



Clause 4.6 Variation Request

**Building Height Development
Standard**


**State Environmental Planning
Policy (Sydney Region
Growth Centres) 2006**

Cudgegong Town Centre - Stage 2

Submitted to Blacktown City Council
On Behalf of Restifa + Partners

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1. EXECUTIVE SUMMARY

This report seeks an exemption to a development standard prescribed by Appendix 6, Area 20 Precinct Plan of State Environmental Planning Policy (Sydney Region Growth Centres) 2006 (SRGC SEPP). The report relates to a Development Application (DA) proposing the 'Stage 2' redevelopment of 43-53 Cudgegong Road, Rouse Hill within Cudgegong Town Centre.

The exception is sought pursuant to Clause 4.6 of the SRGC SEPP. Specifically, an exception is sought to the strict application of the height of building development standard prescribed by Clause 4.3 of the SRGC SEPP. This clause prescribes a maximum building height of 26m for the subject site, whereas the proposal includes heights up to 32.2m from existing ground level.

It should be noted that Development Consent SPP-17-00039 applies to the subject site. The consent was issued by the NSW Land and Environment Court (LEC) on 18 September 2019 and provides a Concept Plan and Stage 1 approval for the subject site. The Concept Plan allows for, in summary, a two (2) stage mixed use development inclusive of 714 dwellings in shop-top-housing format, ground level retail floor space, 1,545 residential and retail car spaces in basement format, as well as associated public roads, footpaths, civil works and the like. The following is an extract of the approved Concept Plan. As stated earlier, this exception request relates to Stage 2 of the Concept Plan.

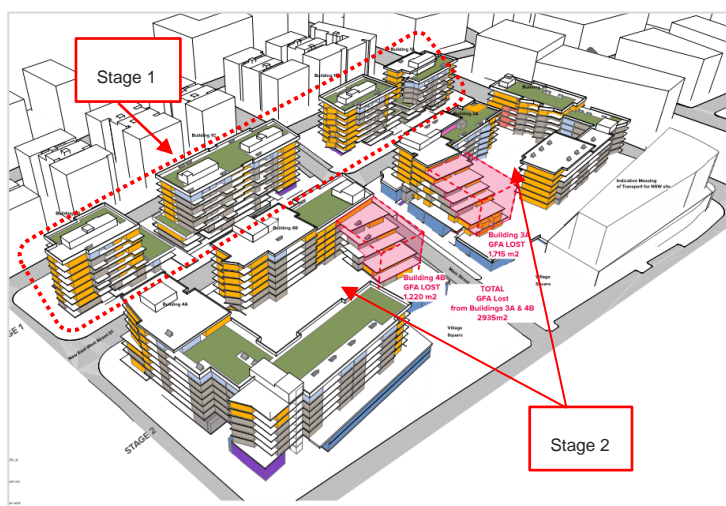


Figure 1: Extract of approved Concept Plan (Source: Consent SPP-17-00039/City Plan)

Whilst the DA seeks an exemption to Clause 4.3 of the SRGC SEPP, the exemption was considered and approved as part of the Concept Plan referenced above.

This exemption request is almost entirely consistent with the Concept Plan. In particular, the proposal's maximum height (i.e. 32.20m) is consistent with that approved in the Concept Plan (i.e. 32.20m). The only variances are as follows:

- In the Concept Plan, a maximum height of RL88.90 was allowed for at the highest habitable level of Building 3A. This proposal, however, includes a maximum height of RL89.40 (or an increase of 500mm from the Concept Plan); and,
- In the Concept Plan, a maximum height of RL84.90 was allowed for the top of the lift over run of Building 3B. This proposal, however, includes a maximum height of RL86.20 (or an increase of 1.30m).

In both instances, the area of the vertical and horizontal variances is minor, in comparison to the Concept Plan area. The building mass associated with the variances are located somewhat internally, or completely internally in the case of the mass associated with Building 3A. As such, the mass would not be readily visible from the public domain. Similarly, the limited mass ensures there are no unreasonable shadow impacts. Despite the variances, it must be recognised that the proposal does not breach the overall maximum height allowed for by the Concept Plan. For these reasons, the objectives of and 'tests' related to Clause 4.6 are satisfied by the proposal and the exemption can be supported.

It is also worth noting that in numerous circumstances, the proposal's envelope is, in fact, lower than that allowed by the Concept Plan. Specifically, a lift over run of Building 4A is proposed at RL 90.80 whereas the Concept Plan allows for RL91.80. Similarly, whilst there are elements of the proposed envelope that exceeds the 26 metre height of building standard, the vast majority of the envelope complies with the standard. This is demonstrated in the following height plane extract, where only those areas coloured white exceed the 26m height plane (coloured purple).

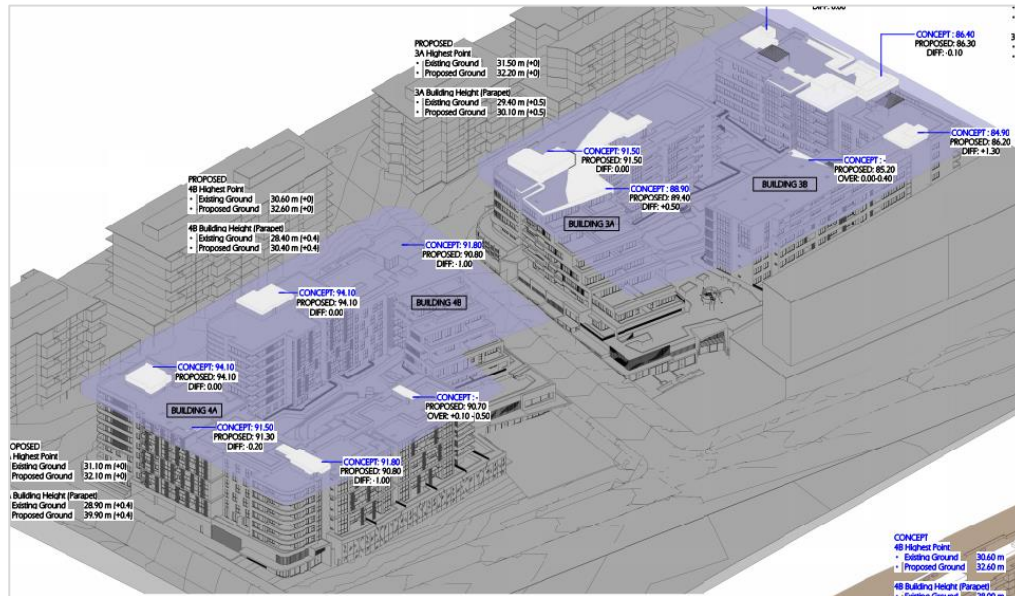


Figure 2: Extract of height plane (Source: Zhinar Architects)

In this report, we have explained how flexibility is justified in this case in terms of the matters explicitly required by Clause 4.6 to be addressed in a written request from the Applicant. This report also addresses, where relevant and helpful, additional matters that the consent authority is required to be satisfied of when exercising either the discretion afforded by Clause 4.6 and the assumed concurrence of the Secretary.

2. INTRODUCTION

This is a formal request that has been prepared in accordance with Clause 4.6 of the Area 20 Precinct Plan of the SRGC SEPP. It has been prepared to justify a variation to the height of buildings development standard proposed in a development application (DA) submitted to Blacktown Council for the redevelopment of 43-53 Cudgegong Road, Rouse Hill within Cudgegong Town Centre. Specifically, the DA relates to Stage 2 of the Concept Plan approved as part of Development Consent SPP-17-00039 for the subject site.

The objectives of Clause 4.6 are to provide an appropriate degree of flexibility in applying development standards to achieve better outcomes for, and from, development. Although, this exception request simply seeks the same flexibility that has already been afforded to the site as part of Development Consent SPP-17-00039. The Concept Plan issued as part of this consent allowed for a maximum height of 32.20m for the subject site, and this DA is entirely consistent with this (as it is required to be under the Act).

