The site has an area of 4,296m² and enjoys three (3) street frontages. The eastern frontage (Gloucester Avenue) is 99m, the northern frontage (Victoria Street) is 76m and the western frontage (Park Road) is 27m.

To the immediate east is a property known as 48-50 Park Road which is a heritage item. The site known as 24 Park Road, which abuts the southern boundary, of the Park Road frontage is an isolated development site, subject to a separate development application. To the south of the Gloucester Avenue frontage is a single land parcel known as 15 Gloucester Avenue. To the south of 15 Gloucester Avenue, properties front George Street and are oriented in a north-south direction.

Existing development on the current street block is a single dwelling house. Lower rise, medium density housing occurs to the east, stepping up to high rise development fronting Elsie Street further to the east.

Burwood Railway Station is approximately a 400m walk from the site. The site is similarly well located to regional shopping facilities and open space at Burwood Park.

Planning Assessment

Development permissibility

Burwood Local Environmental Plan (BLEP) 2012

The site is located within the B4 Mixed Use zone under BLEP 2012 and is not identified as requiring an active street front. The site is also not located within an area to which Clause 4.4A applies. Accordingly, there is no cap on the proportion of the building that can be used for residential purposes.

Residential Flat Buildings (RFBs) are a land use permitted in the B4 Mixed Use zone. The proposed development is defined as a RFB and therefore is a use to which consent can be granted.

BLEP 2012 also imposes a maximum height of buildings of 15m, a maximum FSR of 2:1 and a building height plane projected at 54 degrees to the east at a height of 1m along the western side of Park Road. The site does not contain any heritage items, and is not within a heritage conservation area. It is, however located adjacent to the heritage item at 48-50 Park Road, Burwood.

Development standards and requirements

Issue	Standard	Requirement / Proposal	Compliance
BLEP 2012			
Building Height	Maximum 15 m – Clause 4.3 and Building Height map	Maximum height is 26.8m; at Gloucester Avenue and Victoria Street frontage.	No. Clause 4.6 variation request submitted – comments below
Floor Space Ratio	Maximum 2:1 – Clause 4.4 and Floor Space Ratio map Based on 4.296m ² site area, an 8,592m ² gross floor area is the maximum permitted.	2:1 or 8592m ²	Yes.
BDCP 2013			
Section	Standard	Requirement / Proposal	Compliance
3.2.7 – Residential Flat Buildings and Shop-Top Housing	P1 – ADG applies.		ADG assessed in detail below

Issue	Standard	Requirement / Proposal	Compliance
3.2.8 – Apartment Mix and Dwelling Size	P1 – Residential development in excess of 20 dwellings must provide a mix of dwellings containing 1, 2 or more bedrooms.	33 x 1 bed (28.7%) 76 x 2 bed (66%) 6 x 3 bed (5.3%)	Dwelling mix complies.
	P2 – All residential developments must provide the following minimum apartment sizes: - Studio apartments: 40 square metres. - 1 bedroom apartments: 50 square metres. - 2 bedroom apartments: 70 square metres. - 3+ bedroom apartments: 95 square metres.		Minimal dwelling sizes non-compliant, however the dwelling sizes accord with ADG minimum dwelling sizes.
3.2.9 - Minimum Site Area	P1 - Any development outside the Burwood Town Centre with a height over 9m is required to have a minimum site area of 500 sqm.	500 m ² required 4,296 m ² Provided	Yes
3.2.11 – Ceiling Height	P1 - Development must provide the following minimum ceiling heights. Dimensions are expressed from finished floor levels to finished ceiling levels:		
	- Ground level of all development (commercial and residential): 3.3 metres.	3.3m	Yes
	- Non-residential floors above ground level: 3.0 metres.	N/A	N/A
	- Residential floors above ground level: 2.7 metres for habitable rooms and 2.4 metres for non-habitable rooms.	2.4m-2.7m required 3m floor to floor proposed	Able to Comply. Condition recommended if approved.
3.2.12 – Natural Ventilation	P1 - For development including multi dwelling housing refer to the building amenity provisions of the ADG which supplements SEPP 65 - Design Quality of Residential Apartment Development	60% required 70% achieved	Yes.

