

## COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2019SNH009
DA Number	2017/181/C
LGA	Willoughby City Council
Proposed Development	S4.55(2) modification seeking internal and external alterations to the approved mixed use building including lift access to the roof top level communal open space and modification to Condition 25 relating to number of adaptable units.
Street Address	989-1015 Pacific Highway, Roseville
Applicant/Owner	KECO City Developments Pty Ltd
Date of DA lodgement	15 February 2019
Number of Submissions	0
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Capital Investment Value of original DA: >20 Million
List of all relevant s4.15(1)(a) matters	<i>SEPP(65) Design Quality of Residential Apartment Development and ADG</i> <i>SEPP(Basix)</i> <i>SEPP (Infrastructure)</i> <i>SREP (Sydney Harbour Catchment).</i> <i>SEPP 55 – Land Remediation</i> <i>Willoughby Local Environmental Plan 2012</i> <i>Willoughby Development Control Plan 2016</i>
List all documents submitted with this report for the Panel's consideration	<ol style="list-style-type: none"> <li>1. Schedule of Amended Conditions</li> <li>2. Site Description and History</li> <li>3. Controls, Referrals and Development Statistics Table</li> <li>4. Assessment of Height Exceedance</li> <li>5. Considerations under s.4.55(2) of EP&amp;A Act - other modifications</li> <li>6. Considerations under s.4.15 of EP&amp;A Act</li> <li>7. Notification Map</li> <li>8. Architectural Plans</li> </ol>
Report prepared by	Pooja Chugh – Development Planner
Report date	5 November 2019

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 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 (S7.24)?

Yes

*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?

*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*

No but discussed

# SNPP REPORT

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989-1015 Pacific Highway, ROSEVILLE NSW 2069.

**SNPP REF NO:** PPS-2019SNH009  
**COUNCIL:** WILLOUGHBY CITY COUNCIL  
**ADDRESS:** 989-1015 PACIFIC HIGHWAY, ROSEVILLE  
**DA NO:** DA-2017/181/C  
**PROPOSAL:** S4.55(2) MODIFICATION SEEKING INTERNAL AND EXTERNAL ALTERATIONS TO THE APPROVED MIXED USE DEVELOPMENT INCLUDING LIFT ACCESS TO THE ROOF TOP COMMUNAL OPEN SPACE AND MODIFICATION TO CONDITION 25 RELATING TO ADAPTABLE UNITS.  
**RECOMMENDATION:** APPROVAL  
**ATTACHMENTS:**

1. SCHEDULE OF AMENDED CONDITIONS
2. SITE DESCRIPTION AND AERIAL PHOTO
3. DEVELOPMENT CONTROLS, STATISTICS & REFERRALS
4. OFFICER'S ASSESSMENT OF HEIGHT EXCEEDANCE
5. SECTION S4.55 (96) ASSESSMENT
6. SECTION 4.15 (79C) ASSESSMENT
7. NOTIFICATION MAP
8. ARCHITECTURAL PLANS

  
**RESPONSIBLE OFFICER:** IAN ARNOTT - (PLANNING MANAGER)  
**AUTHOR:** POOJA CHUGH - (DEVELOPMENT PLANNER)  
**DATE:** 05-NOV-2019

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## 1. PURPOSE OF REPORT

The current Section 4.55(2) modification application is reported to Sydney North Planning Panel (SNPP) for determination as the original application determined by the Panel met the relevant criteria to be considered a regional development under Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*.

## 2. OFFICER'S RECOMMENDATION

**THAT the Sydney North Planning Panel (SNPP):**

**2.1. Support exceedance to the height of buildings development standard contained in Clause 4.3 of *Willoughby Local Environmental Plan (WLEP) 2012* for the following reasons:**

- The height exceedance is associated with the lift overrun which is located centrally with a relatively minor footprint as compared to the overall building.
- The lift overrun will have a minimal discernible impact on the character of the area or the approved builtform and the streetscape presentation.

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- The height exceedance will have minimal external impacts on adjoining properties in terms of disruption of views, loss of privacy, overshadowing and visual intrusion.
- The lift overrun is sufficiently separated from Seymours Service Station, a heritage listed building located within the site at the corner of William Street.
- The proposed lift will provide an equitable access to the approved roof top level communal open space.

2.2. Approve Development Application DA-2017/181/C for internal and external alterations to the approved mixed use development including lift access to the roof top communal open space and associated works at 989-1015 Pacific Highway, Roseville, subject to conditions contained in Attachment 1, for the following reasons:

- 2.2.1 The development as modified remains substantially the same development as originally approved.
- 2.2.2 The development's additional breach with the height of buildings development standard contained in the *Willoughby Local environmental Plan 2012*, is minor in nature by virtue of the area of the lift overrun, and is not considered to cause additional impacts to the surrounding properties and the locality.
- 2.2.3 The overall bulk and scale of the development, as viewed from the public domain and the surrounding developments remains relatively unchanged.
- 2.2.4 The amended proposal meets the relevant objectives of the height of buildings development standard and the B5 Business Development zone.

### 3. BACKGROUND AND RELEVANT HISTORY

Deferred Commencement Consent DA-2017/181 was granted by the Panel on 20 December 2017 for the adaptive reuse of heritage building, construction of a mixed use building consisting of part six (6) and part seven (7) storeys, 117 residential apartments, four (4) new commercial tenancies, carparking and associated works.

DA-2017/181/A was submitted and subsequently approved for extension of time for additional twelve (12) months to satisfy the Schedule 1 conditions of Deferred Commencement consent.

Council received DA-2017/181/B for internal and external amendments and provision of a lift access to the rooftop communal area. The lift access was proposed at the southern end of the building, closer to the site where Seymours Service Station (local heritage item) is located. Furthermore, a 1.8m high glass balustrade was proposed at edge of the rooftop communal area. Council was not supportive of the proposal as it was considered to have an adverse impact on the heritage significance of the Seymours Service Station. The subject application was subsequently withdrawn.

The subject application (DA-2017/181/C) proposes internal and external amendments and a centrally located lift access to the roof top level communal open space. A 1.8m high glass balustrade on top of the planter box wall along the western elevation (Pacific Highway) and southern (Seymours) elevation as previously proposed has been replaced with 1.2m high palisade fence above 0.5m high planter box to minimise visual impacts. The glass balustrade are setback from the building edge. Overall, the proposal the amended proposal is considered to be acceptable from a heritage viewpoint.

The subject application was notified in accordance with Part B of the *Willoughby Development Control Plan* (WDCP) for a 21 day period from 26 February to 19 March 2019. No submissions were received. A brief was provided to the Sydney (North) Planning Panel on 3 April 2019.

An operative consent was issued on 2 July 2019. No works have commenced on site as Council and the applicant are in the process of finalising the Deed of Agreement documents for the drainage easement, prior to the lodgement of a Construction Certificate.

#### **4. THE PROPOSAL**

The proposed amendments comprise:

##### Seymours Service Station

- Addition of glazed awning along the northern elevation.

##### Levels 1 to 6

- Alterations and internal reconfiguration involving adjustment to kitchen, living area and bathroom layout on levels 1 to 6.
- Changes to stair from ground floor lobby and lift access to the communal open space on levels 6 and 7 instead of a chairlift.
- Changes to terraces on level 1 and addition of glazed awning over external stairs from lobby on level 2.

##### Roof Level

- Amendments to accommodate additional service plants and extend the central lift and stair core to the rooftop communal area.

##### Facades

- Amendments to the masonry piers and columns and the external fins to balconies.
- Provision of frameless glazing in lieu of mesh at Level 6 openings on the eastern façade adjacent to T1 Northern Line railway corridor.
- Amendments to the wintergardens to include fixed translucent panels along the eastern elevation.
- Minor increase in height in roof and parapet height (200mm) and increase in the overall approved ridge height of 3.65m (lift overrun).

##### Adaptable Housing

- Amendment to Condition 25 to provide 39% of the total number of dwellings as adaptable units instead of 50%.

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## 5. DISCUSSION

The referrals, relevant controls and development statistics that apply to the subject land are provided in **Attachment 3**.

### 5.1 *SEPP 65 - Design Quality of Residential Flat Development and NSW Apartment Design Guide (NSW ADG)*

The amended proposal remains consistent with the *SEPP 65 - Design Quality of Residential Flat Development* principles and the *Apartment Design Guide*. No changes are proposed as such to the approved setbacks or separation distances. Accordingly, a detailed assessment is not considered necessary.

### 5.2 *SEPP (Infrastructure)*

Clauses 85, 86, 101, 102 and 104 and Schedule 3 - Traffic Generating Development of the *SEPP (Infrastructure)* are applicable due to the site's immediate proximity to the T1 railway corridor, Epping to Chatswood rail tunnels and Pacific Highway. The original proposal was referred to Roads and Maritime Services (RMS) and Sydney Trains for comments. No objections were raised subject to conditions. The proposed amendments do not alter the approved access from Pacific Highway or the setbacks to the railway corridor. Referral to RMS or Sydney Trains is therefore not required.

### 5.3 *Willoughby Local Environmental Plan 2012 (WLEP 2012) - Heritage*

The subject site includes the former Seymours Service Station; an item (I109) of local heritage significance in Schedule 5 of *WLEP 2012*. The original approval includes adaptive reuse and restoration of the existing heritage building. The current proposal includes addition of glazed awning along the northern elevation to comply with the Section J requirement. The amended proposal is considered to be acceptable from a heritage viewpoint.

