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## Clause 4.6 Variation to Development Standard

22 August 2016 - Revision R-02

<b>Property:</b>	Lot 15A & 15B in DP 31797 54 Pelican Road, Schofields
<b>Development:</b>	Residential Flat Buildings
<b>Development Application No.:</b>	JRPP-15-02480
<b>Development Standard:</b>	Clause 4.6 of SEPP 2006 - Growth Centres – Height of buildings

## 1. Summary

Universal Property Group Pty Ltd lodged a development application (DA) for Lot 15A & 15B in DP 31797 known as 54 Pelican Road, Schofields for the construction of two residential flat buildings with a total of 171 units. The proposed development is located within the North West Growth Centre and is permissible under the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) and consistent with the controls of the Growth Centres Precincts Development Control Plan 2010.

This is a request under clause 4.6 of 2006 (Growth Centres SEPP) to vary the development standard for building height. The proposed development exceeds the maximum building height of 16 metres for the site, as set out in Clause 4.3 in SEPP 2006 GROWTH CENTRES.

The exceedance of the maximum building height relates to architectural features. The architectural features and integrated stairs, plant and lift overruns are permitted above the height standard as they satisfy the provisions of SEPP 2006 that relate to architectural roof features.

Despite the above, this request for a variation to the height standard is submitted for the purposes of clarification. On this basis, this submission outlines the justification for this contravention and demonstrates that it is in the public interest.

## 2. Authority to vary a Development Standard

SEPP (Sydney Region Growth Centre) 2006

## 2.1 Subclause 4.6(1) – Flexibility and Better Outcomes

Subclause 4.6(1) of the SEPP2006 states the objectives of the clause as follows:

- “(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”

A response to these provisions is contained within this submission however, it is generally argued that the proposed development is consistent with these objectives.

## 2.2 Subclause 4.6(2) – Consent may be granted

Subclause 4.6(2) provides that:

(2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

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The height of building development standard is not expressly excluded from the operation of clause 4.6 and accordingly, consent may be granted.

### 2.3 Subclause 4.6(3) – Written Request

Subclause 4.6(3) relates to the making of a written request to justify an exception to a development standard and states:

“(3) *Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The proposed development does not comply with the height of buildings development standard pursuant to clause 4.3 of SEPP2006, however, strict compliance is considered to be unreasonable and unnecessary in the circumstances of this case as justified in this written request.

### 3. Development Standard to be Varied

#### Clause 4.6 of SEPP 2006

This sets out the building height limit as follows:

*(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

The building height map indicates that the height limit for the subject site is 16 metres

The SEPP 2006 defines ‘height’ as follows:

***building height (or height of building)*** means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

Subclause 4.6(4) provides that consent must not be granted for development that contravenes a development standard unless:

- “(a) *the consent authority is satisfied that:*
  - (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
- (b) the concurrence of the Director-General has been obtained.”*

Furthermore, subclause 4.6(5) provides that in deciding whether to grant concurrence, the Director-General must consider:

- “(a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) the public benefit of maintaining the development standard, and*

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(c) any other matters required to be taken into consideration by the Director-General before granting concurrence."

The Applicant contends that the proposed development is a form of development that is most appropriate for these greenfield sites as they will have minimal, if any, detrimental impacts on the surrounding amenity or the long term development potential of these lands.

As part of any consideration of this matter the Director-General can confidently accept the following considerations:

*The variation of the height development standard is a relatively minor local matter, being less than 10% variation of the height standard, which is likely to result in no environmental impacts. It is noted that*

The remainder of this written request for exception to the development standard addresses the matters required under subclauses 4.6(4) and 4.6(5) of the SEPP 2006.