Issue	Standard	Requirement / Proposal	Compliance
3.2.13 – Daylight Access	P1 - For development including multi dwelling housing refer to the building amenity provisions of the ADG which supplements SEPP 65 - Design Quality of Residential Apartment Development.	70% solar access to living rooms and private open space required Solar access to private open space and living rooms has been demonstrated.	Yes.
3.2.14 – Visual and Acoustic Privacy	P1 - Development must be located and orientated to maximise visual privacy between development on the site and adjacent development by:		
	- Providing adequate rear and side setbacks.	4m-6m setback to rear west boundary	Yes.
	- Utilising the site layout to increase building separation. For example, orientation of buildings on narrow sites to the front and rear of the lot, thereby utilising the street width and rear garden depth to increase the apparent building separation distance.	Internal privacy proposed to be mitigated with fixed glazing, causing ventilation non-compliance.	
	P2 - Detailed site and building design elements may be incorporated to increase privacy without compromising access to light and air. Design detailing may include: - Solid or semi-solid balustrades to balconies. - Offset windows of dwellings. - Recessed balconies and/or vertical fins. - Louvres or screen panels to windows and/or balconies. - Fencing. - Vegetation as a screen between spaces. - Pergolas or shading devices to limit overlooking.	The amended plans have reconfigured dwelling relationships to maintain solar access, privacy, and ventilation.	Yes.
3.2.15 – Private Open Space	P1 - All dwellings must have direct access to one primary open space from the main living area.		Complies

Issue	Standard	Requirement / Proposal	Compliance
	P2 - The primary open space must be dimensioned to promote indoor/outdoor living. A dining table and two chairs (small apartment, i.e. 1 bedroom) or four chairs (large apartment, i.e. 2 or more bedrooms) should fit on the primary open space. The following minimum dimensions, clear of balustrades, must be achieved: - Minimum depth - 2 metres (up to 1 bedroom). - Minimum depth - 2.5 metres (2 or more bedrooms). - Minimum area - 8 sq metres (1 and 2 bedrooms). - Minimum area - 10 sq metres (3 bedrooms or larger).		Complies with ADG.
	P3 - Private open space must respond to site conditions including sun, noise, wind and privacy. Sun screens, pergolas, shutters and openable walls are to be used to increase amenity where appropriate.	Balconies generally to the west and north elevation	Acceptable
	P4 - Private open space must form an integral part of the development's design	All dwellings provided with balconies or terraces, and communal open space also proposed.	Yes.
3.2.17 – Storage for Apartments	P1 - For development including multi dwelling housing refer to the building configuration provisions of the ADG which supplements SEPP 65 - Design Quality of Residential Apartment Development.		Complies
	P2 - At least 50% of the storage area must be provided within the dwelling and 25% accessible from active areas.		Complies

Issue	Standard	Requirement / Proposal	Compliance
	P3 - Where the remaining 50% of the storage is located in the basement of the development it must be linked to its associated dwelling through its relevant strata title.		Able to comply.
3.2.18 – Safety and Security	P1 - The routes between a development's entrance and its dwellings must be designed to maximise occupant safety. The routes from car parking areas to the lift lobby are particularly important in this regard. Clear sight lines and well-lit routes must be provided.		Acceptable
	P2 Development must comply with Council's Burwood Community Crime Prevention and Safety Plan.		Acceptable
	P3 Development must be provided with clearly defined site boundaries to strengthen the distinction between public and private space.		Acceptable
	P4 Facades at ground level must be activated by locating after hours uses so they are visible from the publicly accessible areas.		Acceptable