### 5.4 *Willoughby Local Environmental Plan 2012 (WLEP 2012)*

#### Development Standards:

	Standard	Approved	Proposed	Extent of Variation %	
				Approved	Proposed
Height of Building	20m	25.55m to 26.65m at the maximum	25.75m to 29m at the maximum	27% - 33.2%	28.75% - 45%
Floor Space Ratio	2.5:1	2.58:1	No change	3.2%	3.2%

#### Proposed Amendments:

The current proposal is seeking to increase the previously approved parapet height by 0.2m. In addition, the proposal is seeking to provide a lift access to the rooftop communal open space instead of a chair lift and consequently increasing the previously approved ridge height by 3.65m at the maximum. The height exceedance is supported on merit. Detailed assessment is contained in **Attachment 4**.

The proposal seeks a number of internal changes including reconfiguration, changes to the masonry columns, fins and glazed balustrades which are generally acceptable. There are a number of external changes along the eastern elevation (rail corridor) including provision of frameless glazing to the winter gardens on level 6 instead of security mesh and provision of 1.8m high glass balustrade on top of the 600mm high planter box wall. A number of these changes along the eastern façade are in response to the requirements of Sydney Trains and therefore considered to be acceptable.

The proposal seeks to amend Condition 25 which requires 50% of the total units (58) are to be provided as adaptable residential units in accordance with the requirements of Part C.6 of the WDCP. The current proposal seeks to provide 39% of the proposed units (46) as adaptable. Provision of the required number of adaptable units is considered necessary for the aging population. Furthermore, changes to this requirement will create an unacceptable precedent. Council is therefore not supportive of amendment to Condition 25. The applicant has been advised and as such accepts the recommendation.

The Statement of Environmental Effects notes amendment to Condition 160 proposing to reduce the freeboard of 0.5m to 0.3m to the ramp access to the basement carpark. Council's Engineers are not supportive of this amendment as it is contrary to Council's requirements for a flood affected site.

## **6. CONCLUSION**

The modification application DA-2017/181/C is substantially the same development for which consent was originally granted and has been assessed in accordance with the provisions of Sections 4.15 (79C) and 4.55 (96) of the *Environmental Planning and Assessment Act 1979*, *Willoughby Local Environmental Plan 2012*, *Willoughby Development Control Plan*, and other relevant codes and policies.

The proposal will not result in any adverse impacts on the amenity or character of its surroundings. As such, the approved development subject to the proposed modifications will continue to provide an acceptable planning outcome for the site. Approval of the modification application is recommended.

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## ATTACHMENT 1: SCHEDULE OF AMENDED CONDITIONS

DA-2017/181 as modified by DA-2017/181/A is further modified as follows:

**A. The following condition is amended to read as follows:**

**1. Approved Plan/Details**

The development must be in accordance with the following consent plans electronically stamped by Council:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by/for
Architectural Plans	A-1000	E	27.09.2018	Keco City Development Group
	A-1001	G	15.03.2019	
	A-1002	H	15.03.2019	
	A-1003	H	15.03.2019	
	SK-01	H	15.03.2019	
	SK-02	G	15.03.2019	
	SK-03	F	15.03.2019	
	SK-04	F	15.03.2019	
	AR-B-02	D	10.11.2017	
	AR-B-03	E	10.11.2017	
	AR-B-04	D	10.11.2017	
	AR-B-05	E	10.11.2017	
	AR-B-06	D	20.10.2017	BVN
	AR-B-07	D	20.10.2017	
	AR-B-08	D	20.10.2017	
	AR-B-12	B	10.11.2017	
	AR-B-13	D	10.11.2017	
	AR-C-XO-01	D	10.11.2017	
	AR-C-XX-02	E	10.11.2017	
	AR-D-XX-01	D	10.11.2017	
Landscaped Plans (Project Ref: SS17-3476)	100 to 103 501 & 502	G	16.11.2017	Site Image Landscape Architects
Stormwater Plans	C01.01	I	08.01.2019	Northrop
	C02.01	H	08.01.2019	
	C03.01 & C03.02	G	08.01.2019	
	C04.01	S	21.03.2019	
	C04.02	O	15.03.2019	
	C04.06	L	21.03.2019	
	C05.01	L	15.03.2019	
	C07.01 &	J	08.01.2019	

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	C07.02			
	C07.03	D	08.01.2019	
	C07.04	R	21.03.2019	
	C07.05	K	21.03.2019	
	C08.01	L	08.01.2019	

As modified by DA-2017/181/C:

Type	Plan No.	Revision/ Issue No	Plan Date (as Amended)	Prepared by/for
Architectural Plans	DA-1004	A	06.09.2018	Keco City Development Group
	DA-1005	A	06.09.2018	
	DA-1006	A	06.09.2018	
	DA-1007	A	06.09.2018	
	DA-1008	A	06.09.2018	
	DA-1009	C	21.01.2019	
	DA-1010	B	05.12.2018	
	DA-2000	C	21.01.2019	
	DA-2001	C	21.01.2019	
	DA-3000	C	21.01.2019	

**B. Compliance with all other conditions of the Development Consent DA-2017/181, as modified by Development Consent DA-2017/181/A.**

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## ATTACHMENT 2: SITE DESCRIPTION AND AERIAL PHOTO

The site is located at 989-1015 Pacific Highway, Roseville in close proximity to the Willoughby LGA's northern boundary with the Ku-Ring-Gai LGA.



**Figure 1: The site and the surrounds**

The site comprises a number of parcels of land and is legally described as:

Lot 3 DP128375  
Lot 1 DP531547  
Lot 19 DP135079  
Lot 10 DP8089  
Lot 11 DP1107397; and  
Lot 1 DP34636

The site has area of 4,477,6m<sup>2</sup>. It is irregular in shape and is relatively flat overall, dipping slightly towards the centre of the site. It has a dual street frontage to the Pacific Highway and William Street.



**Figure 2: Zoning Map**

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Currently, the site is primarily vacant; with the exception of the previous Seymours Service Station, a heritage listed building on the corner of William Street. The site is burdened by Council's stormwater easement which runs east-west through the site. The site is impacted by flooding. The site has a direct access from the Pacific Highway as well as through a right of carriageway over State Rail land accessed off William Street.



Figure 3: Seymour's Service Station (Heritage Building)



Figure 4: Subject site as viewed from Pacific Highway

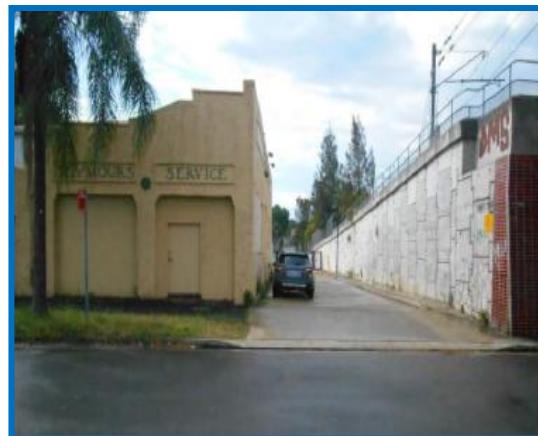


Figure 5: Right of Way as viewed from William Street



Figure 6: Bridge abutment to the east of Right of Way

A service station and a Railcorp maintenance office are located immediately north of the site with frontage to Boundary Street. Medium and high density residential flat buildings are located further north and north east of the site beyond Boundary Street. The Roseville town centre and railway station is approximately 450m north of the site.



Figure 7: Residential flat buildings on the northern side of Boundary Street

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A car sales yard is located immediately opposite the site on William Street adjacent to the Pacific Highway and the T1 North Shore railway line. Residential flat buildings are located along the Pacific Highway towards Chatswood CBD.

The T1 North Shore railway line is immediately east of the site with low density dwellings located beyond. The Lexus car dealership, residential flat buildings and detached dwellings are located immediately west of the site fronting the Pacific Highway.

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## ATTACHMENT 3: CONTROLS, REFERRALS & DEVELOPMENT STATISTICS

<b>Controls and Classification</b>	
<i>Willoughby Local Environmental Plan 2012 ("WLEP 2012")</i>	
Zoning	B5 – Business Development
Primary Development Standards	<ul style="list-style-type: none"><li>• Floor Space Ratio – 2.5:1</li><li>• Height of Building – maximum 20m</li></ul>
Other specific WLEP 2012 requirements	<ul style="list-style-type: none"><li>• Clause 5.9 – Preservation of trees or vegetation</li><li>• Clause 5.10 – Local Heritage Item (Seymour Station) and Heritage Conservation – Site is in vicinity of two heritage conservation areas to the east (the North Chatswood) and west (the Wyvern/ Findlay) Conservation Areas</li><li>• Clause 6.3 – Flood Planning</li></ul>
Applicable DCP	<i>Willoughby Development Control Plan (WDCP)</i>
Applicable SEPPs	<ul style="list-style-type: none"><li>• <i>SEPP (infrastructure)</i><ul style="list-style-type: none"><li>- <i>Clause 85 - Development adjacent to rail corridors</i></li><li>- <i>Clause 86 - Excavation in or adjacent to rail corridors</i></li><li>- <i>Clause 101 - Development with frontage to a classified road</i></li><li>- <i>Clause 102 - Impact of road noise on non-road development</i></li><li>- <i>Clause 104 &amp; Schedule 3 - Traffic Generating Development</i></li></ul></li><li>• <i>SEPP 55 – Remediation of Land</i></li><li>• <i>SEPP(BASIX)</i></li><li>• <i>SEPP 65 – Design qualities of residential apartment developments &amp; Apartment Design Guide</i></li><li>• <i>SREP (Sydney Harbour Catchment) 2005</i></li></ul>
Other approvals	<ul style="list-style-type: none"><li>• S138(2) Roads Act 1993 – Classified Road</li></ul>
Developer's Contributions	a. 7.11/7.12 (S94): Not applicable.
<b>Referrals</b>	
Heritage Architect	Council's Heritage Architect raises no objections and notes the following:  <i>The changes are not considered to have an adverse impact upon the heritage significance of the Seymours garage to the south of the site given that the lift overrun is centrally located and not inside from the public domain and the upper levels, combined with the glazed balustrade are setback from the building edge. It is recommended that the stepped built form of the southern portion of the building is maintained, including the canopy landscaping between the new development and the heritage item. The ramps and awnings proposed to the northern façade of the heritage item are located in less sensitive areas of Seymours and are considered acceptable from a heritage viewpoint.</i>
Building Services	No objections, no further conditions
Landscape Officer	No objections, no further conditions

