
Bayside Planning Panel

27/02/2018

Item No	6.3
Application Type	Development Application
Application Number	DA-2017/403
Lodgement Date	03/07/2017
Property	13-15 Rye Avenue, Bexley
Owner	The Trust Company Limited
Applicant	Mammoth Projects
Proposal	Demolition of existing structures and construction of a two (2) storey childcare centre accommodating 109 children, 24 staff, basement level carpark and signage
No. of Submissions	Six(6) submissions and a petition signed by 37 persons
Cost of Development	\$2,997,774
Report by	GAT & Associates Marta M. Gonzalez-Valdes, Coordinator Development Assessment

Officer Recommendation

- 1 That this Development Application be **REFUSED** pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - (i) The proposed child care centre has not been designed in character with the existing streetscape, having been designed with substantial non-compliances to setbacks and no articulation, in contravention of Clause 11 of Part 6.1, and Parts 4.2 and 5.1 within the Rockdale Development Control Plan 2011.
 - (ii) The bulk and scale of the proposal will present unacceptable massing and bulk when viewed from the adjoining property, 11 Rye Avenue.
 - (iii) The proposed first floor outdoor play area is in contravention of Clause 27(a) of the Rockdale Development Control Plan 2011 and presents bulk and scale and amenity issues to adjoining properties.
 - (iv) The 109 children proposed for the site is well in excess of the maximum permitted of 50 by Clause 3 in Part 6.1 of the Rockdale Development Control Plan 2011. The development has failed to satisfy Council that there are no unreasonable impacts on the amenity of adjoining properties and the streetscape.
 - (v) The proposed development does not adequately cater for its on-site parking demand as required by Part 4.6 of the Rockdale Development Control Plan 2011.
 - (vi) The development has not adequately addressed stormwater management for the site in terms of the drainage easement that has been identified as existing between 13 and 15 Rye Avenue.
 - (vii) The information provided to Council is insufficient to properly assess the impact of the proposed works on the trees on the adjoining property, 11 Rye Avenue.
 - (viii) The information provided to Council is insufficient to properly assess the noise level impact.

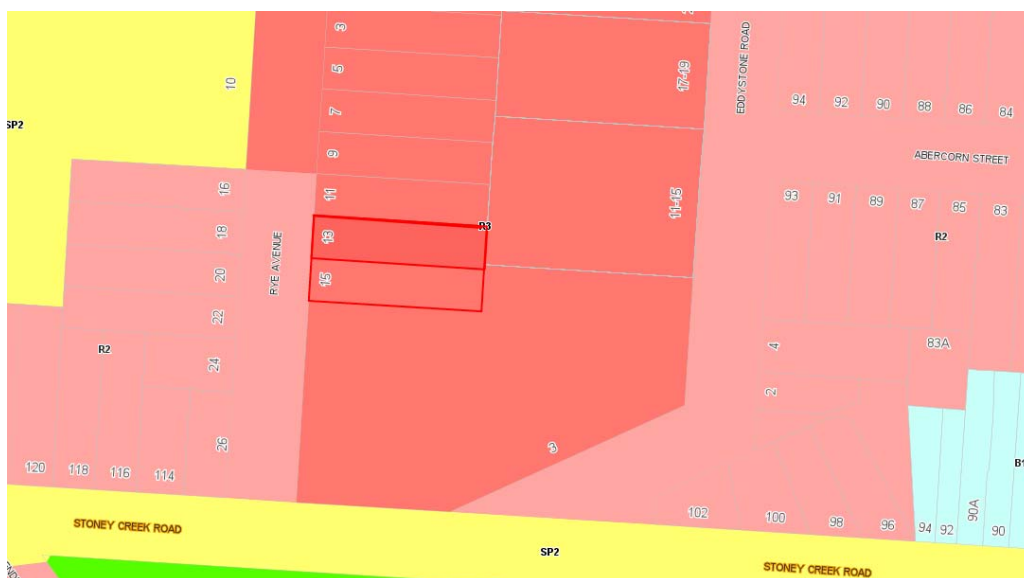
- (ix) The information provided to Council is insufficient to properly assess the requirements of Part 4 of the Childcare Centre Guideline.
- (x) The proposal has not satisfied the objectives of key controls within the Rockdale Local Environmental Plan 2011, including the zone objectives, height of buildings and floor space ratio.
- (xi) The proposal will result in detrimental environmental impacts in the locality, pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979.
- (xii) The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 79 (1)(c) of the Environmental Planning and Assessment Act 1979.
- (xiii) The approval of this application is considered contrary to the public interest, pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979.