Issue	Standard	Requirement / Proposal	Compliance
	P5 Development access must be controlled by: - Restricting access from balconies, roofs and windows of neighbouring development. - Providing separate access from public and common areas. - Providing separate access for residents in mixed-use developments. - Providing an audio or video intercom system at the pedestrian or vehicular entrance or in the lobby for visitors to communicate with residents. - Providing secure keyed or electronic access for residents.		Acceptable
	P6 Concealment opportunities must be minimised from development by: - Eliminating blind or dark alcoves near lifts and stairwells. - Providing clear sight lines and well lit routes throughout the development. - Providing appropriate levels of illumination for all common areas.		Acceptable
	P7 Residential development must be oriented so that primary windows and private open space address the street and publicly accessible areas.		Acceptable
	P8 Where, as a result of the nature of the development, there are specific security requirements, security measures must form an integral part of the building design. Roller shutters are not permitted but retractable open security grilles may be considered.		Acceptable

Issue	Standard	Requirement / Proposal	Compliance
3.2.19 – Access and Mobility	P1 - The main entry of development must be designed and identified for use by persons with a mobility impairment.		Able to comply
	P2 - The main entry must be accessible from the street footpath in accordance with Australian Standard (AS) 1428: Design for Access and Mobility.		Acceptable.
	P3 - Safe and convenient access must be provided in all development, car parks and communal facilities.		Acceptable.
	P4 - Compliance with AS 1428.1 is required with respect to access requirements on new building work.		Acceptable.
	P5 - Tactile indicators must be provided on the ground immediately adjacent to the approach and departure sides of any changes in floor levels in the public domain which incorporate a step, ramp, stepped ramp or the like in accordance with AS 1428.4.		Able to comply
	P6 - At least 10% of dwellings in a development must be provided as adaptable housing to Adaptable House Class A or B standard to cater for ageing in place and mobility impaired residents, in accordance with AS 4299: Adaptable Housing.	11.5 adaptable dwellings required 12 adaptable dwellings proposed	Complies

Issue	Standard	Requirement / Proposal	Compliance
	P7 - At least one car parking space must be provided and allocated to each dwelling required to be provided as accessible or adaptable housing under this Section and the car parking space must be accessible in accordance with the provisions of AS 1428.2 to facilitate automatic vehicular wheelchair loading and unloading.	12 accessible parking spaces required 12 accessible parking spaces proposed	Complies.
	P8 - For development providing between 20 to 79 dwellings, one accessible visitor car parking space must be provided on site must be accessible in accordance with the provisions of AS 1428.2 to facilitate automatic vehicular wheelchair loading and unloading.	1 accessible visitor parking space required 1 accessible visitor parking spaces provided.	Complies.
	P9 - For development providing 80 or more dwellings, additional accessible visitor car parking spaces must be provided on-site which are accessible, as per P8 above, at the rate of one per each 60 dwellings or part thereof.	1 accessible visitor parking space required Nil provided.	Non-Compliant.
3.3.2.1 – Building Height Plane	P1 - The height of buildings on land within the BTC is not to project above the BHP as identified in Clause 4.3A and on the map marked - “Building Height Plane Map in the BLEP 2012.	Comply with Height Plane Projected at 54 degrees at a height of 1m west side of Park Road (Transition Area)	Complies.
3.3.2.4 - Perimeter and Transition Areas	P1 - Development must be built in accordance with the street front setback requirements shown in Figure 10. Building setbacks from the street front are taken from the street boundary after any land acquisition required by BLEP 2012 has been completed.	Minimum 6m front boundary setback required. A proposed 6m setback to current boundary (Gloucester Avenue) is provided.	Complies.
		6m to Victoria Road and Park Road	Complies.