As the following request demonstrates, a better planning outcome would be achieved by exercising the flexibility afforded by Clause 4.6 in the particular circumstances of this application. Alternatively, the same planning outcome achieved as part of Development Consent SPP-17-00039 will be delivered as part of this exception request and associated DA.

This request has been prepared having regard to the Department of Planning and Environment's Guidelines to Varying Development Standards (August 2011) and various relevant decisions in the New South Wales Land and Environment Court and New South Wales Court of Appeal (Court).

Clause 4.6 requires that a consent authority be satisfied of three matters before granting consent to a development that contravenes a development standard (see *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245) at [23] and *Baron Corporation Pty Limited v Council of the City of Sydney* [2019] NSWLEC 61 at [76]-[80]:

1. That the applicant has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case [clause 4.6(3)(a)];
2. That the applicant has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard [clause 4.6(3)(b)];
3. That 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 [clause 4.6(4)]

This request also addresses the requirement for the concurrence of the Secretary as required by clause 4.6(4)(b).

3. STANDARD TO BE VARIED

The standard that is proposed to be varied is the maximum height of buildings development standard which is set out in clause 4.3 of the Area 20 Precinct Plan of the SRGC SEPP as follows:

4.3 Height of buildings

(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."*

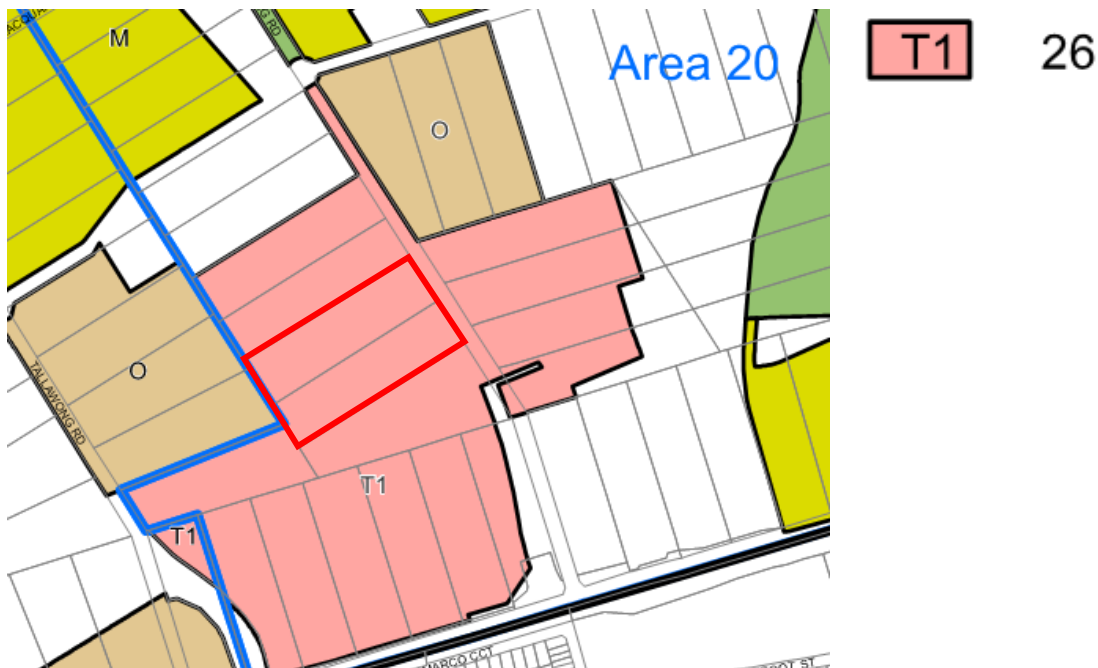


Figure 3. Height of Buildings Map Extract, site outlined in red (Source: SRGC SEPP).

The numerical value of the development standard applicable in this instance is 26m.

The development standard to be varied is not excluded from the operation of clause 4.6 of the Area 20 Precinct Plan of the SRGC SEPP.

4. EXTENT OF VARIATION

Clause 4.3(2) prescribes a maximum 26m building height for the subject site. A breakdown of the proposed maximum building heights and variations to the maximum building height standard is below:

- Building 3A: 31.50m
- Building 3B: 32.2m
- Building 4A: 31.10m
- Building 4B: 28.9m

Therefore, the maximum building height proposed for buildings 3A, 3B, 4A and 4B is 32.20m which equates to a variation of 6.2m.

The following extract of the 'Height Limit' plan demonstrates the variations relative to the entire Stage 2 proposed envelope, whereby the 26m height plane is shown purple and the non-compliant elements referenced above are shown in white. Reference can be made to **Appendix 1** where the plan is provided in full size.

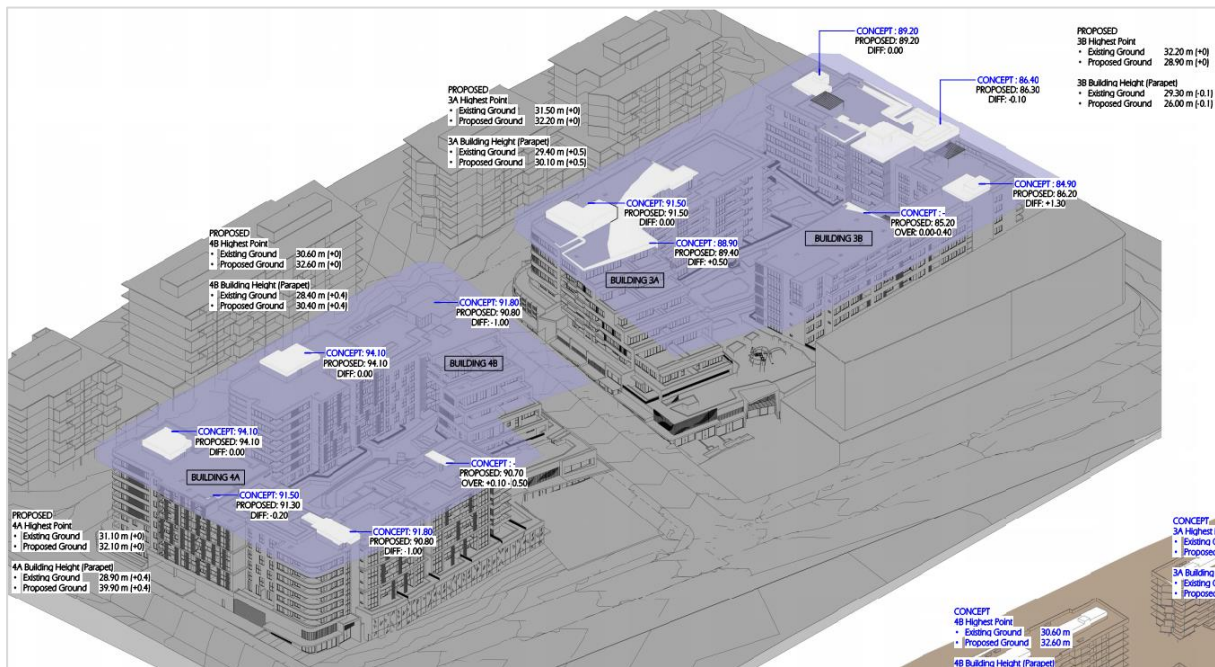


Figure 4: Height Plane Diagram for Buildings 3 and 4 (Source: Zhinar Architects)

5. UNREASONABLE OR UNNECESSARY

In this section it is demonstrated why compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by clause 4.6(3)(a) of the SRGC SEPP.

The Court has held that there are at least five different ways, and possibly more, through which an applicant might establish that compliance with a development standard is unreasonable or unnecessary (see *Wehbe v Pittwater Council* [2007] NSWLEC 827).

The five ways of establishing that compliance is unreasonable or unnecessary are:

1. The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;
3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; and
5. The zoning of the land is unreasonable or inappropriate

It is sufficient to demonstrate only one of these ways to satisfy clause 4.6(3)(a) (*Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118 at [22] and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130 at [28]).

We have considered each of the ways as follows.

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

The following table considers whether the objectives of the development standard are achieved notwithstanding the proposed variation (Test 1 under *Wehbe*).

Table 1: Achievement of Objectives of Clause 4.3 of SRGC SEPP.