2 That the objectors be advised of the Bayside Planning Panel's decision.

Attachments

- 1 Planning Assessment Report
 - 2 Site Analysis Plan
 - 3 Site and Roof Plan
 - 4 Basement Plan
 - 5 Ground Floor Plan
 - 6 First Floor Plan
 - 7 East and West Elevation Plan
 - 8 South and North Elevation Plan
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Location Map



PLANNING ASSESSMENT REPORT

Application Details

Application Number:	DA-2017/403
Date of Receipt:	03/07/2017
Property:	13-15 Rye Avenue, Bexley Lot 11 DP 5207 Lot 12 DP 5207
Owner:	The Trust Company Limited
Applicant:	Mammoth Projects
Proposal:	Demolition of existing structures and construction of a two (2) storey childcare centre accommodating 109 children, 24 staff, basement level carpark and signage.
Recommendation:	Refusal
No. of Submissions:	The development has been notified in accordance with the provisions of Rockdale DCP 2011 and Council received 6 submissions, including a petition signed by 37 persons, objecting to the proposal.
Author:	GAT & Associates
Date of Report:	12 February 2018

Key Issues

The key issues related to this application are:

- **Streetscape and Built Form** – The proposed built form does not appropriately reflect the residential character of the area and surrounds and has an unacceptable detrimental impact on the streetscape and adjoining properties.
- **First Floor Play Area** – The proposed first floor outdoor play area is contrary to Council's standards and presents substantial bulk and scale and amenities concerns.
- **Car Parking** – The amended design results in a shortage of 1 staff car parking space.
- **Trees** – The potential impact of the proposed basement on the two trees located on the adjoining property and within proximity of the boundary.
- **Noise** – Insufficient information is provided to ensure compliance with the acoustic criteria to minimise noise to adjoining properties.
- **Submissions** – 6 submissions received and a 37 signatory petition, all of which objected to the proposal.

Recommendation

1. That this Development Application be **REFUSED** pursuant to Section 80(1)(b) of the Environmental Planning and Assessment Act 1979 for the following reasons:
 - (i) The proposed child care centre has not been designed in character with the existing streetscape, having been designed with substantial non-compliances to setbacks and no articulation, in contravention of Clause 11 of Part 6.1, and Parts 4.2 and 5.1 within the Rockdale Development Control Plan 2011.
 - (ii) The bulk and scale of the proposal will present unacceptable massing and bulk when viewed from the adjoining property, 11 Rye Avenue.
 - (iii) The proposed first floor outdoor play area is in contravention of Clause 27(a) of the Rockdale Development Control Plan 2011 and presents bulk and scale and amenity issues to adjoining properties.
 - (iv) The 109 children proposed for the site is well in excess of the maximum permitted of 50 by Clause 3 in Part 6.1 of the Rockdale Development Control Plan 2011. The development has failed to satisfy Council that there are no unreasonable impacts on the amenity of adjoining properties and the streetscape.
 - (v) The proposed development does not adequately cater for its on-site parking demand as required by Part 4.6 of the Rockdale Development Control Plan 2011.
 - (vi) The development has not adequately addressed stormwater management for the site in terms of the drainage easement that has been identified as existing between 13 and 15 Rye Avenue.
 - (vii) The information provided to Council is insufficient to properly assess the impact of the proposed works on the trees on the adjoining property, 11 Rye Avenue.
 - (viii) The information provided to Council is insufficient to properly assess the noise level impact.
 - (ix) The information provided to Council is insufficient to properly assess the requirements of Part 4 of the Childcare Centre Guideline.
 - (x) The proposal has not satisfied the objectives of key controls within the Rockdale Local Environmental Plan 2011, including the zone objectives, height of buildings and floor space ratio.
 - (xi) The proposal will result in detrimental environmental impacts in the locality, pursuant to Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979.
 - (xii) The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 79 (1)(c) of the Environmental Planning and Assessment Act 1979.
 - (xiii) The approval of this application is considered contrary to the public interest, pursuant to Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979.
2. That the objectors be advised of the Bayside Planning Panel's decision.

Background

History

The Development Application that is the subject of this report was lodged with Council on 3 July 2017.

The proposal was notified in accordance with the provisions of Rockdale Development Control Plan 2011 (RDCP 2011) with the notification period ending on 9 August 2017.

On 6 October 2017 a letter was sent to the applicant requiring additional information and identified a number of issues that needed to be addressed. These included:

- Streetscape presentation and built form design concerns.
- A number of traffic and parking issues.
- Clarification on acoustic requirements.
- Address the comments provided by the Traffic Committee and Tree Management Referral.