Issue	Standard	Requirement / Proposal	Compliance
Side and Rear Setbacks	P2 - For residential development refer to the side and rear setbacks provisions of the ADG which supplements SEPP 65 – Design Quality of Residential Apartment Development.	6m-9m required. Levels 1-4 setbacks are 6m Levels 5 and above achieve the required 9m setback	Levels 1-4 compliant. Level 5 and above complies.
Communal Open Space	P3 - Where ground floor uses are residential, the street front setback area may be secured, however the setback is to remain a communal space with only one perimeter fence, and must not to be further divided.		Complies.
	P4 - Existing mature trees must be retained wherever possible.	All vegetation removed.	
	P5 - Where existing trees are removed, they must be replaced at a ratio of two new trees for each tree removed.	Trees to be removed could not feasibly be replaced at the required ratio.	Not able to be achieved.
	P6 - At least 50% of the street front setback areas must be provided as planting or soft landscaping.	Landscaping has been provided to all frontages as a result of the amendments made to the proposal.	
	P7 - Canopy trees must be provided at the rate of 1 per 30 sq metres of landscaped area provided within the street front setback area.		Able to comply
	P8 - Development which requires a minimum 6 metre setback from the street front boundary, in a landscaped front setting, are to provide deep soil zones and provide trees planted as selected from Council's Street Tree Management Strategy (STMS).	Deep soil zones provided to all frontages.	Complies.

Comments on BLEP 2012 matters

The application as amended now complies with the 2:1 FSR applicable under Clause 4.4. The site is subject to a maximum height of buildings of 15m. The maximum height proposed is 27.77m, an exceedance of 12.77m or 85.1%. The non-compliance to the height is primary in the north east corner of the site.

The applicant has sought a variation to the height of building development standard under the provision of Clause 4.6 Exceptions to Development Standards relating to building height.

For Council to consent to an exception to a development standard it must have considered a written request from the applicant that demonstrates that:

- Compliance is unreasonable or unnecessary in the circumstance;
- That there are sufficient environmental planning grounds to justify contravening a development standard; and
- That the development will be in the public interest because it is consistent with the objectives of the standard and the zone.

Maximum Building Height

The variation request substantially relates to the eight (8) storey element of the building at the corner of Victoria Street and Gloucester Avenue. The application as originally lodged proposed four (4) separate buildings of six (6) storeys. That scheme also relied upon a Clause 4.6 Variation. However, this design was not supported for a number of reasons, including concerns over building separation, ADG amenity levels and relationships with adjoining development. The JRPP briefing provided feedback that an alternate approach may be explored to provide a single building and explore the provision of height above the 15m height limit at the corner of the site fronting Victoria Street and Gloucester Avenue.

The Gloucester Avenue elevation remains non-compliant with the 15m height limit however this is relating to the parapet and lift overrun to serve the roof top open space.

The principle non-compliance relates to the top four (4) levels of accommodation in the north eastern section of the site.

In considering the objectives of the height of buildings development standard and the zone objectives, the proposed building height would not be contrary to these objectives.

The critical test in this instance then falls to the standard being unreasonable or unnecessary and that there are suitable environmental planning grounds to justify the variations.

The application is supported by a written request to vary the height of buildings development standard at Clause 4.3 of BLEP 2012.

In principle, the basis of the variation request is to distribute the permitted floor space in a manner that achieves a superior outcome in terms of the environmental performance of the proposed relating to matters such as solar access and natural ventilation. The configuration of the floor space has provided appropriate setbacks and spatial separation to the heritage item to the immediate west of the site and compliant ADG separation to adjoining development and potential development sites.

In considering the impact of the non-compliant building height, the height is located on a portion of the site that is in the vicinity of buildings of a similar scale to the north of the site

and in the vicinity of an area subject to a height limit of 60m. In terms of the visual catchment, the eight (8) storey element is not out of character with the scale and context of existing and anticipated development.

In considering the amenity impacts, the taller element is 23.9m from the heritage building at 48-50 Park Road.

The applicant's Clause 4.6 Variation Request has satisfied the provisions of Clause 4.6 in that:

- The applicant has provided a written request;
- The request has demonstrated that in the circumstance, strict numerical compliance is unreasonable or unnecessary;
- There are sufficient environmental planning ground to justify the contravention; and
- That the development remains consistent with the zone objectives and height of buildings development standard.

In considering the request, it has been determined that the variation does not raise any matter of State or regional significance, and that in the circumstance, there is no particular benefit to maintaining the development standard.

Floor Space Ratio

The site has a maximum FSR control of 2:1. An FSR of 2.2:1 was proposed in the original development.