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Development statistics				
	Proposed	Approved	Standard	Compliance
<b>Site Area</b>	4,477.6m <sup>2</sup> – No change			
<b>Willoughby Local Environmental Plan 2012</b>				
<b>Cl. 4.3 - Height of Buildings</b>	25.75m to 29m at the maximum	25.55m to 26.65m at the maximum	20m	No <sup>(1)</sup> - refer to Attachment 4
<b>Cl. 4.4 - Floor Space Ratio</b>	2.55:1	2.55:1	2.5:1	No change
<b>Cl. 5.10 - Heritage Conservation</b>	Retention of Seymours Service Station	Retention of existing heritage building - Seymours Service Station	Conserve the heritage significance of heritage items	No change
<b>Cl. 6.2 - Earthworks</b>	Revised Site Investigation and Geotechnical Analysis is not required	Stage 1 and Stage 2 Site Investigation and Geotechnical Analysis provided.	No detrimental impact on heritage item and future use of the land	No change
<b>Cl. 6.3 - Flood Planning</b>	No change to approved FFL at 97.2	Finished floor levels at 97.2 which is 1m above 1% AEP flood level of 96.2	Flood Planning level applicable	No change
<b>Willoughby Development Control Plan 2006</b>				
<b>Part E – Commercial / Shop top Housing</b>				
<b>E.1.1 - Frontage</b>	>27m  No changes to the approved access and parking for deliveries, residential and commercial car parking	>27m  Deliveries, waste management and residential car parking from William Street  Commercial car parking via Pacific Hwy	27m for building >11m  Deliveries, waste management and car parking from a secondary street	No change
<b>E.1.2 - Density use and height</b>	No change	<30% (residential vehicular access via William Street only)  One level of commercial floor space	No more than 30% of the street frontage is to be used for vehicular and pedestrian access to lower and upper levels.  A minimum of 60% gross floor space at street level is to be used for retail or business premises.	No change

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	<b>Proposed</b>	<b>Approved</b>	<b>Standards</b>	<b>Compliance</b>
<b>E.1.3 - Design and Streetscape</b>	The approved design remains substantially the same. The lift overrun is considered to have a minimal impact on the streetscape as it is centrally located	Podium level height consistent with wall height of Seymours Service Station  Glazed building façade for podium/commercial level. Modulated façade with pockets of communal open space on podium level with residential towers above break the mass. Street facing balconies on Pacific Highway	Reinforce parapet height & street alignment  Façade solid: void (60:40)	Acceptable
<b>E.1.4 - Setbacks</b>	The amended proposal maintains the approved setbacks	Nil setbacks to Pacific Highway on podium level and staggered setbacks (1.3m – 21.6m) on upper levels  Min. 9m to northern side boundary  Existing setbacks to southern side (Seymours Service Station)  0.5m to 4.4m to the rear boundary adjacent to T1 railway corridor	Front setbacks to reinforce streetscape character  Staggered side and rear setbacks	No change
<b>E.1.5 - Building depth</b>	The amended proposal maintains the approved building depth	20-26m except along the northern side for level 2 and above	20m max.	No change
<b>E.1.6 - Landscaping</b>	The amended proposal maintains the approved landscaping	Min. 0.4m along part of rear boundary  >20% of podium and roof top open space provided as vegetated area	3m along rear boundary  20% of podium and 20% of roof top open space as vegetated area	No change
<b>E.1.7 Private Open Space</b>	No change to the approved balcony size	All comply with the exception of 1 bedroom apartments which have balconies with minimum area of 8m <sup>2</sup> .	1 bedroom & 2 bedroom: 10m <sup>2</sup> 3 bedroom: 15 m <sup>2</sup>  2m width (min)	No change
<b>Communal Open Space</b>	The quantum of communal open space remains unchanged	1470m <sup>2</sup> in podium and 396m <sup>2</sup> in roof top areas.	1470m <sup>2</sup>  min 5m wide 3 hours solar	No change

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			access Standards	
	Proposed	Approved	Standards	Compliance
<b>E.1.12 Reflectivity</b>	No change	Details not provided	To avoid glare to adj buildings, passing motorist & pedestrians	Condition included in original consent
<b>E.9 Site Specific Lot Consolidation Plan</b>	No change	Not consolidated as Railcorp wishes to retain the site	To be consolidated with No. 2 Boundary Street	No change
<b>Part C – General Requirements</b>				
<b>C.4 - Car Parking</b>	No changes are proposed to the approved car parking spaces and arrangement			
<b>C.6 - Adaptable Housing</b>	Adaptable = 46 or 39%	Adaptable = 46 Capable of being adaptable = 13 Total = 59 units	50% of 117 Units = 58 units	No <sup>(2)</sup>
<b>Adaptable Car spaces</b>	Adaptable Car spaces	16 adaptable spaces including 1 visitor	1 adaptable car space/4 adaptable units = 14 spaces	No change.
<b>C.8 - Waste Management</b>	No changes are proposed to the approved waste and recycling collection via right of way accessed from William Street			

### Compliance with Plans or Policies

The proposal does not numerically comply with the following requirements:

#### *Willoughby Local Environmental Plan 2012:*

1. **Height of Buildings:** The proposal is non-compliant with the height of buildings development standard by 5.75m - 9m or 28.75% - 45%. Assessment of the height exceedance is provided in **Attachment 4**. The height exceedance is supported on the circumstances of the case.

#### *Willoughby Development Control Plan (WDCP):*

2. **Adaptable Housing:** Part C.6 of the *WDCP* requires 50% of the total residential units (58) are to be provided as adaptable units. The proposal seeks to provide 46 or 39% of the total units as adaptable. It is noted that the Apartment Design Guide requires 20% of units to incorporate universal design principles. In this regard the *WDCP* sets a much higher standard which has been consistently applied to the relevant development proposals. It is worth noting that provision of the required number of adaptable units does not trigger provision of additional accessible car parking spaces. It is therefore considered reasonable to achieve compliance with the *WDCP*. No changes are recommended to Condition 25 in this respect.

**ATTACHMENT 4: OFFICER'S ASSESSMENT OF HEIGHT EXCEEDANCE**

The current proposal is seeking to increase the previously approved parapet height by 0.2m. In addition, the proposal is seeking to provide a lift access to the rooftop communal open space consequently increasing the previously approved ridge height by 3.65m. A comparison of the approved and proposed height at the maximum is as follows:

	<b>Standard</b>	<b>Approved</b>	<b>Proposed</b>	<b>Extent of Variation %</b>	
				<b>Approved</b>	<b>Proposed</b>
Height of Building	20m	25.55m to 26.65m	25.75m to 29m	27% - 33.2%	28.75% - 45%

The lift overrun is located centrally as identified in Figure 8 below:

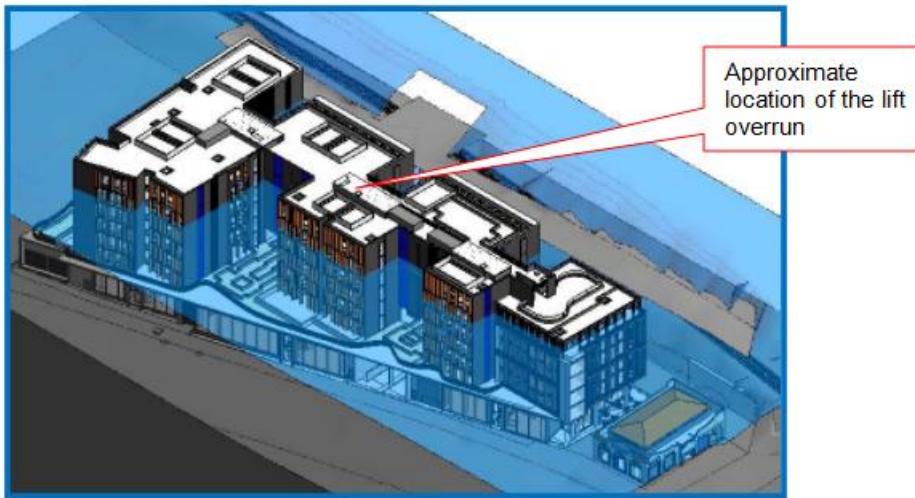


Figure 8: Excerpt of the approved proposal overlaid with 20m height limit

A modification application submitted under the Section 4.55 of the *Environmental Planning and Assessment Act 1979* is not required to be accompanied by a Clause 4.6 request for variation. Notwithstanding, the exceedance of the height is assessed against the objectives of the Clause 4.6 to ensure the objectives are met.

Clause 4.6 Exceptions to development standards of *WLEP 2012* Subclause (3) reads:

- (3) *Development 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.*

With regard to the proposal's variation to the Height of Buildings development standard, a review of the development against the zone objectives and development standard is below:

## Zone B5 - Business Development

### *Objectives of zone*

- *To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.*
- *To accommodate businesses, provided that their access needs and the traffic generated does not interfere with the safety and efficiency of the road network*

The amended proposal will continue to provide business uses and additional housing as anticipated by the zoning of the land.