Objective	Discussion
(a) to establish the maximum height of buildings on land within the Area 20 Precinct.	<p>This objective states a purpose of the standard and does not affect the operation of Clause 4.6 in allowing, subject to compliance with its terms, flexibility to vary the specified maximum height.</p> <p>The height of buildings map specifies the maximum height of buildings in the Area 20 Precinct. The majority of buildings forming part of the proposal are compliant, and breaches principally occur in relation to non-habitable areas such as roof slabs and lift overruns. Importantly, the breaches largely, with two minor exceptions, remain below the maximum building height allowed for by the Concept Plan applicable to the subject site.</p>
(b) to minimise visual impact and protect the amenity of adjoining development and land in terms of solar access to buildings and open space.	<p>The SEE submitted with the DA undertakes a detailed assessment of the proposal with regard to the surrounding sites, concluding no adverse impact.</p> <p>The existing character of the area is rural residential. However, given the locality is undergoing significant transformation in accordance with the provisions of the Area 20 Precinct provisions of following the SRGC SEPP and the Blacktown Growth Centre Precincts DCP (BGCPDCP). It is more relevant to consider impacts in relation to likely future adjoining development rather than existing under developed sites.</p> <p>This objective has two elements:</p> <ul style="list-style-type: none"> ▪ Minimising visual impact, and

Objective	Discussion
	<ul style="list-style-type: none"> ▪ Protecting the amenity, in terms of solar access to buildings and open space, of adjoining development and land. <p>Visual impact</p> <p>An impact is generally defined to mean "a marked effect or influence" on someone or something (Oxford Living Dictionary), or "a powerful effect that something, especially something new, has on a situation or person" (Cambridge Dictionary).</p> <p>The fact of a building simply being able to be seen from any particular place does not, of itself, represent a visual impact. Every building can be seen from somewhere. This does not mean that every building has a marked or powerful visual effect. It also does not follow that a taller building, simply because it may be able to be seen from a wider area, necessarily has a visual "impact." A well designed building in an appropriate location and context may be able to be seen without having a marked or powerful effect.</p> <p>We consider that the elements of the proposed buildings that will exceed the height standard will not have any adverse visual impacts.</p> <p>The future built form context of the Cudgegong Road local centre will be that of a medium to high-density mixed-use retail/residential centre in the form of medium rise buildings, generally up to 8 storeys. However, a 9-storey development has been approved at 60 Cudgegong Road (opposite the subject site) where construction has commenced.</p> <p>The built form of Cudgegong Road is set amongst a similarly scaled residential catchment where developments up to 8 storeys are also permitted. We note in this context that Council has resolved to prepare a Planning Proposal that would permit development up to 26 metres (8 storeys) on land directly to the west of the town centre (i.e. 34 - 72 Tallawong Road). On 23 January 2019, the NSW Department of Planning & Environment determined that the Planning Proposal should proceed through the 'gateway'.</p> <p>Within this context, the elements of the proposal that will breach the maximum height standard are barely identifiable. Unless specifically seeking to identify those elements, for the ordinary observer going about their normal business, these non-compliant elements will not be perceptible from their surrounds and will certainly not be obvious, incongruous or offensive.</p> <p>In the case of lift overruns, which are the only non-complying elements of most of the proposed buildings, their central locations on buildings with roof heights above ground level of 26 metres, will not be observable from street level in their immediate vicinity and will be very minor, inconspicuous elements of buildings when viewed at some distance from locations of sufficient elevation to provide a direct line of site to them. In this regard, it is important to note that the objective of the clause is "minimising" visual impacts, not that there is to be "no" visual impact.</p> <p>Good architectural design and sensitive materials and colours will minimise any residual visual impacts of the non-complying elements of buildings that might otherwise be perceived. Such outcomes are achieved in the detailed Stage 2 building designs.</p> <p>Protecting the amenity, in terms of solar access to buildings and open space, of adjoining development and land</p> <p>The architectural design package provided in this DA demonstrates how solar access to buildings and open space is maintained notwithstanding the proposed height variations.</p> <p>Overshadowing diagrams submitted with this application demonstrate that solar access to sites and future buildings and open space on sites to the east, west and south of the site is reasonable and appropriate. In relation to</p>

Objective	Discussion
	<p>potentially adjoining buildings of a residential nature, compliance would be achieved with the Apartment Design Guide's (ADG) solar access guidelines, Internally within the development site, the architectural design package again demonstrates that a high level of compliance is achieved with the ADG's solar access guidelines for dwellings and communal open space. For example, in Stage 2, communal open space (COS) and more than 70% of dwellings receive than the 2 hours or more sunlight as recommended by the ADG and 61% of dwellings are natural ventilated.</p> <p>Importantly, the design ensures that the specified extent of solar access to the future village squares to the south of the subject site is substantially achieved. The specified extent in this case (control 5.2.1.36 of the BGDCDP) is sunlight to a minimum of 50% of their site area between 11am – 2pm at June 21. Detailed modelling analysis demonstrates that the two village squares substantially achieve the required 50% sunlight access pursuant to the DCP.</p> <p>It is noted that the stepped design of the building was developed at Concept Stage to increase the solar access of the Village Squares and the application is consistent with Concept Plan built form. If the proposal had adopted the anticipated built form (I.e. filling in the step) there would have been a substantial degree of non-compliance with the control 5.2.1.36.</p> <p>This latter aspect has been a result of a considered approach to building design discussed with and agreed to by Council as part of the assessment process for the Concept DA, which allowed for redistribution of height across other parts of the development site above the maximum height standard to compensate for buildings reduced below the maximum standard in order to protect solar access to the village squares.</p> <p>Adopting building heights around the village squares which are far lower than the 26m height standard remains a fundamental principle of the proposal. However, the proposal does not seek additional storeys above the 26m height limit to offset any GFA loss, but instead only seeks to limit further GFA loss by enabling roof top elements to penetrate the maximum height standard.</p> <p>This is a good example of the better outcomes that Clause 4.6 enables to be achieved for and from development by allowing such flexibility in particular circumstances. Based on the above analysis, we conclude that the proposed development minimises visual impact and protects the amenity, in terms of solar access to buildings and open space, of adjoining development and land, notwithstanding the height variations.</p>
(c) to facilitate higher density development in and around commercial centres and major transport routes.	<p>This objective is particularly relevant to this site, given that it is a proposed local commercial centre that adjoins a major transport route, serviced by a new metro rail station.</p> <p>The architects have demonstrated that a development on the subject site that fully complies with the building height standard in Clause 4.3 and that meets relevant design guidelines, including commercial floorspace limitations and the ADG, cannot achieve the maximum FSR for the site specified in Clause 4.4.</p> <p>Almost 3,000m² of 'height compliant GFA' has been removed from areas adjoining the proposed village squares to provide appropriate solar access to those squares. The Stage 2 proposal, inclusive of non-habitable space (not contributing to GFA) above the height standard, achieves a FSR of 2.19:1, significantly below the maximum 2.75:1 standard.</p> <p>A fully height compliant development across the site would further reduce the achievable GFA, (because compliant lift overruns would push habitable floor space even further below the maximum height limit than currently proposed).</p>

Objective	Discussion
	The proposed variations to the maximum building height standard better achieve this objective than a fully height compliant development.

As demonstrated in Table 1 above, the objectives of the building height development standard are achieved notwithstanding the proposed variation.

In accordance with the decision in *Wehbe v Pittwater Council* [2007] NSWLEC 827, *Initial Action Pty Limited v Woollahra Municipal Council* [2018] NSWLEC 118, *Al Maha Pty Ltd v Huajun Investments Pty Ltd* (2018) 233 LGERA 170; [2018] NSWCA 245 and *RebelMH Neutral Bay Pty Limited v North Sydney Council* [2019] NSWCA 130, therefore, compliance with the building height development standard is demonstrated to be unreasonable or unnecessary and the requirements of clause 4.6(3)(a) have been met on this way alone.

For the sake of completeness, the other recognised ways are considered as follows.

5.2. The underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary;

Not applicable. The underlying objective or purpose of the standard is relevant to the development and is achieved.