The applicant requested a meeting with Council which was held on 7 November 2017 to discuss the matters in the additional information letter.

On 8 December 2017 the applicant submitted amended plans, a covering letter from the Traffic Consultant on amendments to the basement level, and a clarification letter from the Acoustic Consultant. The amended documentation are relied upon for the assessment in this report.

Proposal

Council is in receipt of a development application DA-2017/403 at 13-15 Rye Avenue, Bexley.

The proposal seeks approval for the demolition of the two existing dwellings and associated structures and construction of a two (2) storey childcare centre accommodating 109 children, 24 staff, basement level carpark and business identification signage. The proposal results in a change of use of the subject land from residential. The site is currently occupied by two detached dwelling houses.

The centre-based child care is proposed as two storeys, with a rear ground floor outdoor play area and an upper level outdoor play area in the form of a balcony. The basement level contains 17 car spaces, including one accessible space. 11 bicycles spaces are also provided.

The breakdown of ages are as follows:

0-2 year olds: 33
2-3 year olds: 33
3-5 year olds: 43
Total: 109

The Statement of Environmental Effects and Plan of Management indicate the centre would accommodate a maximum of 23 supervision staff and 1 cook/admin. Operating hours are proposed as 7am to 7pm.

The building is almost entirely rectangular in shape with minimal articulation or modulation. The proposal uses materials in an effort to provide articulation, with a mixture of weatherboard and another material that has not been specified on the plans or in the documentation. The roof is hipped in design as one form and is of metal sheet construction.

The building has a front setback of 5 metres to the external wall of the lift and stairs, and 5.83 metres to the remainder of the external wall excluding the verandah. The verandah located forward of the external wall is roofed. The roof of the verandah runs the majority of the building and extends forward of the building to be partly 2.4 metres from the boundary although mostly setback 3 metres.

The northern side boundary to No. 11 Rye Avenue has a setback on both levels of 1.55 metres. The southern side setback to 3-5 Eddystone Road is predominantly at 1.55 metres. However, part of building protrudes to be 1.25 metres from the boundary on both floors to provide for a small storage area on the first floor. The development provides a set of rear stairs to enable access between the lower and upper play areas, which is also setback from the southern side boundary by 1.55 metres. The rear setback from the outdoor play area on the first floor is 15.2 metres and 12.6 metres from the rear staircase.

The car parking on site will be provided in a basement via a driveway from Rye Avenue along the southern boundary. The driveway allows for two way movement to enable vehicles to enter and exit the site simultaneously.

The amended basement design now provides for 17 car spaces, of which 10 are dedicated to staff, 6 dedicated as pick up/drop-off spaces and one as an accessible space. The proposal also provides for 11 bicycle spaces. The basement also contains various storage areas and a laundry.

The ground floor contains two indoor play areas for 0-2 years, one for 2-3 years, bathrooms, a cot room, a reception area and office, and a separate room for parents. The first floor contains a second play area for 2-3 years, and two rooms for 3-5 year olds. A staff room, two bathrooms and a kitchen are also co-located on this floor.

Two rear outdoor play areas are proposed, one at ground level and one the first floor as a balcony. The ground level outdoor play area is 573.99m². The floor accommodates 45 children.

The upper outdoor area is 209.62m² and will accommodate children of 2-3 and 3-5 year. In total, 63 children will be accommodated on the first floor.

Site location and context

The site is located within the R3 Medium Density Residential zone and is legally referred to as Lots 11 and 12 in Deposited Plan 5207 and commonly referred to as 13-15 Rye Avenue, Bexley. The site is located on the eastern side of Rye Avenue.

The site is the result of the proposed amalgamation of Nos. 13 and 15 Rye Avenue and would result in a regular shaped allotment. The site's street frontage to Rye Avenue and its rear boundary measure 24.385 metres. The side boundaries both measure 50.29 metres. The overall site area is 1,226m². As Figure 1 shows, the site is zoned R3 Medium Density Residential, as are all directly adjoining properties.