### 4.3 Height of buildings

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

- (a) *to ensure that new development is in harmony with the bulk and scale of surrounding buildings and the streetscape,*
- (b) *to minimise the impacts of new development on adjoining or nearby properties from disruption of views, loss of privacy, overshadowing or visual intrusion,*
- (c) *to ensure a high visual quality of the development when viewed from adjoining properties, the street, waterways, public reserves or foreshores,*
- (d) *to minimise disruption to existing views or to achieve reasonable view sharing from adjacent developments or from public open spaces with the height and bulk of the development,*
- (e) *to set upper limits for the height of buildings that are consistent with the redevelopment potential of the relevant land given other development restrictions, such as floor space and landscaping,*
- (f) *to use maximum height limits to assist in responding to the current and desired future character of the locality,*
- (g) *to reinforce the primary character and land use of the city centre of Chatswood with the area west of the North Shore Rail Line, being the commercial office core of Chatswood, and the area east of the North Shore Rail Line, being the retail shopping core of Chatswood,*
- (h) *to achieve transitions in building scale from higher intensity business and retail centres to surrounding residential areas.*

The relevant objectives of the standard are considered to be met by the proposed development as outlined below:

- The proposed development and its density are not considered to cause an exceedance of the environmental capacity of the site.
- The development's non-compliance with the height of buildings standard will not materially change the bulk and scale of the development or its streetscape presentation.
- The proposed development is not considered to cause unreasonable external impacts on adjoining properties in terms of disruption of views, loss of privacy, overshadowing and visual intrusion.

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- The amended proposal remains consistent with the relevant objectives of the B5 Business Development zone, in terms of providing business uses and additional housing as anticipated by the zoning of the land.

Council is able to approve exceedance of a development standard as it is satisfied that the compliance with the development standard is unreasonable or unnecessary in relation to the particular circumstances of the development application. Further it is considered that there are sufficient environmental planning grounds to justify contravening the development standard.

Based on the above considerations, the exceedance of the development standard is acceptable. Exceedance of the standard is considered to be in the interests of the public given that the relevant objectives of the zone and standard are met by the proposal, subject to the recommended conditions, despite its numerical non-compliance with the development standard.

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## ATTACHMENT 5: SECTION 4.55 (S96) ASSESSMENT

The application has been assessed under the provisions of S.4.55(2) – *Other modifications* of the *Environmental Planning and Assessment Act*.

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

(a)	<i>It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and</i>	✓
	<b>Comments:</b> The proposed modifications generally fall within the approved building footprint and present minimal changes to the built form. The proposal, as modified remains substantially the same development as the development for which the consent was originally granted.	
(b)	<i>It has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and</i>	N/A
	<b>Comments:</b> The original application was referred to Roads and Maritime Services for consideration due to the proposed driveway from Pacific Highway which is a classified road. No changes are proposed as such to the originally approved vehicular access and the parking. Accordingly, the amended proposal is not required to be referred to RMS for comments.	
(c)	<i>it has notified the application in accordance with:</i>  <i>(i) the regulations, if the regulations so require, or</i> <i>(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and</i>	✓
	<b>Comments:</b> The modification application was notified in accordance with the requirements of the <i>Willoughby Development Control Plan (WDCP)</i> for a 21 day period from 26 February to 19 March 2019.	
(d)	<i>it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.</i>	✓
	<b>Comments:</b> No submissions were received.	

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## ATTACHMENT 6: SECTION 4.15 (79C) ASSESSMENT

### Matters for Consideration Under S4.15 EP&A Act

Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A

(a)(i)	The provisions of any environmental planning instrument (EPI)	
	<ul style="list-style-type: none"><li>• State Environmental Planning Policies (SEPP)</li><li>• Regional Environmental Plans (REP)</li><li>• Local Environmental Plans (LEP)</li></ul>	✓ ✓ ✓
	<p><b>Comment:</b> The modified proposal does not contravene any relevant matters for consideration under the provisions of any SEPPs or REPs.</p> <p>The subject land is zoned B5 – Business Development. Commercial premises and shop-top housing remains permissible in the B5 Business Development zone. The proposed mixed-use development will continue to assist in revitalising the existing commercial area and provide additional residential accommodation.</p> <p>The exceedance of Height of Buildings development standard under <i>WLEP 2012</i> is supported on merit.</p>	
(a)(ii)	The provision of any draft environmental planning instrument (EPI)	
	<ul style="list-style-type: none"><li>• Draft State Environmental Planning Policies (SEPP)</li><li>• Draft Regional Environmental Plans (REP)</li><li>• Draft Local Environmental Plans (LEP)</li></ul>	N/A N/A N/A
	<p><b>Comment:</b> There are no draft SEPPs, or any draft items under the <i>WLEP 2012</i> that apply to the subject land.</p>	
(a)(iii)	Any development control plans	
	<ul style="list-style-type: none"><li>• Development control plans (DCPs)</li></ul>	
	<p><b>Comment:</b> The proposal generally remains consistent with the relevant provisions of the WDCP. Specific non-compliances are identified and addressed in <b>Attachment 3</b>.</p>	
(a)(iv)	Any matters prescribed by the regulations	
	<ul style="list-style-type: none"><li>• Clause 92 EP&amp;A Regulation-Demolition</li><li>• Clause 93 EP&amp;A Regulation-Fire Safety Considerations</li><li>• Clause 94 EP&amp;A Regulation-Fire Upgrade of Existing Buildings</li></ul>	N/A N/A N/A
	<p><b>Comment:</b> There are no prescribed matters that affect the modification application.</p>	
(b)	The likely impacts of the development	
	<ul style="list-style-type: none"><li>• Context &amp; setting</li><li>• Access, transport &amp; traffic, parking</li><li>• Servicing, loading/unloading</li><li>• Public domain</li><li>• Utilities</li><li>• Heritage</li><li>• Privacy</li><li>• Views</li><li>• Solar Access</li></ul>	✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓ ✓

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## **Matters for Consideration Under S4.15 EP&A Act**

**Satisfactory ✓ Unsatisfactory ✗ Not Relevant N/A**

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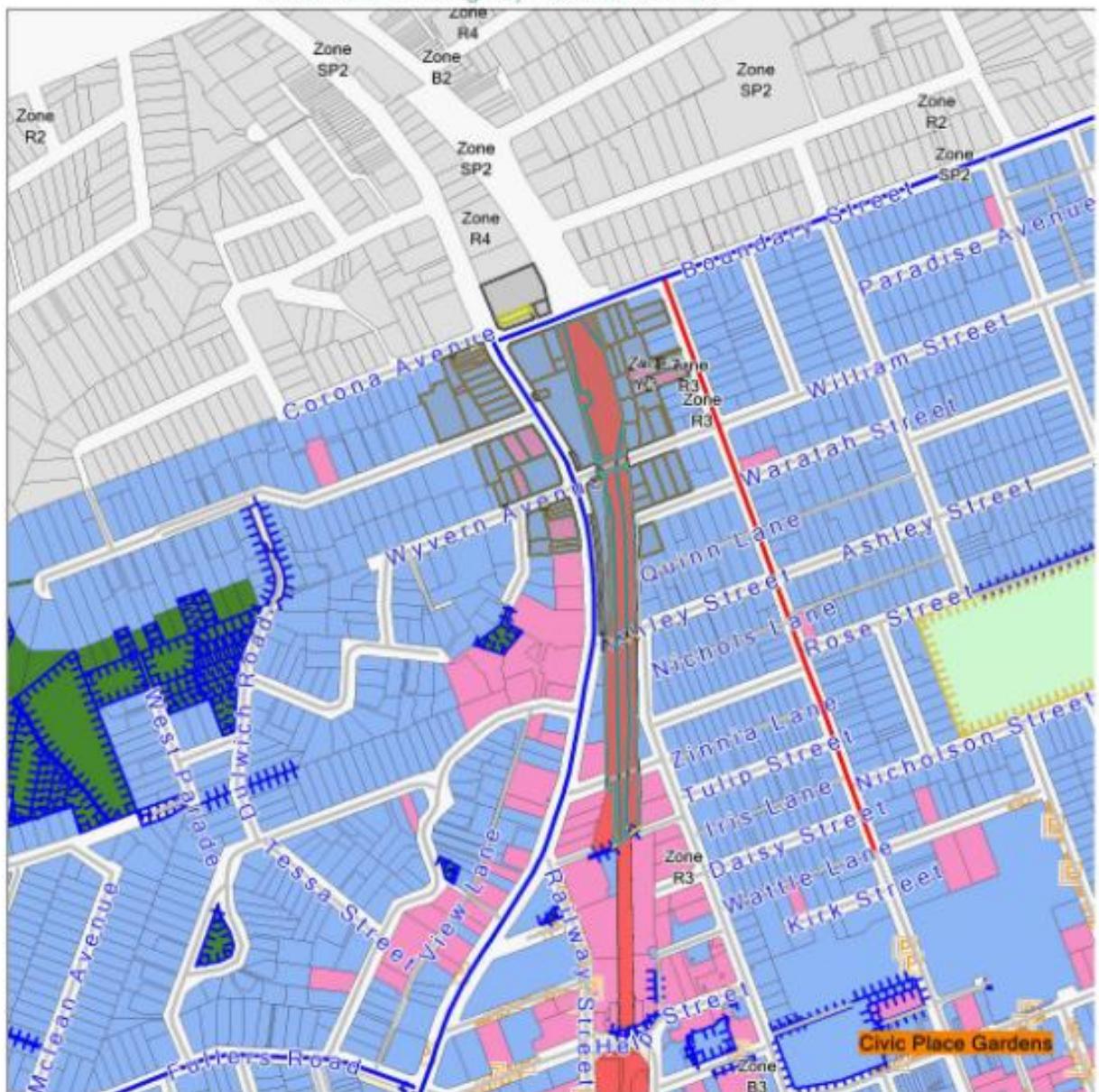
## ATTACHMENT 7: NOTIFICATION MAP