5.3. The objective would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.

The objective would not be entirely defeated if compliance was required, but arguably, a lesser degree of consistency with the objective is achieved. That is, compliant buildings would result in reduced densities in a highly accessible town centre location.

5.4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence the standard is unreasonable and unnecessary; or

The standard has not been abandoned by Council actions in this case and so this reason is not relied upon.

Development Consent SPP-17-00010 approved a medium and high density development at 44 and 56 Cudgegong Road, Rouse Hill. The consent allowed for building heights up to 33m, whereas the height standard is 26m. Similarly, Development Consent 15/1543 approved medium to high density residential development at 60 Cudgegong Road, Rouse Hill. This consent, and subsequent modifications, allowed for 30m height limits, where the standard is 26m. These are neighbouring developments.

More generally, there are several Development Consents in the immediate locality, allowing for plant rooms, lift overruns, and the like, which exceed the applicable height standard.

These examples do not necessarily demonstrate that the standard in question has been abandoned or destroyed, but it can reasonably be inferred that the standard insofar as it relates to elements above the roof level has been broadly set aside.

5.5. The zoning of the land is unreasonable or inappropriate.

The zoning of the land is reasonable and appropriate and therefore is not relied upon.

6. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS

In *Initial Action Pty Ltd v Woollahra Council* [2018] NSWLEC 118, Preston CJ observed that in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6 to contravene a development standard, the focus must be on the aspect or element of the development that contravenes the development standard, not on the development as a whole.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90, Pain J observed that it is within the discretion of the consent authority to consider whether the environmental planning grounds relied on are particular to the circumstances of the proposed development on the particular site.

As discussed in Section 4, the elements of the development which contravene the maximum building height development standard are buildings 3A, 3B, 4A and B.

In terms of the objects (Section 1.3) of the Environmental Planning & Assessment Act, which Preston J observed constitute 'environmental planning grounds', the proposed building height does not present adverse environmental impacts if compared to a fully compliant scheme. The impacts from a compliant scheme would be greater as such a scheme allows for more building mass adjacent to the town squares, resulting in further overshadowing of such squares. The degree of overshadowing to the squares in such a scenario would, in fact, be substantially non-compliant with the relevant provisions in the BGCDP. In this sense, the non-compliance advances objective (g) of the Act in that it promotes good design and amenity of the built environment. The proposal as a whole also achieves objectives (c) and (d) respectively, which provide for the orderly economic development of land and the delivery of affordable housing.

The taller buildings which do not comply with the height standard will be offset by lower buildings. In translating the maximum heights to comparable maximum storeys, proposed Building 3B will be 5 storeys lower than the height standard in some places whilst other Stage 2 Buildings will be marginally over the maximum height. Proposed Building 4A will be up to 6 storeys lower than the height standard. Please refer to Figures 5 and 6, which indicates the distribution of massing with the majority of areas under the height limit, as well as the "stepping down" of development to allow additional sunlight to open space areas. This building mass has been partially redistributed to the other buildings.

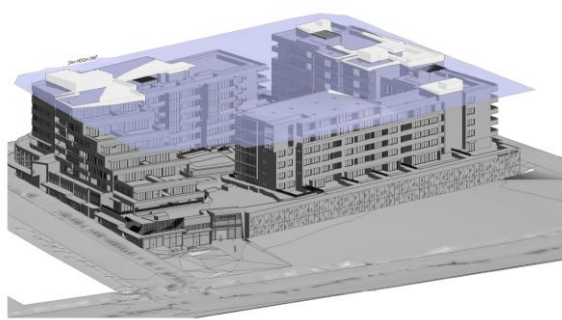


Figure 5: Height Limit Study (Stage 3) (Source: Zhinar Architects)

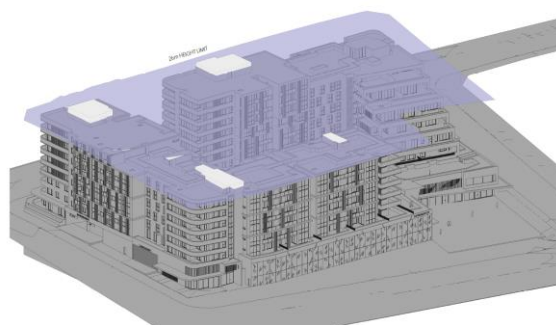


Figure 6: Height Limit Study (Stage 4) (Source: Zhinar Architects)

In our view, the reductions in height across the site adequately offset the minor variations. The redistribution of massing achieves a better streetscape and amenity outcome for the public domain, as well as a better residential amenity outcome.

The SEE that has been prepared for the DA provides a holistic environmental planning assessment of the proposed development and demonstrates that subject to adopting a range of reasonable mitigation measures, there are sufficient environmental planning grounds to support the development. In particular, the SEE demonstrates that the contravention of the height standard enables the planned village squares under the BGCPDCP to achieve higher solar access than a strictly height compliant development. The ability to achieve this is largely attributed to the substantial size and dimensions of the site, and the street layout and block orientation as stipulated in the DCP, which is a circumstance unique to this particular site in the surrounding catchment. It is effectively a master planning exercise for the site

determining that greater heights in appropriate locations within other parts of the site allow for a better planning outcome, but that are still relatively modest and within the ambit of 4.6, which has no quantitative limit.

In this case, the resultant contravention to Clause 4.3(2) achieves good design and amenity in the built environment, which are objectives of the EP&A Act. The additional height also achieves the economic use of the land and assists with the delivery of affordable housing, which are also objects of the EP&A Act.

7. PUBLIC INTEREST

In this section it is explained how 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. This is required by clause 4.6(4)(a)(ii) of the LEP.

In Section 5 it was demonstrated that the proposed development overall achieves the objectives of the development standard notwithstanding the variation of the development standard (see comments under "public interest" in Table 1).

The tables below consider whether the proposal is also consistent with the objectives of the B2 and B4 zones.

Table 2: Consistency with B4 Zone Objectives.

Objectives of B4 Zone	Discussion
To provide a mixture of compatible land uses.	The proposed development is consistent with this objective. The proposal allows for both residential and commercial/retail land uses, all of which are permissible in the subject B2 - Local Centre and B4 - Mixed Use zones.
To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposed development is consistent with this objective. A mix of retail and residential land uses are proposed, all of which are permissible in the subject B2 - Local Centre and B4 - Mixed Use zones. Additional height enables additional residential development. In this particularly accessible location, being 220m from the Tallawong Metro Station, this would assist with maximising public transport patronage, as well as encourage walking and cycling
To facilitate active retail, commercial, entertainment and community uses at ground level of mixed use developments.	The proposed development, with redistribution of height, consistent with the Concept Plan approval, is consistent with this objective. In particular, the proposal allows for retail GFA throughout much of the ground floor, with the appropriate quantity of associated street front glazing.
To provide for residential development that contributes to the vitality of the local centre.	The proposed development is consistent with this objective. GFA above the proposal's podium is dedicated for residential development and its associated land uses. The floor plans for such residential uses are such that they overlook the adjoining public domain, thereby activating and adding vitality to such space. The occupants of such floor space will also utilise, thereby activate, the nearby public domain.
To ensure that residential development adjacent to the local centre does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.	The proposed development comprises and is not adjacent to the local centre and will not conflict with this objective, as it is not relevant.

Table 3: Consistency with B2 Zone Objectives.