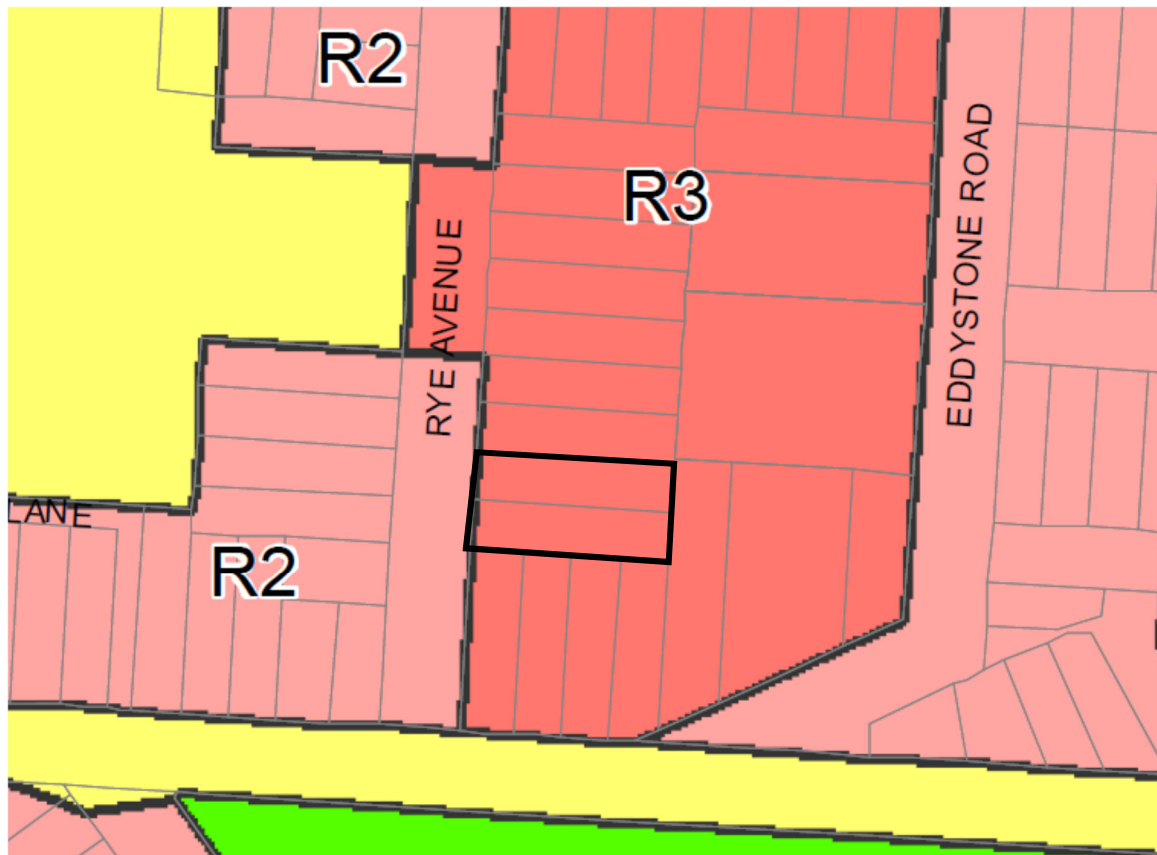


Figure 1 – Location Plan



Figure 2 – Aerial Photo of Sites and Surrounds
(Source: SIX Maps)

Currently, both Nos. 13 and 15 Rye Avenue contain single storey dwelling houses with the sole frontage to Rye Avenue. Adjoining the site to the north at No. 11 Rye Avenue is a similar single storey dwelling house with a garage abutting the front and shared side setback. To the south is a recently constructed two storey aged care facility known as Estia Health Bexley, separated from the site by its driveway and a passageway between Rye Avenue and

Eddystone Road to the east. The rear of the site also adjoins a townhouse development at No. 13 Eddystone Road. Refer to Figures 1 and 2 on the previous page.

Development along Rye Avenue generally consists of low density dwelling houses of an older stock. The eastern side of Rye Avenue is zoned R3 Medium Density Residential. Other than the aged care facility on the corner with Stoney Creek Road which is on a significant site also bounded Eddystone Road to the east, there are some examples of contemporary development including a two storey dual occupancy at the corner of Highgate Street and townhouse developments off Eddystone Road. These projects, other than the aged care facility, maintain a residential form and character.

The western side of Rye Avenue is zoned R2 Low Density Residential and is reflected by the entire street being single dwelling houses excluding one recent two storey dwelling house.

Council has a depot on the western side of Rye Avenue that's main vehicle entry is via Rye Avenue. Built form to Rye Street reads as a residential property.

The subject site does contain several trees which are to be removed as part of the proposed works.

Referrals

The development has been internally referred within Council.