Record of Neighbour Notifications sent relating to:

DA: 2017/181/C

At: 989-1015 Pacific Highway ROSEVILLE NSW 2069



Comments:

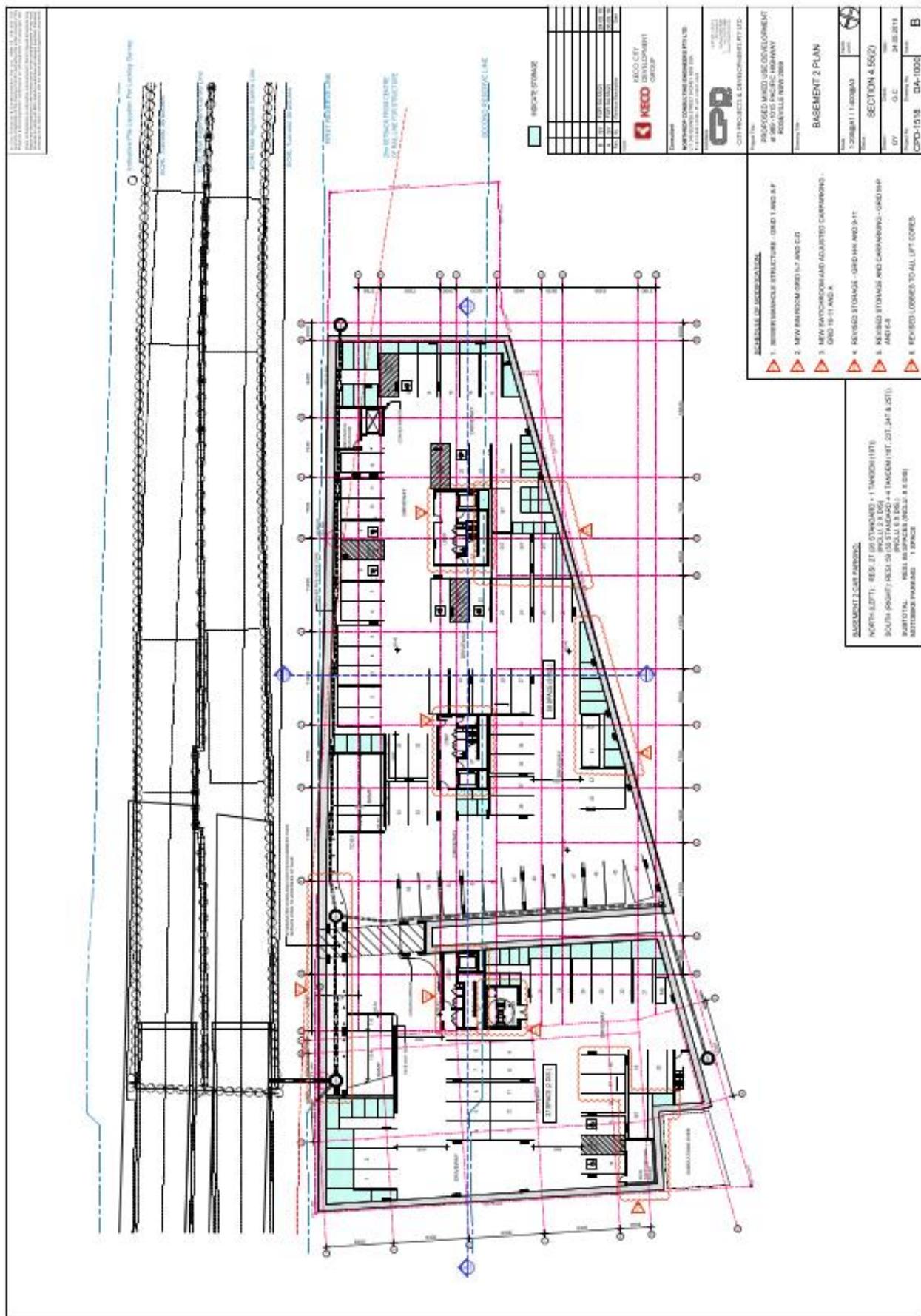
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Created by: VB

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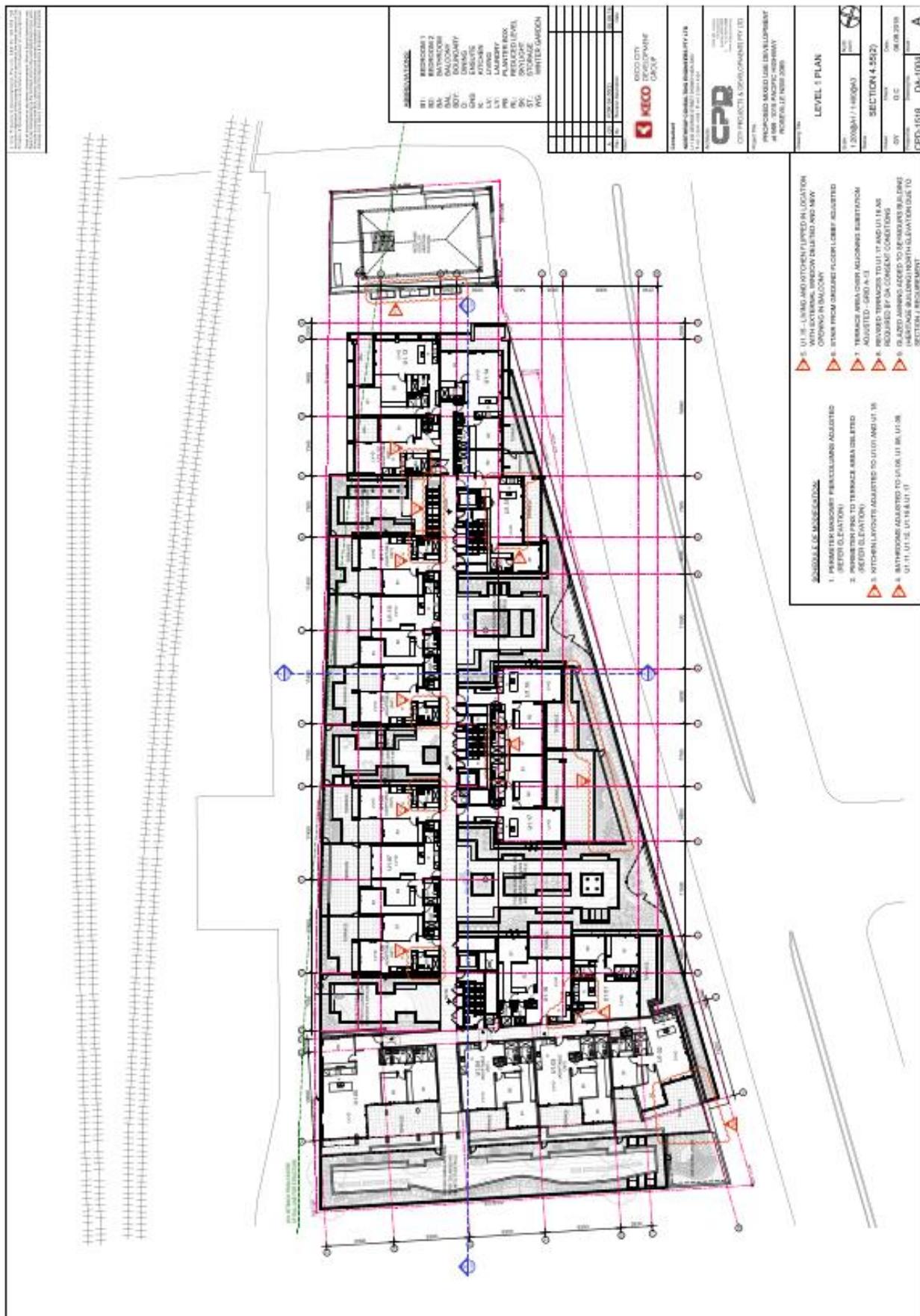
989-1015 Pacific Highway, ROSEVILLE NSW 2069.