The application has been amended by the applicant since original lodgement. The amendments have reduced the FSR to ensure compliance with the applicable 2:1 development standard.

Heritage

Clause 5.10(5) states that before granting consent the consent authority is to consider the impact of development on land on which a heritage item is located. The site is located to the immediate east of the heritage item known as "Rossmoyne" (48-50 Park Road).

Council's heritage advisors raised concerns with the application relating to:

- Excavation to the boundary with the heritage item at 48-50 Park Road;
- Impact of the excavation on vegetation in the heritage curtilage and inability to provide a deep soil vegetation buffer;
- The height not providing a transition in scale;
- Loss of visibility of the heritage pine trees from Gloucester Avenue; and
- Impact of overlooking and shadowing.

The application has been amended to set the basement excavation back 2m from the boundary to the heritage item. This has allowed for a deep soil landscaped area to be provided. Council's tree officer has also considered the amended basement layout and confirmed that the vegetation within 48-50 Park Road would not be adversely impacted by the proposed excavation works.

In considering the scale of building relative to the heritage building, separations greater than 20m are achieved, with the internal setbacks to the boundary being a minimum of 6m to the heritage item. The height of the building to the west of the building is substantially compliant except for lift overruns and parapets associated with the rooftop communal open space.

The non-compliant element of the building in terms of height is located to the north east of the heritage item. This position ensures that a separation of 23.9m is achieved.

In regard to privacy and overshadowing, the assessment has concluded that the amenity to surrounding properties is acceptably maintained.

The final issue is the view to the pine trees from Gloucester avenue. While these views may be lost, it is a consequence of the area transitioning to the higher density development, consistent with the planning framework developed for the area.

Comments on SEPP No 55 Matters

Under Clause 7 of SEPP 55 Council may not consent to development on land unless it considers the matter of contamination. If the land is contaminated Council must be satisfied that the land is suitable for the development in its contaminated state or that the necessary remediation will be carried out.

The sites have a long history of residential land use and there are no known indications that would preclude the redevelopment of the site for continued residential use.

SEPP 65 - Design Quality of Residential Apartment Development and the RFDC

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) and the associated Apartment Design Guide (ADG) seek to improve the design quality and amenity of residential apartment development.

The application is supported by a Design Verification Statement addressing the nine (9) design principles of SEPP 65.

The application has also been addressed under the provisions of Part 3 and 4 of the ADG.

The conclusions reached in this assessment are not concurred with, particularly in relation to solar access, natural ventilation and building separation.

Building Separation

The proposed generally provides a 6m separation to site boundaries. The application has been amended to ensure that 9m separations are provided above the fourth storey. The application as amended now achieves consistency with the ADG.

Natural Ventilation

The application is presented as achieving the required 70% of dwellings with natural cross ventilation. The application has been revised to achieve this level of natural ventilation, and to address previous concerns relating to use of fixed glazing and relationship of windows to balconies of adjoining dwellings.

Solar Access

The application is presented as achieving solar access to 70% of the proposed dwellings.

The planning of the dwellings layouts has been refined to ensure compliance with the ADG and to ensure solar access to private open space and living rooms.

The application satisfying these requirements is key to supporting the proposal.

Comments on key BDCP matters

Landscaped Area

The BDCP requires 50% of street setbacks to be soft landscaped areas (Provision P7 3.3.7.4 – Perimeter and Transition Areas) where no active street front activity is proposed. The application has been amended to remove the road widening and introduce soft landscaping to the Gloucester Avenue frontage. The amendment of the application has ensured that a setback of 6m to the Gloucester Avenue frontage will be maintained in conjunction with substantial deep soil planting opportunities. The intent of the provision has been satisfied.

Accessible Parking

The application provides 12 adaptable apartments and 13 accessible car parking spaces. The provision of 12 adaptable dwellings is compliant with the requirement of 10% (11.5 dwellings).

The application had also been amended to provide ADG compliant setbacks of the upper levels adjacent to the Gloucester Avenue frontage. The application has been modified to provide building separation compliance and minimise the impact on current and future development in Gloucester Avenue.