Tree Management Officer

Referral Officer Details: Tree Management Officer

Recommendation: Insufficient Information

Referral was made internally to Council's Tree Management Officer. The following comments were received:

- *As recommended by the Consultant Arborist in the submitted Arboricultural Impact Assessment Report, the trees located adjacent to the common boundary within 11 Rye Avenue to be reflected on all plans.*
- *Additionally, either the basement carpark is to be setback a minimum of 3.0 metres from the tree or alternatively root mapping is to be undertaken by a suitably qualified Arborist to establish root patterns for the neighbouring Bottlebrush and determine appropriate setbacks.*
- *Further, a Tree Protection Plan is to be prepared by an AQP Level 5 Consultant Arborist and submitted to ensure adequate protection for the trees within 11 Rye Avenue.*
- *Finally, a Site Arborist is to be appointed to oversee works within the vicinity of the neighbouring trees.*

As of preparation of this report, none of these comments have been addressed. Concerns are raised that the proposed works will impact the two trees on within 11 Rye Avenue. This is detailed further in the section of this report on State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

Landscape Architect

Referral Officer Details: Landscape Architect

Recommendation: Supported, subject to conditions

Referral was made internally to Council's Landscape Architect. The following is a summary of the comments:

- *The proposal is not provided with a rainwater tank (minimum capacity of 2,000 litres) as required by the DCP. The landscape and stormwater plan must be updated to provide this.*
- *The sandpit does not meet the minimum size of 12m² (being 10m²) per DCP 6.1.28. The sandpit should be amended to meet the size requirements and be surrounded by a ledge (minimum 800mm) for play and maintenance purpose.*
- *The landscape plan is to be amended to indicate deep soil zone and usable space percentages.*
- *Various plant species recommendations are made for street trees, boundary plantings, to the outdoor play area and upper level play area, in addition to or replacing some of the proposed plantings in the landscape plan.*

Council's Landscape Architect has only reviewed the original submitted plans. Although it is noted that the applicant was not aware of these issues, such changes could have been dealt with and resolved if approval was considered an appropriate outcome. Due to the other issues raised within this report that have led to this recommendation for refusal, the amended plans were not re-referred to the Landscape Architect.

Development Engineer

Referral Officer Details: Development Engineer

Recommendation: Insufficient Information

Referral was made internally to Council's Development Engineer. Recently in the assessment process, it has come to light through reviewing Council's information that there is drainage infrastructure and an existing drainage easement between 13 and 15 Rye Avenue. No information on this easement, ownership and the relocation of the easement and infrastructure was provided to Council nor do the stormwater plans indicate how the upstream runoff can be diverted.

The applicant is not aware of the existence of this easement as it became apparent only in the latter of part of the assessment of this development application. We note the applicants survey does not show any indication of this easement.

With this issue outstanding, insufficient information is provided to determine the application. Please refer to the section of this report on Clause 6.9 of the RLEP 2011 for further discussion.

Traffic Committee

Referral Officer Details: Bayside Traffic Committee

Recommendation: Supported with conditions

Referral was made to the Bayside Traffic Committee. It was determined that the application would be supported subject to the following:

- *The required car parking is to be provided on the site.*
- *No consideration would be given to restricting on-street parking for the purposes of drop-off or pick up spaces for the centre.*

- *The Committee would support providing parents details of alternate routes to avoid right turns at the Rye Avenue and Stoney Creek Road Intersection.*

Environmental Health

Referral Officer Details: Environmental Health Officer

Recommendation: Insufficient Information

Referral was made internally to Council's Environmental Health Officer. Comments were received that indicated that further information/clarification was required regarding the submitted acoustic report.

The acoustic report gave inconsistent information regarding the noise levels of the outdoor play area. The report states on p.15 that with 109 children engaged in outdoor play, the maximum noise levels were to be 59dBA to the north, east and south receptors. On the following page, it states that background noise should not be exceeded by 5dB. The background noise level is stated at 44dBA and says the noise level must not exceed 49dBA. The report states the outdoor play area would comply with the criteria with recommendations set out in this report, however it does not indicate what noise level would be generated. This may substantially change the expected noise and consequently compliance of the development in terms of meeting acoustic standards.

The number of and sound level of the air conditioning units and placement has not been fully assessed. The plans indicated two units on the roof, however the acoustic report does not indicate whether two units were needed and what the sound level when used simultaneously.

The Acoustic Report has not assessed the impact of the Dance & Move and Music Classes that are part of the daily route in the Child Care Centre Management Plan.

The internal referral was received following the lodgement of the amended plans. In light of concerns with the built form, these issues were not raised with the applicant given the amended plans did not address the planning issues.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX certificate is not required as part of this application.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP55)

The subject site is currently zoned for residential purposes, being R3 Medium Density Residential, as per the *Rockdale Local Environmental Plan 2011* (RLEP2011). Adjoining properties are also similarly zoned. There is no record of clean-up notices or licences issued by the Environmental Protection Authority that apply to the site.