## ATTACHMENT 8: ARCHITECTURAL PLANS



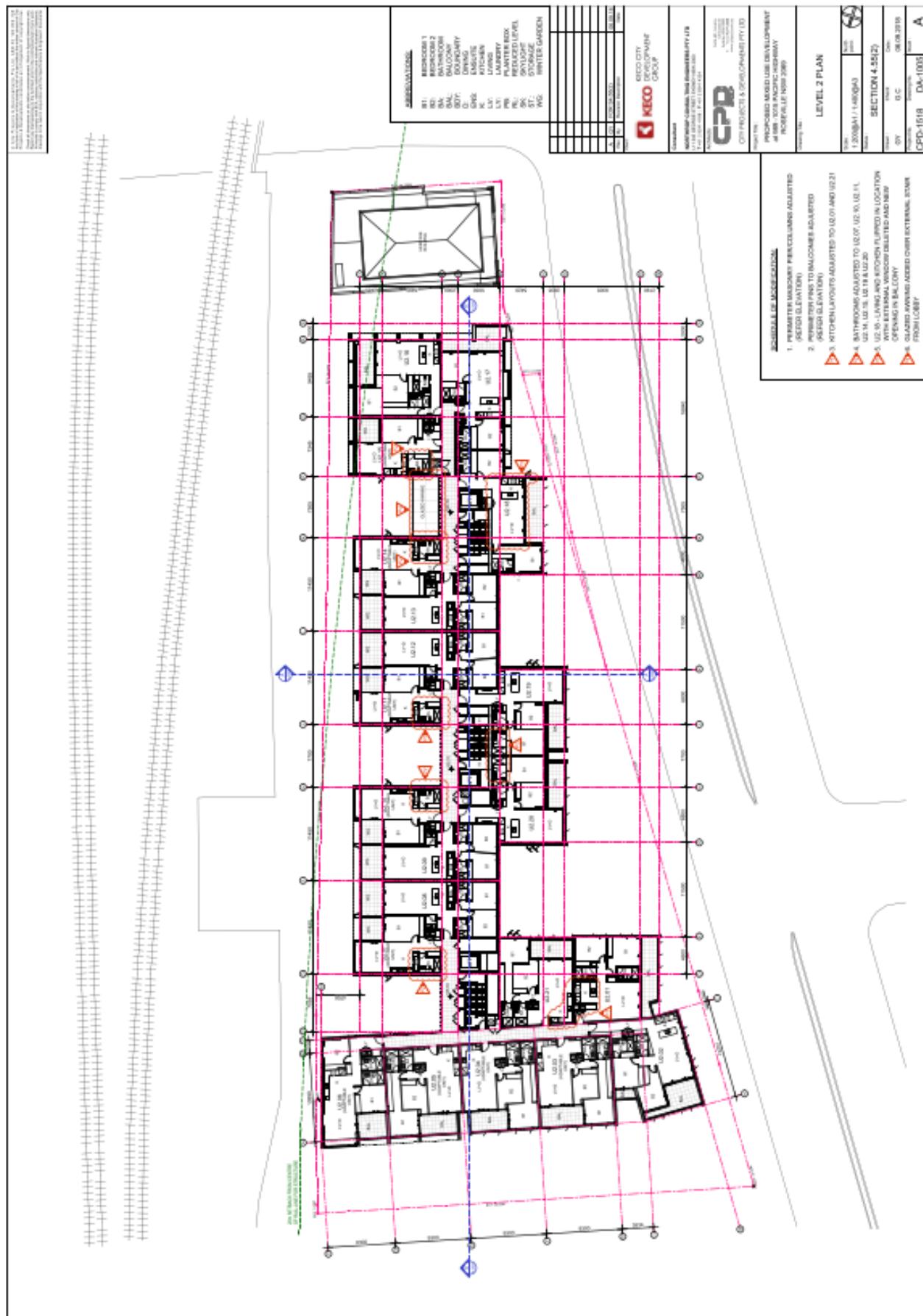
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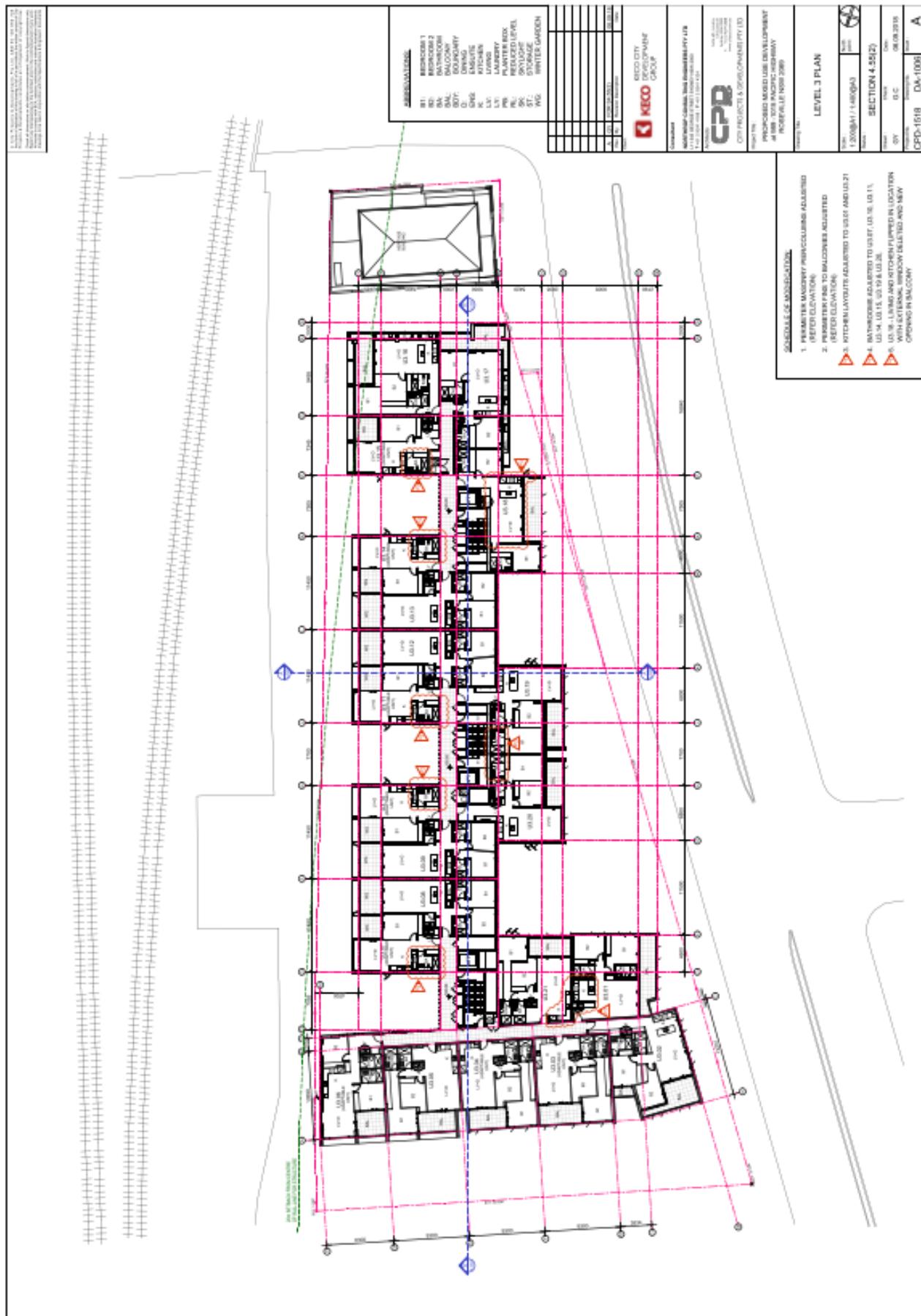
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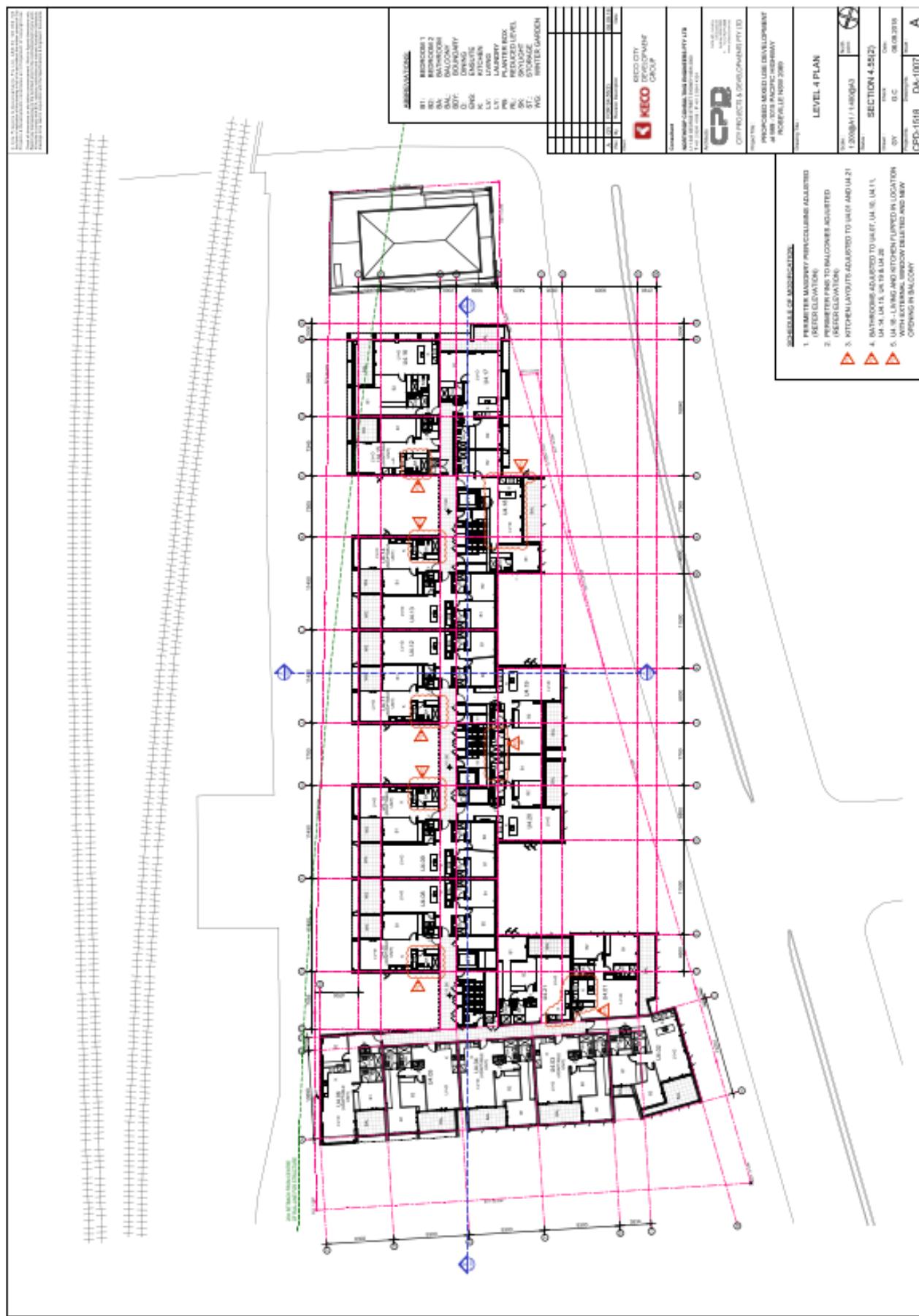