Objectives of B2 Zone	Discussion
To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.	The proposed development is consistent with this objective. As stated in Table 2 above, the proposal allows for retail land uses at ground level, as well as the anticipated town squares, footpaths and the like, for community uses.
To encourage employment opportunities in accessible locations.	The proposed development is consistent with this objective. Tallawong Station is located within close proximity to the south of the site and the proposal includes 11,774.60m ² of ground floor GFA for retail and/or commercial land uses.
To maximise public transport patronage and encourage walking and cycling.	The proposed development is consistent with this objective. Tallawong Station is located within close proximity to the site. Pedestrian links/footpaths and cycling paths are provided, consistent with the BGCPDCP. The proposal includes a substantial quantity of residential and retail/commercial GFA, the users of which will be conveniently located in proximity to the Tallawong Station.
To provide for residential development that contributes to the vitality of the local centre.	The proposed development is consistent with this objective. A variety of apartment types will be provided which will contribute to the vitality of the local centre. Arguably, the non-compliant scheme improves the anticipated vitality as it improves solar access to the village squares.
To ensure that residential development within the centre does not detract from the primary function of the centre being to provide for retail, business, entertainment and community uses.	The proposed development is consistent with this objective. The redistribution of the height does not result in any impact to the envisioned primary function of the B2 zone, providing a sizeable quantity of GFA for retail and/or commercial land uses. This GFA is also designed such that it is functional and easily accessible.
To facilitate active retail, commercial, entertainment and community facility uses at ground level of mixed use developments.	The proposed development is consistent with this objective. Active retail and residential uses will be provided for most of the proposal's ground floor. The ground level retail GFA is complemented by an appropriate quantity and configuration of glazing.
To encourage development which will contribute to the economic growth of, and creation of employment opportunities within, the City of Blacktown.	The proposed development is consistent with this objective. The proposed development will provide additional employment opportunities.

As demonstrated in Table 2 and 3, the proposal is consistent with the objectives of the zones and in Section 5 it was demonstrated that the proposal is consistent with the objectives of the development standard. Accordingly, in terms of clause 4.6(4)(a)(ii), the proposal is in the public interest.

8. STATE OR REGIONAL ENVIRONMENTAL PLANNING

This section considers whether contravention of the development standard raises any matter of significance for State or regional environmental planning, the public benefit of maintaining the development standard, and any other matters required to be taken into consideration by the Secretary before granting concurrence required by clause 4.6(5).

There is no prejudice to planning matters of State or Regional significance resulting from varying the development standard as proposed by this application.

The Sydney Metro represents one of the largest investments in public transport in Australia. As indicated in the SRGC SEPP that applies to the site, higher densities are to be facilitated in commercial centres such as this, which directly adjoins and utilises this major public expenditure. Any unnecessary and unreasonable reduction in height that reduces population density on the site is inconsistent with, and marginally prejudicial to these principles.

As demonstrated already, the proposal is consistent with the objectives of the zones, the objectives of the development standard, the approved Concept Plan, and in our opinion, there are no additional matters which would indicate there is any public benefit of maintaining the development standard in the circumstances of this application.

Finally, we are not aware of any other matters required to be taken into consideration by the Secretary before granting concurrence.

9. CONCLUSION

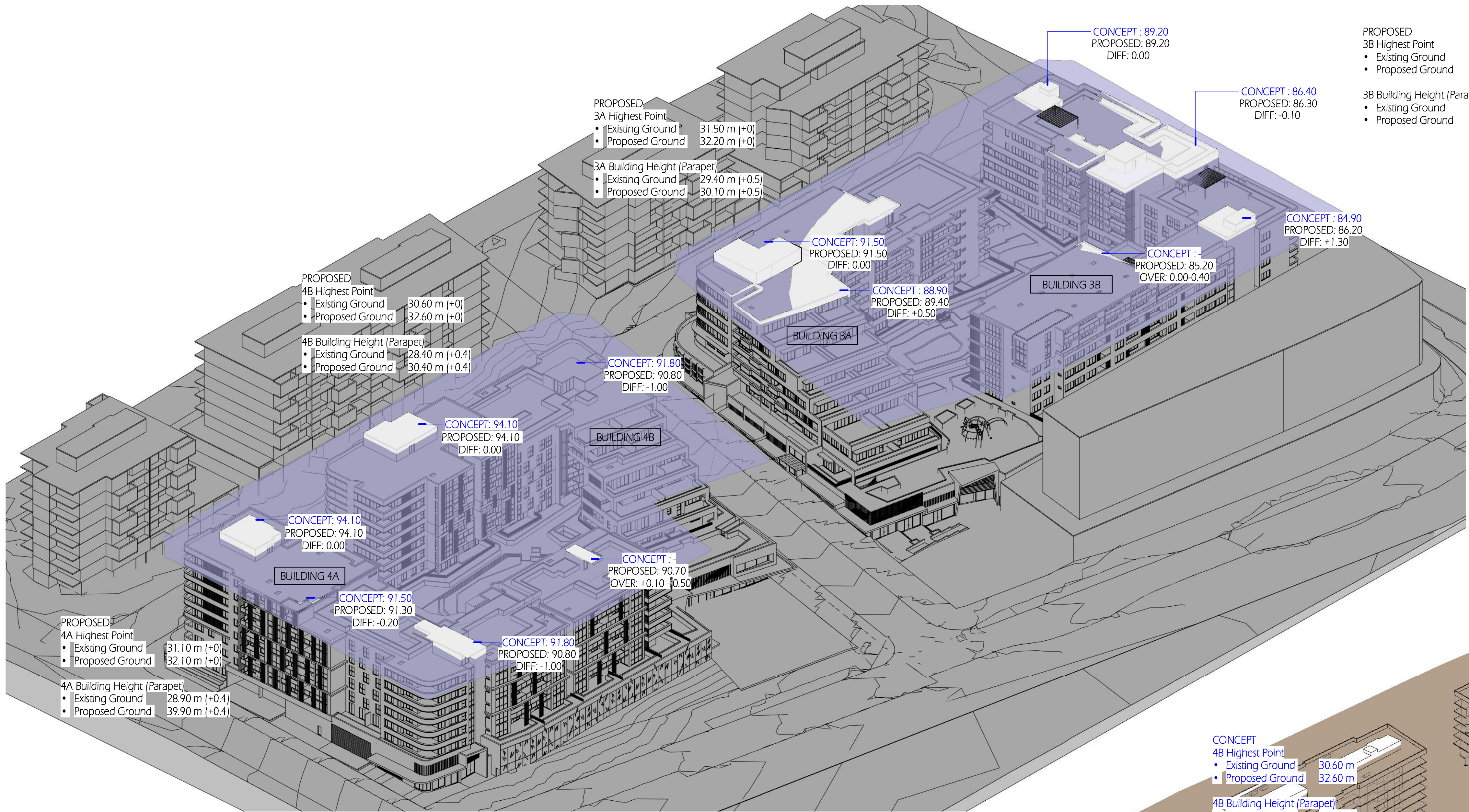
This submission requests a variation, under clause 4.6 of the Area 20 Precinct Plan of the SRGC SEPP to the height of buildings development standard and demonstrates that:

- Compliance with the development standard is unreasonable and unnecessary in the circumstances of this development;
- The development achieves the objectives of the development standard and is consistent with the objectives of the B2 and B4 zones and is therefore in the public interest.
- There are sufficient environmental planning grounds to justify the contravention;
- There is no public benefit in maintaining the standard;
- The proposal is consistent with the building height strategy approved as part of the Concept Plan. That is, height and GFA 'lost' from the building envelope immediately adjacent the town squares, but offset with additional height elsewhere throughout the Concept Plan, is a suitable response to the site as it improves solar access to the squares, and is without unreasonable amenity impacts elsewhere; and,
- The contravention does not raise any matter of State or Regional significance.
- The concurrence of the Secretary can be assumed in accordance with Planning Circular PS 18-003.

On this basis, therefore, it is appropriate to exercise the flexibility provided by clause 4.6 in the circumstances of this application.