The subject site has been used for residential purposes and is unlikely to be contaminated. The applicant submitted a Preliminary Site Investigation which found:

“The findings of the historical investigation and site inspection into current and historical uses for the site located at 13 and 15 Rye Avenue, Bexley, NSW did not identify any current or historical potentially contaminating land use activities that are likely to have impacted on the contamination status of the site. Based on the findings of this PSI, the site considered suitable for the proposed childcare development.”

Given the above, there is no evidence to suggest that the land is contaminated or unsuitable for the proposed development, and as such no further investigation is considered to be warranted.

Accordingly, the proposal is satisfactory with regard to the provisions of SEPP 55.

State Environmental Planning Policy No 64 – Advertising and Signage (SEPP64)

This policy applies to all signage that is visible from a public place except for signage that is exempt development. In granting consent, Council must take into account whether the signage is consistent with the objectives of this policy and whether the signage satisfies the criteria specified in Schedule 1 of SEPP 64.

The application proposes several signs, being:

- Business identification wall sign incorporating Little Learning School logo on first floor façade to street – 1.87m wide x 1.43m high
- Below the above sign is a sign with the text ‘Early Learning Centre’ and phone number – 5m wide x 40cm high

The signage has been assessed in terms Schedule 1 of SEPP 64.

The proposed signage as noted above is compatible with the locality of the site and is of a scale and proportion appropriate for the proposed use. The signage identifies the child care centre facility as existing on the subject property. The Statement of Environmental Effects has indicated the signage is not to be illuminated, and any approval would condition this.

The signage is consistent with centre-based child care signage and is not sited to obstruct views or important architectural features.

The signage will not reduce the safety or road users, pedestrians or obstruct sightlines. Accordingly, the proposal is satisfactorily with regard to the provisions and objectives of SEPP 64.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) applies to the proposal. The site contains trees that are subject to approval by Council under clause 4.1.7 of RDCP 2011.

Nine (9) trees are covered by the Vegetation SEPP, seven (7) located on the subject site and two (2) on the adjoining property to the north, 11 Rye Avenue.

An Arboricultural Impact Assessment report prepared by a qualified Arborist has been submitted with the application. The report provided recommendations for the removal and retention of trees, including tree protection measures for existing and retained trees.

Specifically, the applicant's Arborist Report concluded:

- *The Arborist concludes that site trees T3-T9 are not worth of being design constraints and could be removed for the purpose of the development.*
- *The Arborist firstly recommends that T1 and T2 in this report be reflected on all plans to gain more concrete calculations for incursions.*
- *The encroachment for T2 is for both above and below ground tree parts, and would need to be minimised to a tolerable degree. This would require the basement to be setback a minimum 3.0m from the tree. This will result in the encroachment lessened to 15% and the SRZ would be free of impedance and tree can remain stable.*
- *Alternatively, root mapping can be performed by a qualified Arborist, to establish root patterns for T2 in and around the northern boundary on the clients site to better determine the presence of roots, if any, and possibly review the above setback.*
- *Both trees should be subject to being included in a Tree Protection Plan (TPP) in accordance with AS 4970/2009 to ensure they are adequately protected during the development.*

For reference, T3-T9 are trees on the site. T1-2 are located within 11 Rye Avenue, the adjoining property.

It is noted that the survey plan does not show trees on the adjoining properties. The Arborist Report also does not show the trees but indicates their general location.

Council's Tree Management Officer agreed with the Arborist's conclusions and requested all plans be amended to show the trees on 11 Rye Avenue, setback the basement a minimum of 3 metres from the tree or conduct alternatively root mapping and prepare a Tree Protection Plan.

As this information was not supplied at lodgement, it was requested in the additional information letter dated 6 October 2017. No additional information was supplied at the time of the preparation of this report.

The trees within the subject site are agreed to not be considered worth restricting redevelopment of the site. However, due to insufficient information on the impact of the

basement on the trees located within 11 Rye Avenue, it cannot be determined with certainty the trees will be unaffected. The aims of the policy are:

- (a) *To protect the biodiversity value of trees and other vegetation in non-rural areas of the State, and*
- (b) *To preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

It is considered that the proposed works impacting trees on the adjoining property would not be keeping in with either protecting the biodiversity value of trees or the amenity of the non-rural area of the subject site through the preservation of trees. Without the consent of the adjoining owner to the removal of these trees, the proposed basement excavation will impact those trees. Accordingly, this is a reason for refusal.