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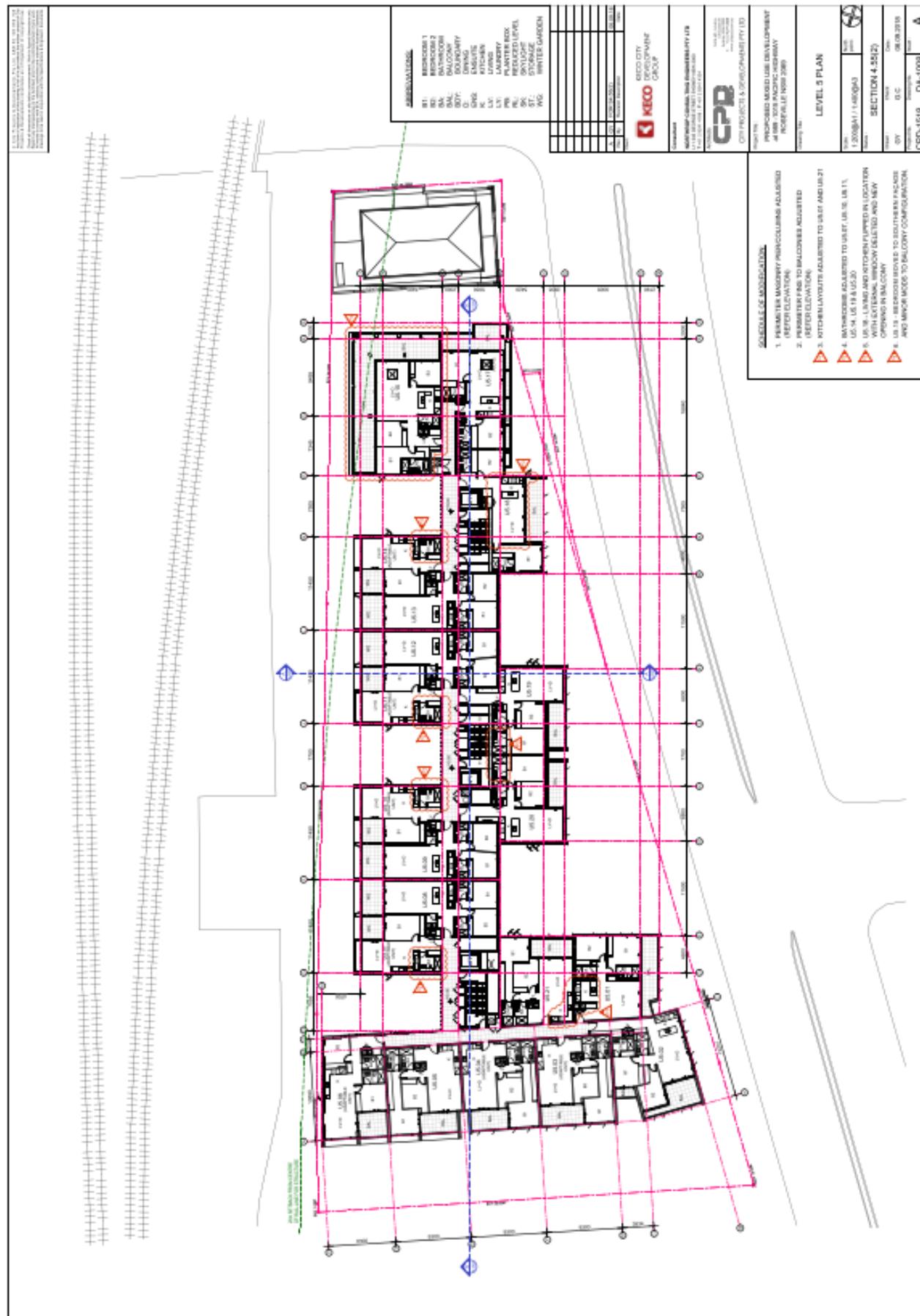
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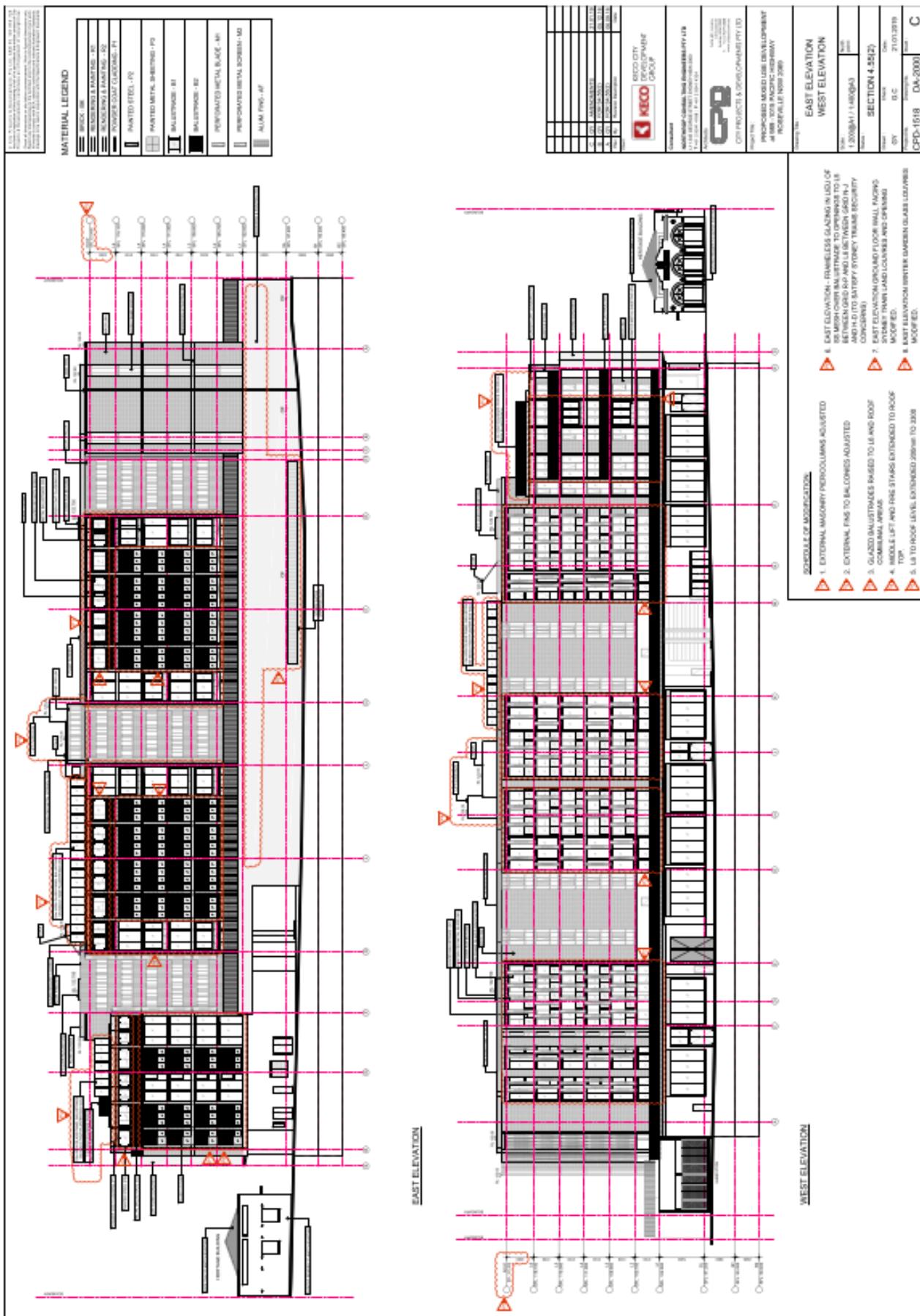
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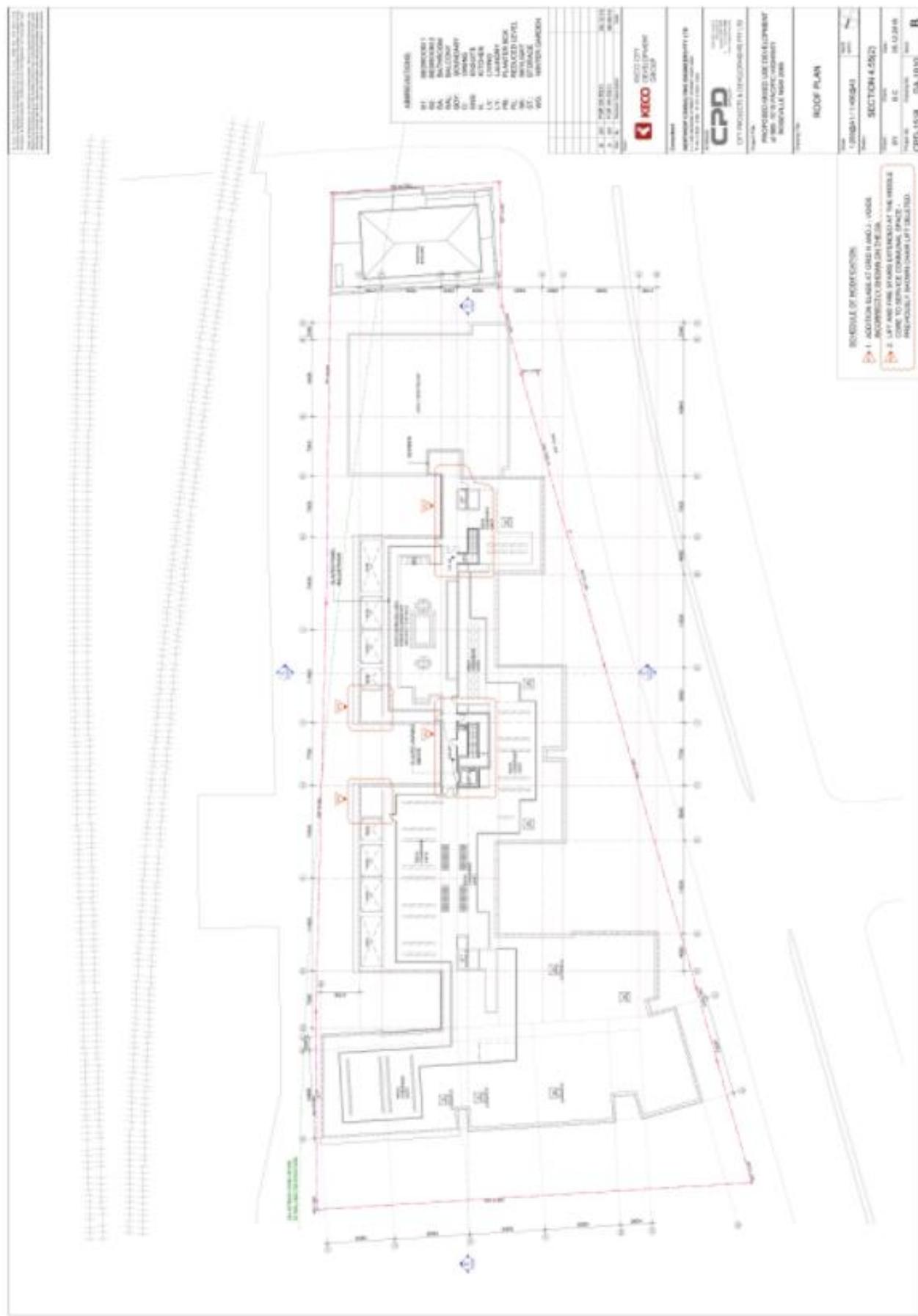