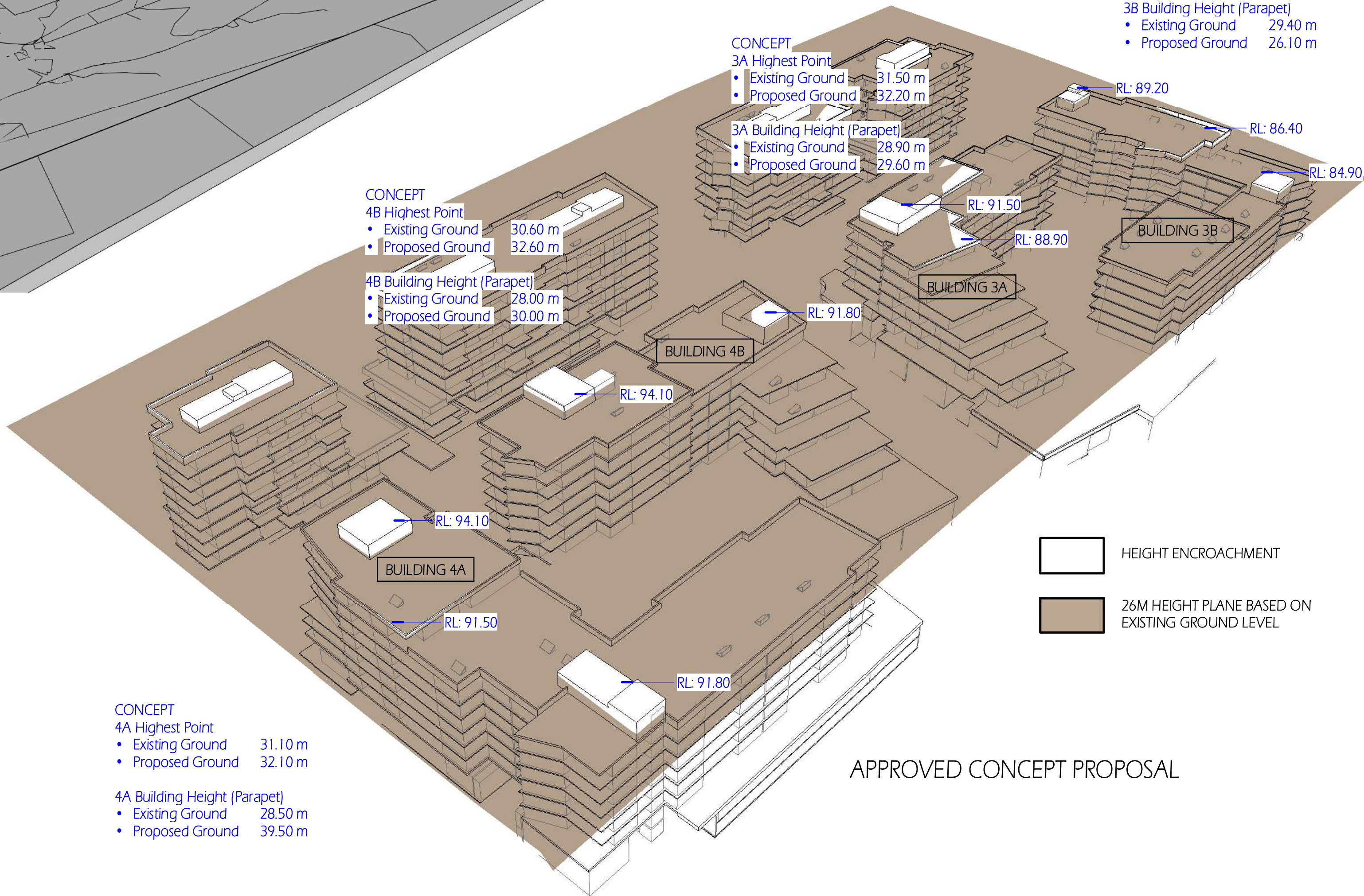
APPENDIX 1

Height Plane Diagram (Zhinar Architects)



PROPOSED HEIGHT LIMIT STUDY

- HEIGHT ENCROACHMENT
- 26M HEIGHT PLANE BASED ON EXISTING GROUND LEVEL



APPROVED CONCEPT PROPOSAL

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PROJECT STATUS :
Development Application
DEVELOPMENT MANAGER :
Restifa & Partners

PROJECT NAME
Proposed Mixed Use Development
(MASTERPLAN)
43-53 CUDGEGONG ROAD
ROUSE HILL, NSW 2850
LGA : Blacktown City Council

SHEET TITLE:
Height Limit

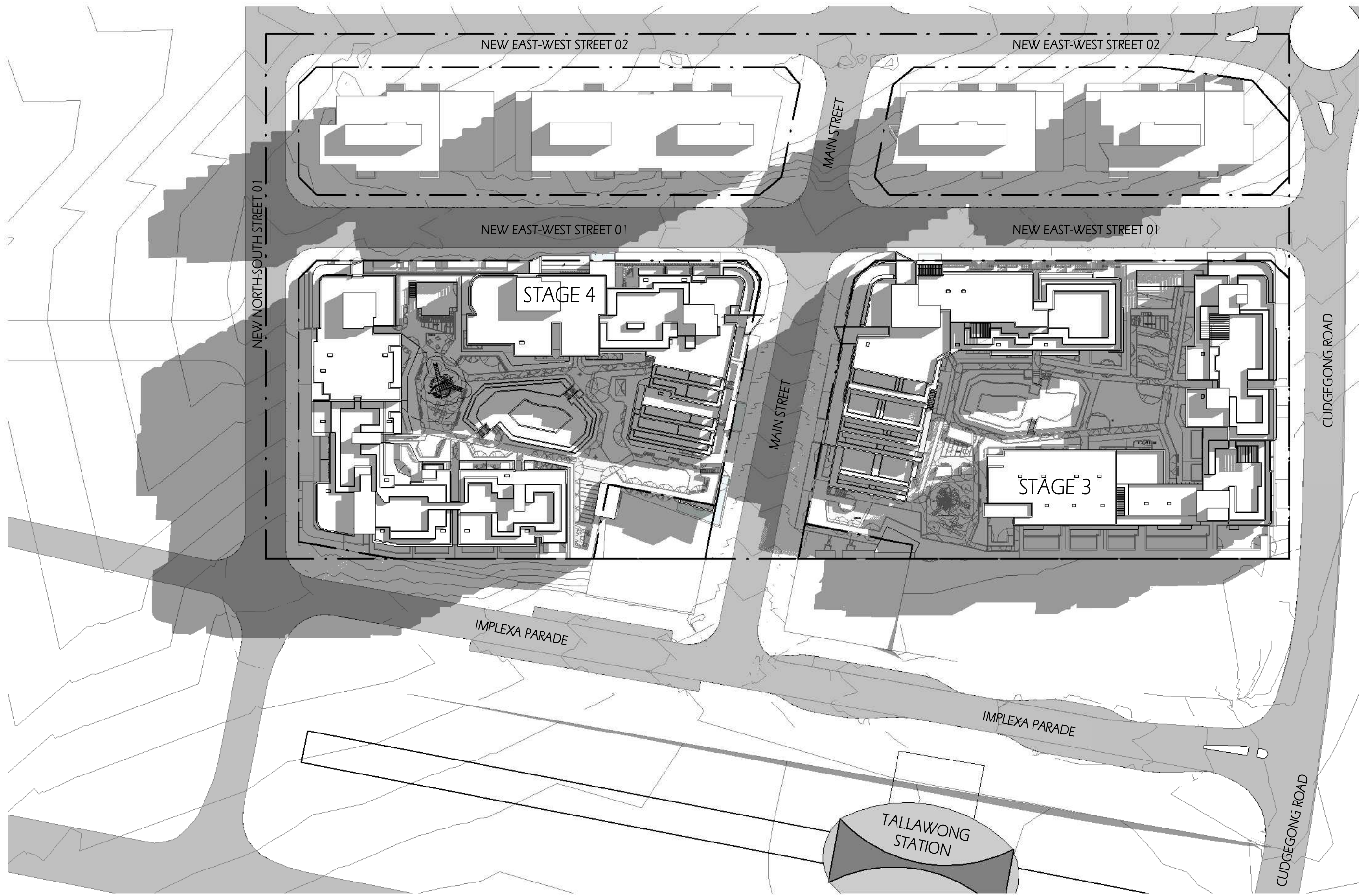
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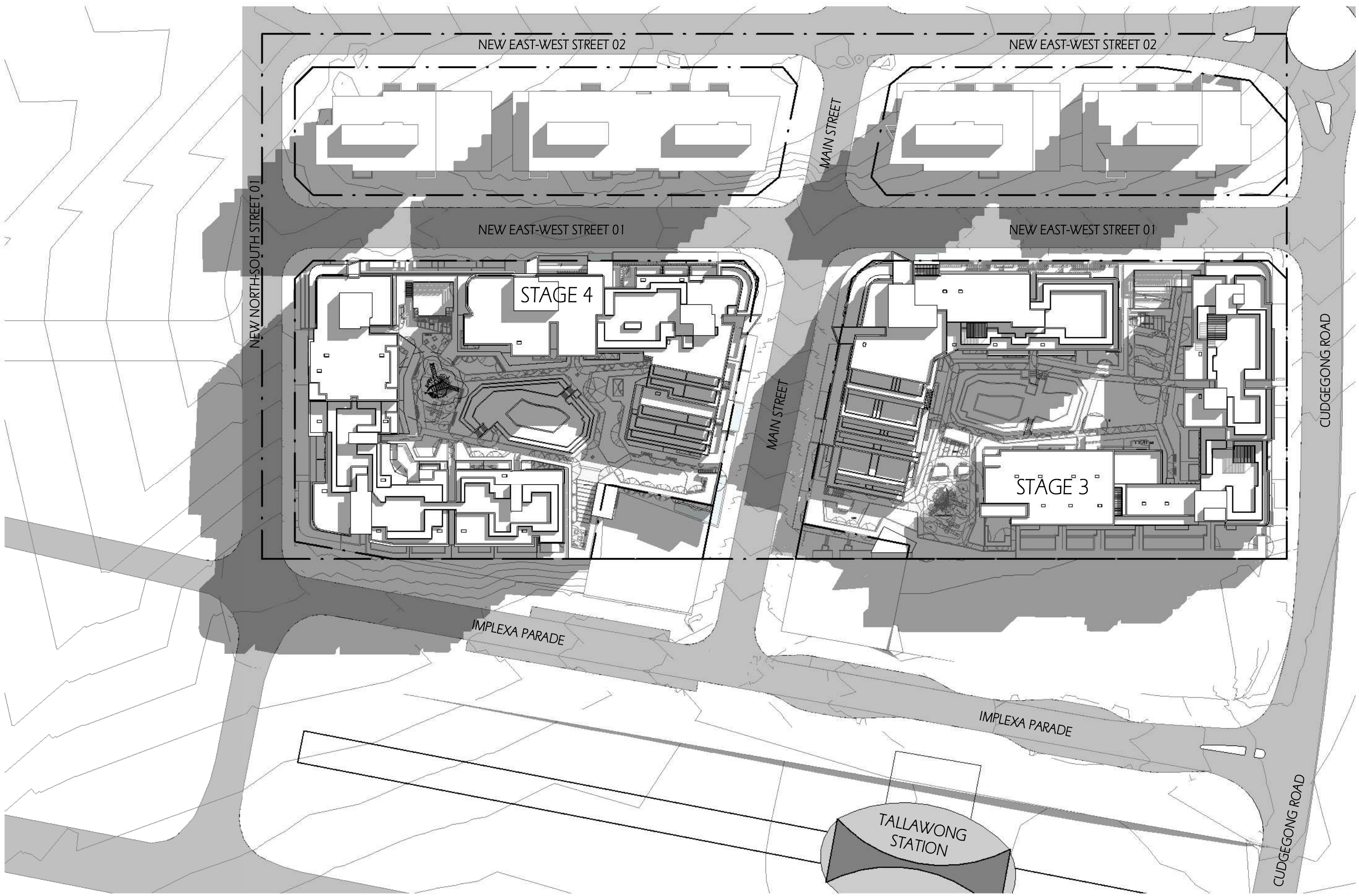
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APPENDIX 2