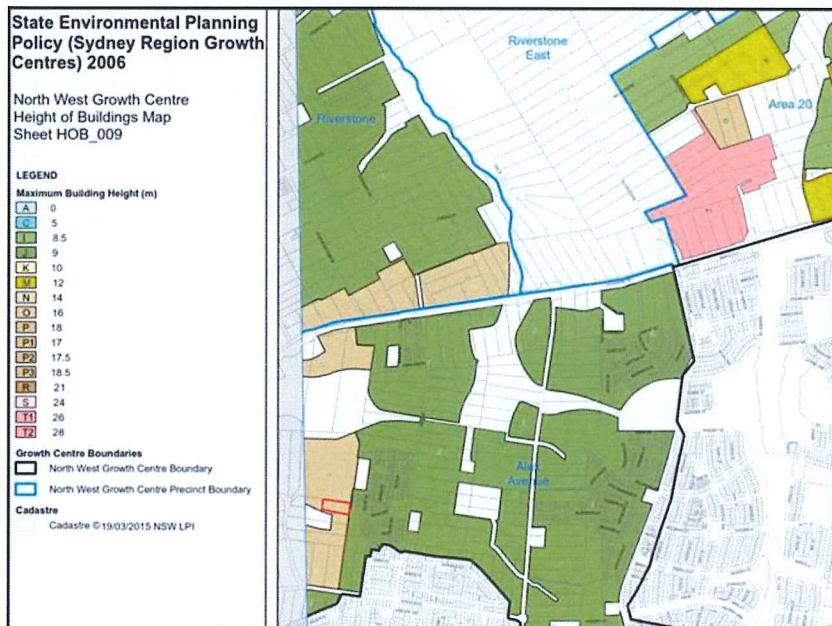


Figure 1 Maximum Building Height Map

#### 4. Extent of variation

The extent of exceedance varies due to the slope of the ground and differing building elements (e.g. parapet to top of roof feature). There are parts of both buildings that comply with the 16m height standard.

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The DA seeks to exceed the maximum building height by up to the following distances in each location:

Block A - Roof parapet - RL 61.50 Height 17.46 m above ground level (existing) = 1.46 metres over height limit.

Block B - Lift & Pergola - RL 60.50 Height 16.00 m above ground level (existing) = 1.00 metres over height limit.

Block C - Roof parapet - RL 58.50 Height 16.68 m above ground level (existing) = 0.68 metres over height limit.

Block D - Roof Pergola - RL 57.50 Height 17.07 m above ground level (existing) = 1.07 metres over height limit.

The proposed development has a maximum height of 17.46 metres above ground level (existing) which exceeds the height limit by a maximum of 1.46 metres.

Refer to Figures 2 and 3 below.

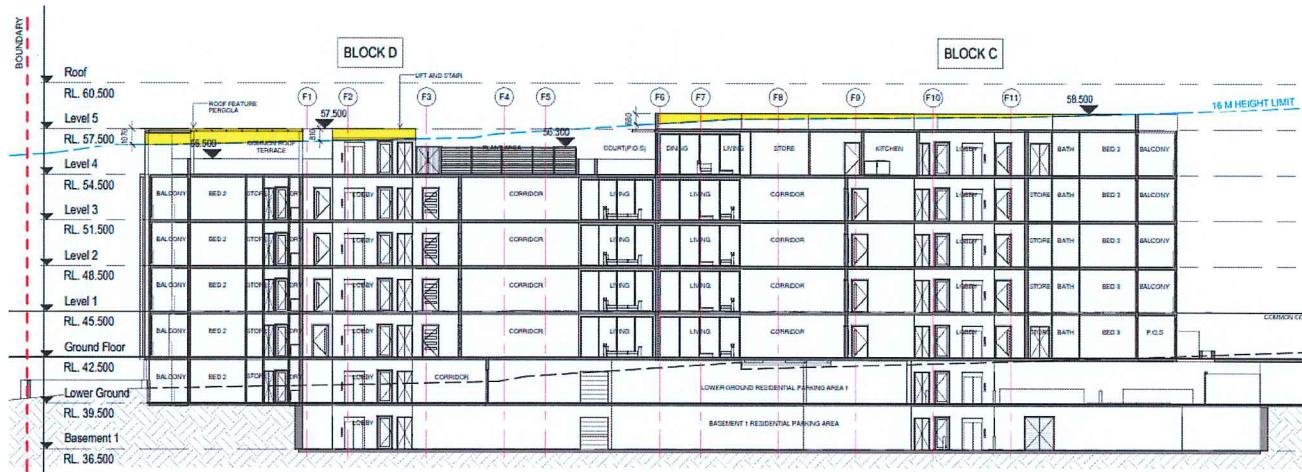


Figure 2 Section Building 02 – Blocks C and D - Maximum Building Height Analysis



Figure 3 Section Building 01 – Blocks A and B - Maximum Building Height Analysis

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## The Objectives of the Development Standard

