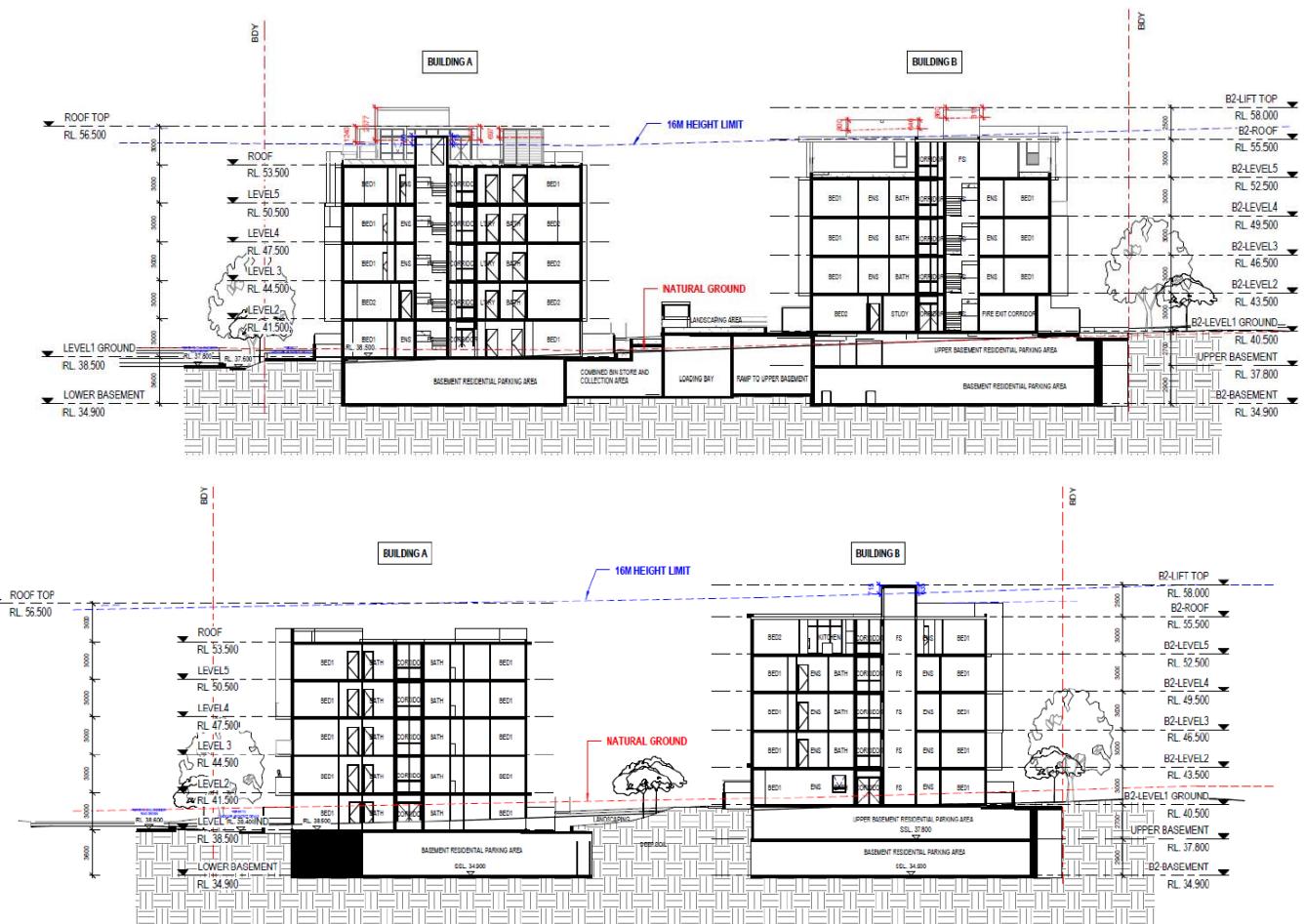
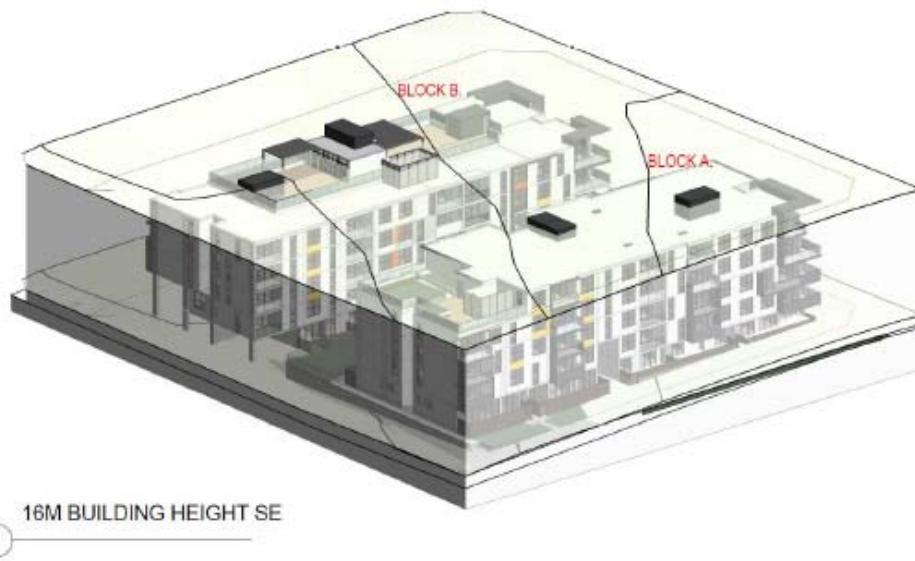