Shadow Diagrams (Zhinar Architects)

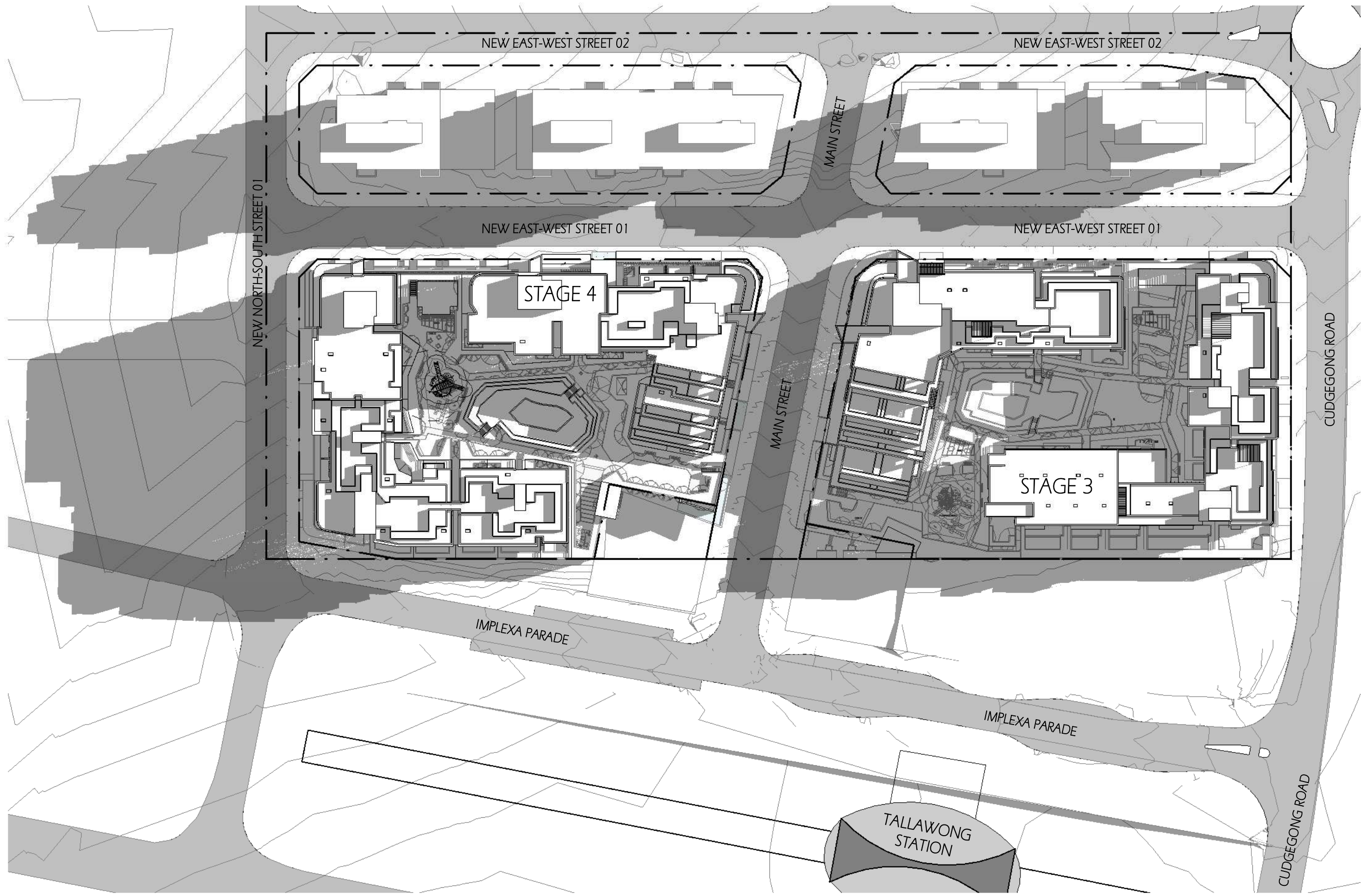


SHADOW 21 JUNE - 10 AM



SHADOW 21 JUNE - 11 AM

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SHADOW 21 JUNE - 9AM



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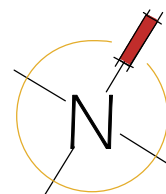
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Rustum Wee Chung Kudinar-Kwee (reg. 4570) : Nominated Architect