(1) *The objectives of this clause are as follows:*

- (a) *to establish the maximum height of buildings for development on land within the Alex Avenue and Riverstone Precincts,*
- (b) *to protect the amenity of adjoining development and land in terms of solar access to buildings and open space,*
- (c) *to facilitate higher density development in and around the local centre, the neighbourhood centres and major transport routes while minimising impacts on adjacent residential, commercial and open space areas,*
- (d) *to provide for a range of building heights in appropriate locations that provide a high quality urban form.*

The subject design seeks to provide a building form which is generally compatible with the approved and proposed building forms for development of lands in this locality. The design and building form directly relates to the topography of the land, the serviceability of the site and the need for a quality design outcome.

Further, the design and positioning of the proposed buildings on the site is unlikely to result in any significant impacts on neighbouring lands with regard to overshadowing, privacy and visual impact.

### 2.7 The Objectives of the Zone

The land use table of SEPP2006 states the objectives of the R3 Medium Density Residential Zone as follows:

- *To provide for the housing needs of the community within a medium density residential environment.*
- *To provide a variety of housing types within a medium density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *to support the wellbeing of the community, by enabling educational, recreational, community, and other activities where compatible with the amenity of a medium density residential environment.*

The subject proposal is consistent with the objectives for the zone as it provides for a mix in housing type at a medium to high density yield and is in a location which is walking distance to public transport and future essential services.

## 5. Assessment

The following sections discuss the ground for the variation to clause 4.3 against the relevant provisions of clause 4.6.

Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?

Compliance with the maximum building height in this circumstance is considered both unreasonable and unnecessary.

There are two principal elements that exceed the maximum building height. They are:

- The Lift and Stair overruns; and
- The roof structure which extends over the plant and equipment area and part of the common open space provided on the roof level.

### Lift and Stair Overruns

The Lift roof elements are located centrally on the roof level of each building block. They include lift overruns.

These areas have been setback from each building façade.

When viewed from the street, these items would not be visible.. As such, it is considered both unreasonable and unnecessary to apply the maximum building height to the plant and equipment areas as they would not have a visual impact as a result of their inclusion.

### Roof Structure

Each building includes a roof structure on the south west corner which extends over part of the common roof terrace used by residents. Depending on the elevation viewed and where the development is viewed from, the roof structure will largely be unseen.

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This is purposely done to provide emphasise the vertical articulation to corner of each building.

While this element is not critical to the development, it is considered to provide a positive outcome for both functionality of the building, to provide shelter from sun/rain, and in creating emphasis top the corner of the building. The removal of this element, due to the numerical building height control, is not considered to outweigh the benefits of it being retained.

Despite the proposed contravention to the maximum building height, the development as proposed, is not considered to be inconsistent with desired future character and building forms anticipated within the Precinct.

Another contributing factor to the minor height exceedance is the **sloping topography**. The site has a relatively steep cross fall from the North-East corner on Grima Street to the South- West corner of the site.

The site has a level of RL 45.50 at the centre of the eastern boundary and a level of RL 39.00 at the centre of the western boundary. This gives an overall cross fall of 6.5 metres along the centreline of the site running east to west.

The development consists of two buildings and each building is stepped down by one floor level across its width as it is designed in relation to the sloping site gradients.

The site topography therefore contributes to the minor protrusion of the building roof form and lift overruns past the maximum building height envelope due to the sloping of the height line in relation to the slope of the natural ground levels of the site.

Compliance with the maximum building height of 16 metres is unnecessary and unreasonable in this instance as:

- The Lifts and stairs are located centrally on the roof and integrated into the architectural roof feature within each block, and will not be visible from the street level.
- The roof structure provides vertical relief, articulation and depth to the building façade which has been incorporated into the design adding visual interest. The roof structures are purposely designed as extensions to the vertical elements with the building facades, to accentuate these elements and provide an architecturally resolved “cap” to the building form at each of these corners.
- The roof structure provides a function for residents using the roof top common open space area by providing shelter from sun and rain.
- The removal of the roof structure is not considered to outweigh the benefits of it being retained.
- The overall building height is not considered to be inconsistent with the desired future character and building forms anticipated within precinct.