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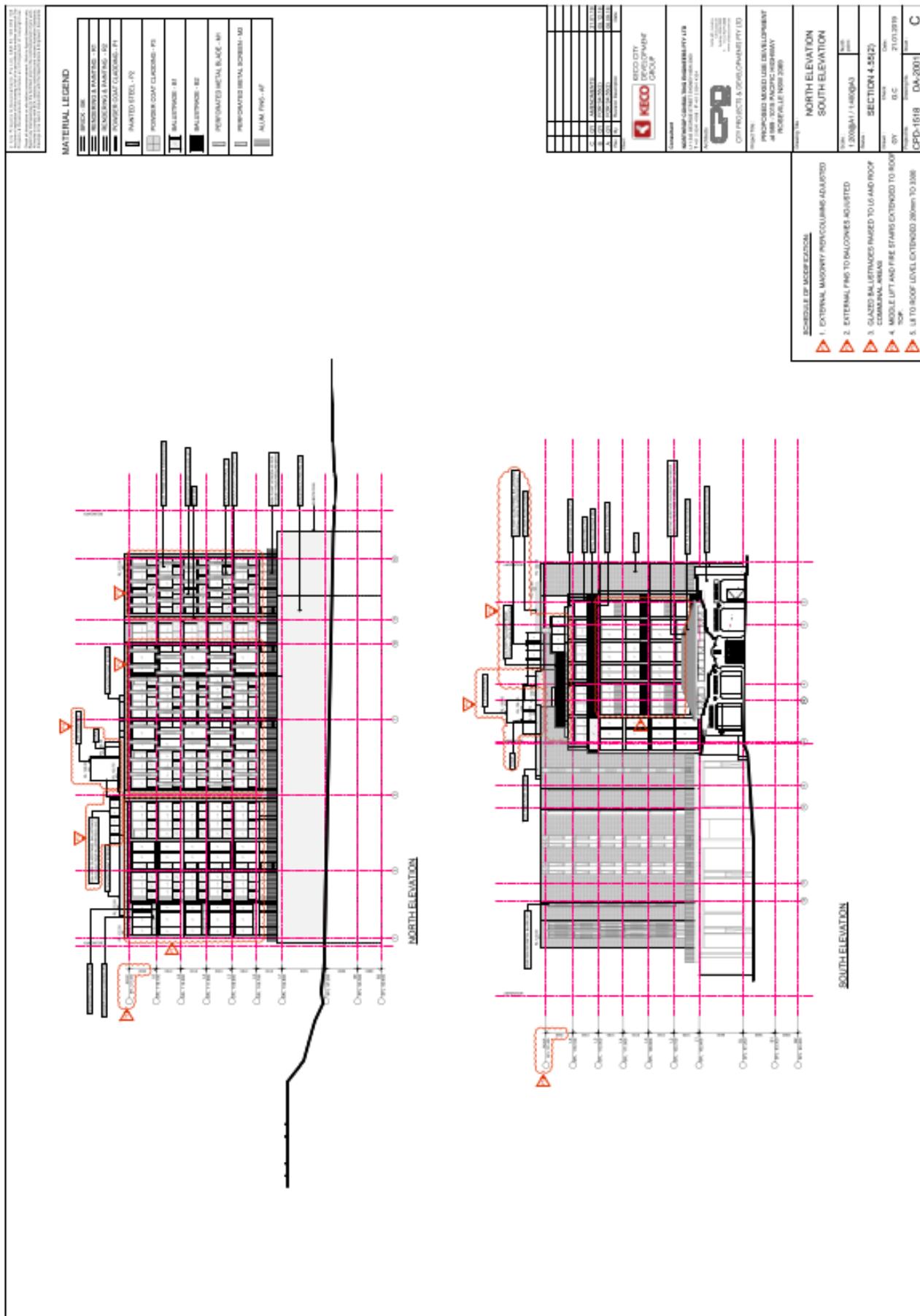
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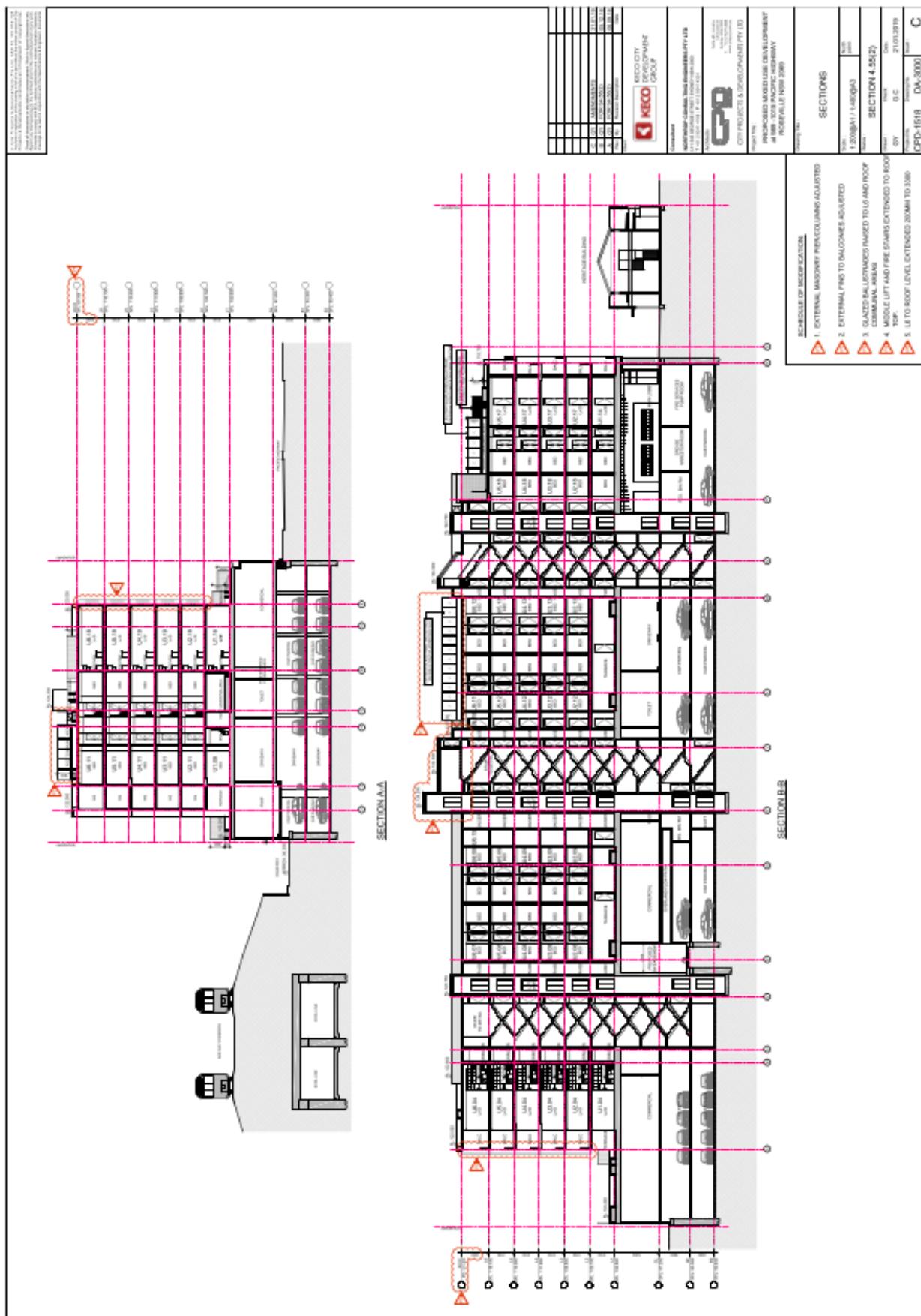
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