Council assessment of Clause 4.6 request

1 Visual representation of height offset

1.1 The following figures identify the portions of the development that exceed the height limit and the portions of the development that are below the height limit.



2 5-part test assessment of Clause 4.6 variation request

2.1 The following provides the Council officer assessment of the relevant Land and Environment Court matters for a consent authority to take into consideration when deciding whether to grant concurrence to the variation to the development standard.

- a. The objectives of the standard are achieved notwithstanding non-compliance with the standard

Height

The objectives of Clause 4.3 Height of buildings 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 provides a high quality urban form.*

- **Maximum height**

The maximum height limit on the site is 16 m. Although the development exceeds the permissible height by up to 2.577 m, the development does not achieve an additional residential level. The increase in height therefore does not impact on the density / floor area of the development. The increased height also has no impact on the scale of the development. The additional height simply accommodates the roof structure and rooftop services.

- **Solar access to buildings and open space of adjoining development and land**

The additional shadow impacts are negligible. The overshadowing caused by the non-compliance is due to the rooftop plant and equipment which is captured within the roof space itself.

- **Facilitates higher density development in and around the local centre while minimising impacts on adjacent residential, commercial and open space areas**

The site is located 730 m from Schofields railway station and the local centre. The building represents 5 storeys, and is 16 m in height when measured from the ground floor to the top of the roof parapet. The density of this development meets this objective.

- **Range of building heights in appropriate locations**

The site is considered suitable for the development given its proximity to the Schofields train station and Local Centre. The additional height does not result in any additional yield and does not result in an additional storey. The proposed number of storeys is suitable given its proximity to transport and the retail and commercial centre.

The objectives of the development standard are achieved as the development is representative of the building height anticipated for land near the Alex Avenue Local Centre and does not result in a bulky appearance. The interesting and varied design elements used throughout the development assist with ensuring that it is consistent with the desired future character of the immediate locality. Therefore, this minor variation to building height is considered acceptable in this circumstance.

b. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The purpose of the standard is still considered relevant to the proposal. However, 100% compliance in this circumstance is considered unreasonable.

c. The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The purpose of the development standard would not be defeated if compliance was not required. However, 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standard, as outlined above, will still be achieved despite the variations as the development proposal provides heights in an appropriate location close to Schofields railway station. Amenity impact to adjoining buildings and open space is negligible as only rooftop plant and equipment exceeds the height limit, and the solar impact is captured within the rooftop.

d. The development standard has been virtually abandoned or destroyed by the council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

The development standard has not been abandoned or destroyed, however variations to the development standards of building height have similarly been considered in the Alex Avenue Precinct of the Growth Centre.

- JRPP-14-01907 approved in May 2015 for the construction of 6 x 5 storey residential flat buildings included a variation of up to 11.25% to the 16 m height limit.
- JRPP-15-02480 approved February 2017 for the construction of 2 x 5 storey residential flat buildings included a variation of up to 9.1 % of the 16 m height limit.

Variations to the roof structure and lift overruns are consistent with deviations considered elsewhere within the Growth Centre.

e. The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

The development is a greenfield site. Full compliance with the development control could be achieved, but the variations do not increase residential density. Further, given the greenfield context of the site, the topography of the land must be considered. The existing levels on the site result in a 3.5 m fall from the north-east to the south-west portion of the site. As site benching and earthworks are required to meet civil grades and construction of the surrounding road network, compliance would be unreasonable in the circumstances.

Based on the above assessment, the requested variation under Clause 4.6 is considered reasonable, well founded and is recommended for support.