#### **Are there sufficient environmental planning grounds to justify contravening the development standard?**

As discussed earlier in this submission, there is an absence of significant impacts resulting from the building height non-compliance in relation to adjoining properties, visual impacts and character of the area. The proposed development provides an appropriate scale and form of development. Strict compliance with this numerical standard is considered unnecessary.

#### **Is the proposed development in the public interest?**

The proposed development is considered to be in the public interest because:

- The roof structure provides visual interest to the building along the elevation and achieves a better design outcome for this site.
- The roof structure provides a function for residents using the roof top common open space area by providing shelter from sun and rain.

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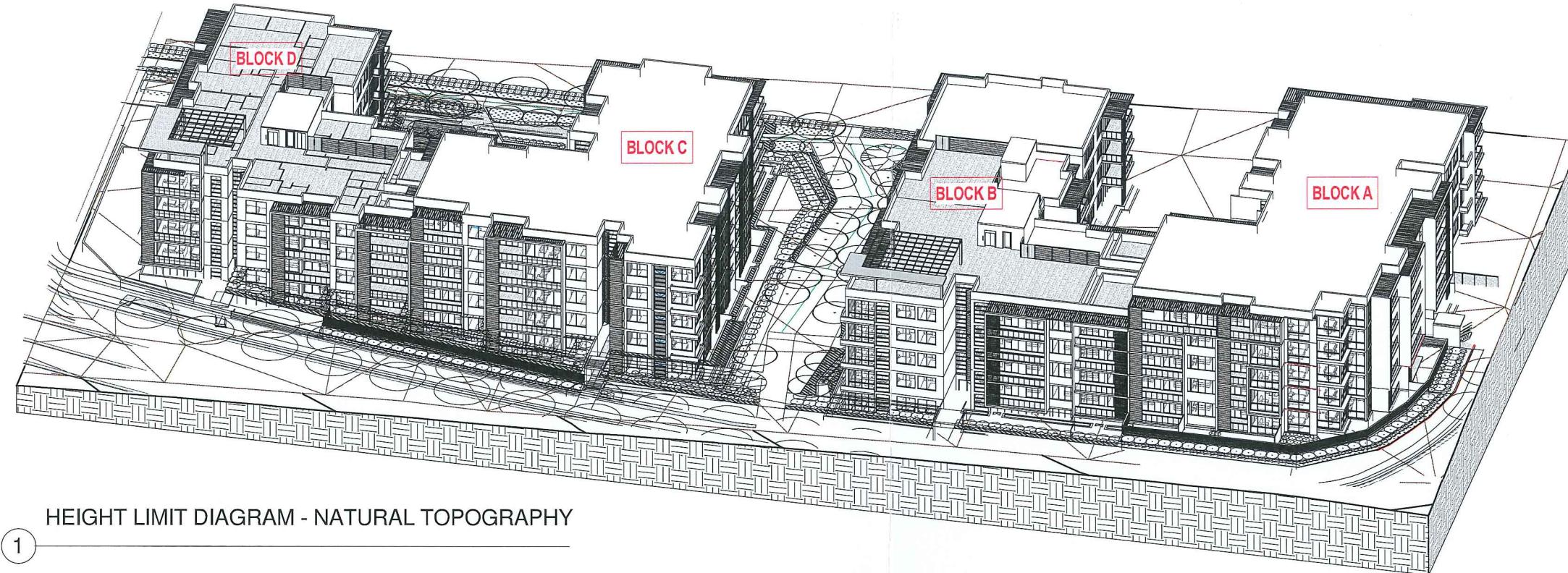
## 6. Conclusion

The proposed residential flat building complex has been assessed against the relevant statutory provisions of clause 4.6 Appendix 4 of SEPP2006 and this submission provides justification that compliance with the height of building development standard is unreasonable or unnecessary in the circumstances of the case.