State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017

The application before Council was lodged on 3 July 2017. On 1 September 2017, the Child Care SEPP commenced. Per the savings provisions, the SEPP does not apply.

However, as per the ruling in Commissioner Smithson in “*ArtMade Architectural Pty Ltd v Willoughby City Council [2018] NSWLEC 1022*”, 23 January, Part 4 – Education and Care Services National Regulations of the Child Care Centre Guideline is the only part of the Child Care Centre Guideline to apply to the subject application.

This is due to the application being lodged prior to the finalisation of the SEPP and the savings and transitional provisions found in Schedule 5 of the SEPP which state that the consent authority must take into consideration the regulatory requirements of Part 4 of the Guideline.

The proposal is assessed against Part 4 of the guideline below.

Part 4 – Education & Care Services National Regulation

Regulation	Requirement	Proposal	Complies
104 – Fencing or barrier that encloses outdoor spaces	Outdoor space that will be used by children will be enclosed by a fence or barrier that is of a height and design that children preschool age or under cannot go through, over or under it.	Appropriate child proof fencing is provided around both outdoor play areas.	Yes
106 – Laundry and hygiene facilities	On site laundry facilities should contain: <ul style="list-style-type: none"> • a washer or washers capable of dealing with the heavy requirements of the facility • a dryer • laundry sinks • adequate storage for soiled items prior to cleaning • an on site laundry 	No detail information on the laundry facilities has been provided to demonstrate the provision of appropriate facilities.	No

	cannot be calculated as usable unencumbered play space for children		
107 – Unencumbered indoor space	Minimum 3.25sq/m unencumbered indoor space per child.	Yes. $109 \times 3.25\text{m}^2 = 354.25\text{m}^2$ Provided: 362.97m ²	Yes
	Storage Min - 0.3m ³ per child external (Min 32.7m ³) External Min - 0.2m ³ per child internal (Min.21.8m ³)	Storage sizes are not clearly depicted for internal spaces to demonstrate compliance. External storage is located in the basement and is compliant.	Partial Compliance
	Prams, bikes and scooters should be located adjacent to the building entrance	Pram and bike storage is located in the basement, which is considered acceptable as it is next to the lift.	Yes
108 – Unencumbered outdoor space	Minimum 7sq/m unencumbered outdoor space per child.	$109 \times 7\text{m}^2 = 763\text{m}^2$ Provided: 783.61m ²	Yes
	Where a covered space such as a veranda is to be included in outdoor space it should: • be open on at least one third of its perimeter • have a clear height of 2.1 metres • have a wall height of less than 1.4 metres where a wall with an opening forms the perimeter • have adequate flooring and roofing • be designed to provide adequate protection from the elements	The first floor verandah has a balustrade around the perimeter. The plans indicate this is approximately 2m in height. Given a wall height needs to be less than 1.4m, the proposed balustrade does not comply and is not consistent with what is deemed as 'unencumbered outdoor space'. The verandah does have a clear height of 2.1m, is designed with adequate flooring and roofing and has protection from the elements.	Partial Compliance
109 – Toilet and hygiene facilities	Toilet and hygiene facilities should be designed to maintain the amenity and dignity of the occupants.	Appropriate toilet facilities are provided with easy access to indoor and outdoor play areas.	Yes

110 – Ventilation and natural light	To achieve adequate natural ventilation, the design of the child care facilities must address the orientation of the building, the configuration of rooms and the external building envelope, with natural air flow generally reducing the deeper a building becomes. It is recommended that child care facilities ensure natural ventilation is available to each indoor activity room.	Per the applicant's Acoustic Report, to ensure the noise level from the children does not exceed the requirements, the windows need to be closed. The indoor play areas will need to be mechanically ventilated, and therefore will not be adequately naturally ventilated.	No
	Consideration should be given to: <ul style="list-style-type: none"> • providing windows facing different orientations • using skylights as appropriate • ceiling heights. 	2.7m ceiling heights are proposed to both floors. Windows are oriented to north and south. No skylights are proposed.	Yes
111 – Administrative space	A service must provide adequate area or areas for the purposes of conducting the administrative functions of the service, consulting with parents of children and conducting private conversations.	A reception area and parents room are provided on the ground floor, with a staff room on the first floor.	Yes
	Administrative spaces should be designed to ensure equitable use by parents and children at the facility. A reception desk may be designed to have a portion of it at a lower level for children or people in a wheel chair.	Can be conditioned.	Yes
112 – Nappy change facilities	Design considerations include: <ul style="list-style-type: none"> • properly constructed nappy changing bench or benches • a bench type baby bath within one metre from the nappy change bench • the provision of hand cleansing facilities for adults in the immediate 	Appropriate nappy change facilities are illustrated on the plans.	Yes