RESTIFA & PARTNERS

PROJECT STATUS:
Development Application

DEVELOPMENT MANAGER:
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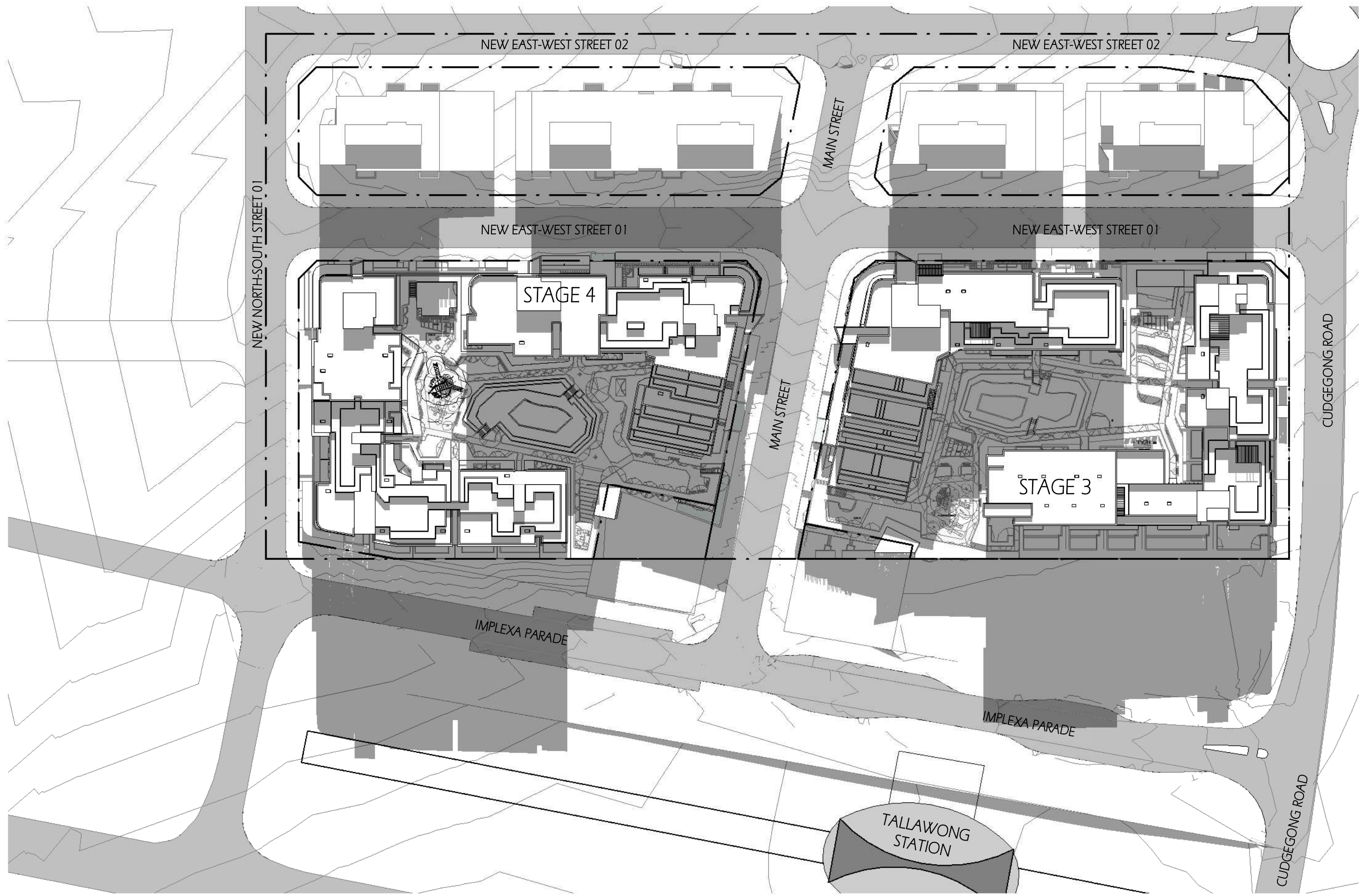
LGA: Blacktown City Council

SHEET TITLE:
Shadow Diagram - 21 June

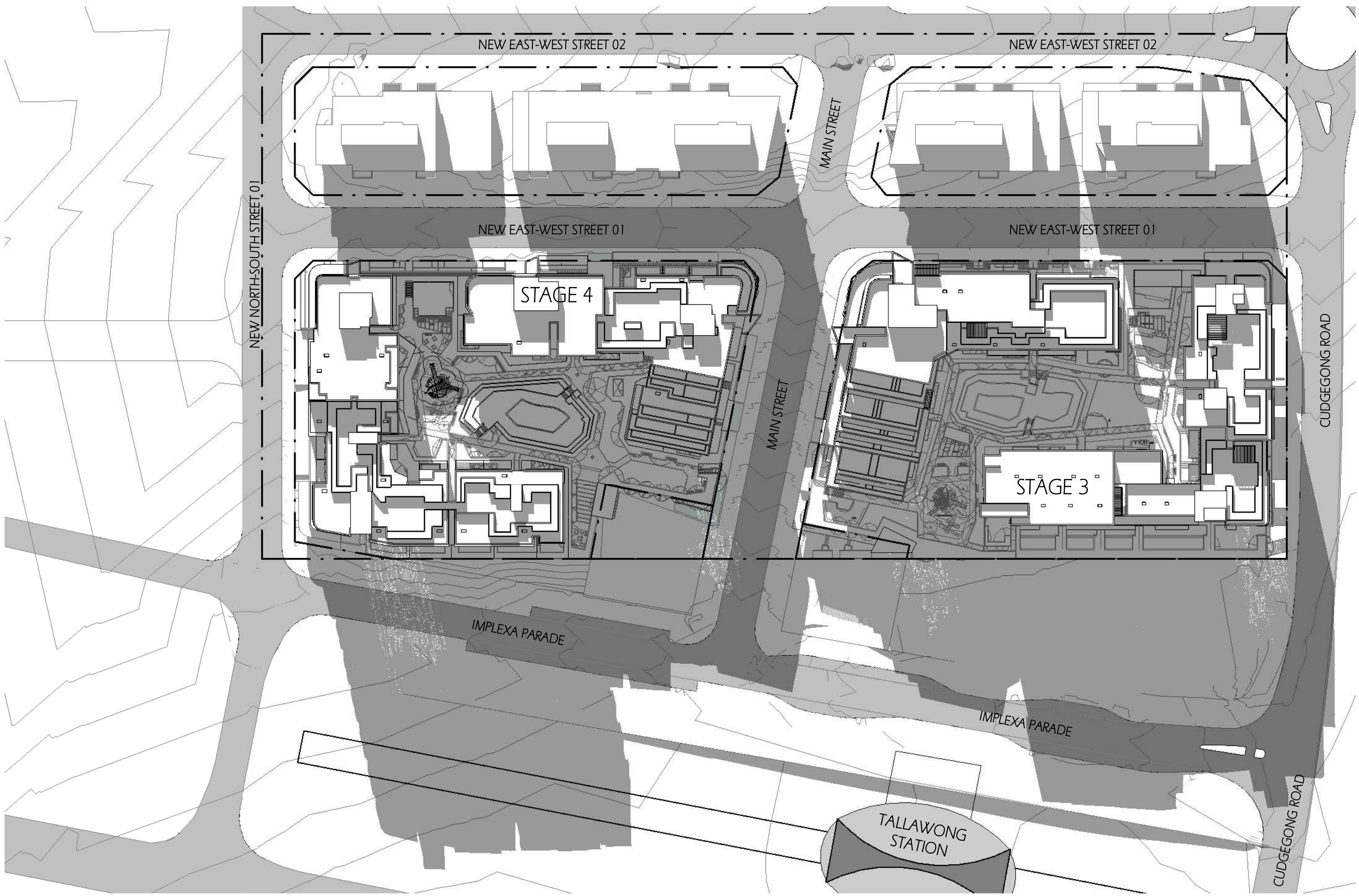
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SHADOW 21 JUNE - 2 PM



SHADOW 21 JUNE - 3 PM

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SHADOW 21 JUNE - 1 PM

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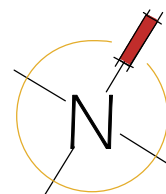
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Rustom Wee Chung Kudinar-Kwee (reg. 4570) : Nominated Architect



RESTIFA & PARTNERS

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