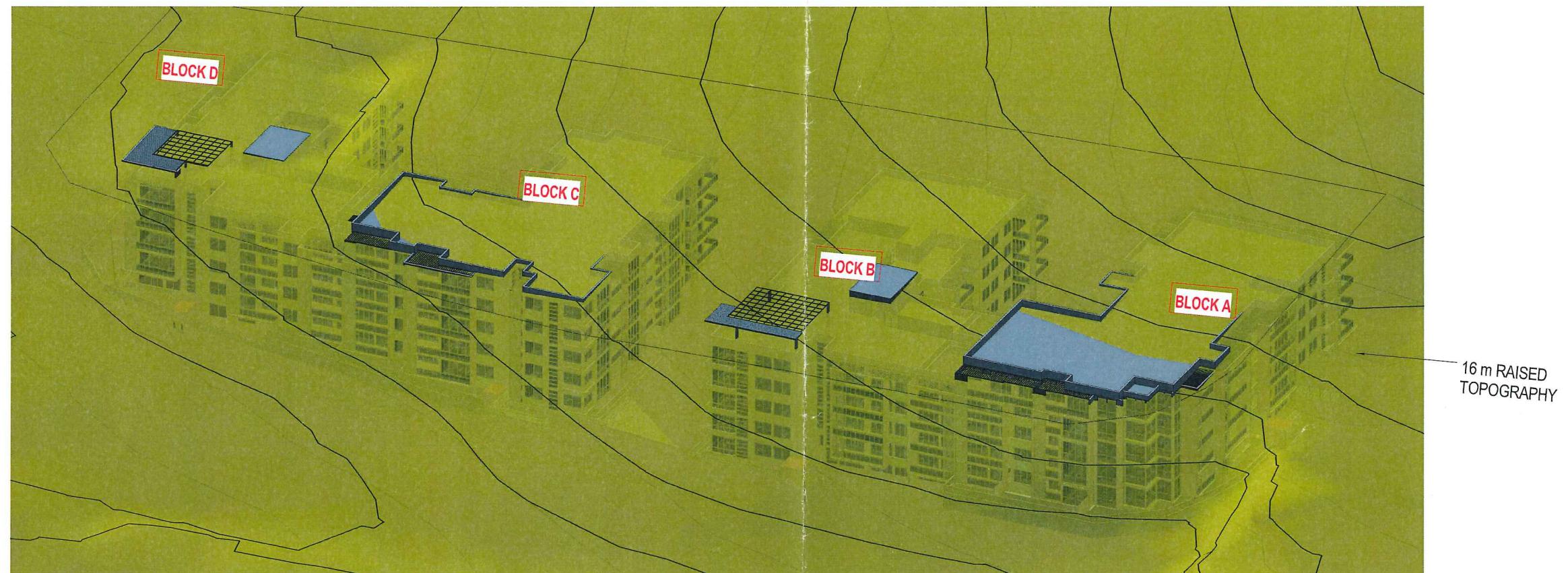
The non-compliance is due to the topography of the land, provision for suitable accessible points and to provide useable rooftop common open space through the provision of planter boxes and lift overruns on the roof garden.

A 5 storey residential flat building is the nature of development that would be anticipated in a location with a 16 metre height limit. Given the sites relative isolation and the potential of future residential development on adjoining lands, the additional maximum 1.46 metres of height will **not** cause any adverse amenity impact resulting in overshadowing or privacy impacts.

Accordingly, the justification within this written request is considered to be well founded.



1 HEIGHT LIMIT DIAGRAM - NATURAL TOPOGRAPHY



2 HEIGHT LIMIT DIAGRAM - 16 m RAISED TOPOGRAPHY

		GENERAL NOTES:		DO NOT SCALE		NORTH:		PROJECT: SCHOFIELDS		DRAWING TITLE: HEIGHT LIMIT DIAGRAM		DA ISSUE	
2	01.03.16	REVISIONS - DA ISSUE						137 Glia Road, Gilmerton, Sutherland NSW 2545 PO Box 270, Waverley Beach NSW 2545 T: 02 8535 0265   F: 02 8588 4725 info@bathla.com.au   www.bathla.com.au		0006	DATE:	DRAWING NO:	REV:
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