Overshadowing

The application has provided documents to address the site isolation of the property at 15 Gloucester Avenue to the immediate south. This indicates that amalgamation will not be achieved.

Car Park Access

The application proposes basement entry and exit points at nil setbacks to side boundaries. The driveways are substantially open with long runs down to and up from the basement. These relationships have been raised with the applicant for review. While the outcome is not optimal, in the circumstance where the substantive issues of concern have been addressed, the proposed means of vehicular access is accepted.

Referrals

The manager of Environment and Health has considered the application. To be acceptable, amendment would be required providing waste chutes, bin storage areas and bin storage for collection day storage, and can be conditioned.

Council's development engineer has assessed the proposal and has identified that appropriate conditions could be imposed regarding final Construction Certificate engineering drawings.

As noted in the body of the report, Council's heritage advisor's comments have been addressed.

Community Consultation

Public notification of the application resulted in 21 submissions and a petition with 79 signatures raised in the submission with comments provided as follows:

1. Loss of sunlight to 1-17 Elsie Street

Comment: The objections raising the loss of sunlight issue are located to the east of the site. The shadow analysis does not support these concerns.

2. Traffic, Congestion and Safety

Comment: The application is not inconsistent with the number of dwellings anticipated by the planning controls for the locality. The location is well served by public transport and requisite parking for the dwellings is provided.

3. Over Urbanisation of Burwood Centre

Comment: Burwood Town Centre has experienced significant development in response to the planning controls adopted. Broadly, the Burwood Town Centre is identified for urban renewal. The current design is supported in this instance.

4. Impact to Heritage Vegetation

Comment: These concerns have been addressed, and basement setbacks provided to avoid impacts to adjoining vegetation at 48-50 Park Road.

5. Setbacks to Heritage Item

Comment: The amended application no longer utilises the land associated with the heritage item at 48-50 Park Road. The separation to the heritage item has been assessed as acceptable.

6. Structural and Noise Impacts from Construction

Comment: If approval was to be granted, appropriate conditions of consent would be imposed relating to construction impacts and provision of construction management plans during building work.

7. Isolation of Park Road and Existing Easement

Comment: Were approval proposed, impacts on any easement benefiting 46 Park Road across the subject site would require resolution with the applicant to continue to provide the benefit of the easement as legally required. This matter has now been addressed by the applicant and by appropriate recommended conditions of consent.

8. Impact of Height and Setback

Comment: The concerns over the proposed height and setbacks being inconsistent with the ADG are supported and the application has been modified to ensure compliance except for the corner of Gloucester and Victoria St where an increase in height is supported..

Conclusion

The application proposes non-compliance with the key development standards of height of buildings. A Clause 4.6 Variation Statement has been received for the height of buildings non-compliance under Clause 4.3 of the BDCP. The requested Clause 4.6 Variation is supported in this instance.

In addition to the development standards, the application as amended has been assessed as being satisfactory relative to impacts upon the setting and curtilage of the adjoining heritage items, acceptable levels of natural cross-ventilation and of solar access to living rooms and private open space areas.

The application as amended now provides appropriate deep soil landscape provision to the Gloucester Avenue frontage and to the rear boundary abutting 48-50 Park Road.

The application as a result of the amendments has been assessed as satisfactory when considered against the provisions of Section 79(C) of the *EP&A Act 1979*. Accordingly. It is recommended that the Panel ensure the concurrence of the Secretary to amend Clause 4.3 Height of Buildings of BLEP 2012 to approve DA 54/2016 of 1-13 Gloucester Avenue and 42-44 Park Road, Burwood, subject to conditions.

Recommendation

That the concurrence of the Secretary be assured to vary Clause 4.3 Height of Buildings of BLEP 2012 and development application DA-54/2016 that proposes demolition of all structures and construction of a part five (5) part eight (8) storey residential flat building of 120 dwellings over two (2) basement car parking levels at 1-13 Gloucester Avenue and 42-44 Park Road, Burwood be approved subject to the attached conditions.