	<p>vicinity of the nappy change area</p> <ul style="list-style-type: none"> • a space to store steps • positioning to enable supervision of the activity and play areas. 		
113 – Outdoor space – natural environment	The proposed development includes outdoor spaces that will allow children to explore and experience the natural environment	The proposed landscape plan is consistent with this clause	Yes
114 – Outdoor space – shade	The proposed development includes adequate shaded areas to protect children from overexposure to ultraviolet radiation from the sun.	<p>A shade cloth is proposed in the ground floor play area and two on the upper level play area. Refer to the landscape plan.</p> <p>The upper level cantilevers over the ground level and affords shading.</p>	Yes
115 – Premises designed to facilitate supervision	Rooms and facilities within the premises (including toilets, nappy change facilities, indoor and outdoor activity rooms and play spaces) are designed to facilitate supervision of children at all times, having regard to the need to maintain their rights and dignity.	The design of the child care centre allows for appropriate supervision including sight lines and glazing between indoor and outdoor areas.	Yes
97 / 168 Emergency & Evacuation Procedures	Facility design and features should provide for the safe and managed evacuation of children and staff from the facility in the event of a fire or other emergency	As no details were provided, this can be conditioned if approval was issued.	Can be conditioned
	<p>An emergency and evaluation plan should be submitted with a DA and should consider:</p> <ul style="list-style-type: none"> • the mobility of children and how this is to be accommodated during an evacuation • the location of a safe congregation / assembly point, away from the evacuated building, busy 	As no details were provided, this can be conditioned if approval was issued	Can be conditioned

	roads & other hazards etc • how children will be supervised during the evacuation and at the congregation /assembly point, relative to the capacity of the facility and governing child-to-staff ratios.		
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Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	No	Yes – see discussion
2.7 Demolition	Yes	Yes – see discussion
4.3 Height of buildings	No	Yes – see discussion
4.4 Floor space ratio - Residential zones	No	Yes – see discussion
5.10 Heritage conservation	Yes	Yes – see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes – see discussion
6.2 Earthworks	No	No – see discussion
6.7 Stormwater	No	No – see discussion
6.12 Essential Services	Yes	Yes – see discussion

2.3 Zone R3 Medium Density Residential

The subject site is zoned R3 – Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as centre-based child care with ancillary signage. The child care centre constitutes a permissible with consent land use under the Land Use Table.

The objectives of the zone are:

- *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 ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.*

The proposed development is not considered to be consistent with the objectives of the zone.

The first two objectives are not relevant to this proposed use as they relate to a residential use.

A centre-based child care is a land use that is a service to meet the day to day needs of residents and is therefore consistent with the third objective. However, the application has an unacceptable impact on the character and amenity of the area, as detailed under Parts 4.2 and 5.1 of the DCP below. Accordingly, the application is inconsistent with the fourth objective given the proposed bulk and scale created by a lack of articulation of the building, and amenity concerns of the upper outdoor play area.

2.7 Demolition

The proposal seeks to demolish the two existing dwelling houses as part of the proposed works in accordance with the requirements of this clause.

4.3 Height of buildings

The objectives of this clause are as follows:

- (a) to establish the maximum limit within which buildings can be designed and floor space achieved,*
- (b) to permit building heights that encourage high quality urban form.*
- (c) to provide building heights that maintain satisfactory sky exposure and daylight to buildings, key areas and the public domain,*
- (d) to nominate heights that will provide an appropriate transition in built form and land use intensity.*

The maximum height of the proposed centre-based child care is 8.5 metres at the peak of the roof and therefore does not exceed the 8.5 metre height control prescribed to this site on the Height of Buildings Map.

The proposed pitched roof is designed as one form covering the whole building. Given the footprint of the building is not articulated, the roof as one large element presents as excessively bulky. For a building this size a more modulated and articulated roof that breaks up the bulk into multiple smaller portions would substantially improve the urban form, in addition to some form of articulation of the building footprint. Although compliant with the height of buildings control, the overall form and scale of the development is not considered appropriate as detailed in this report under Parts 4.2 and 5.1 of the RDCP 2011.

As the design submitted to Council stands, the proposal does not meet objective (b) of Clause 4.3 Height of Buildings as it does not present a high quality urban form and is a reason for refusal.

4.4 Floor space ratio – Residential zones

The objectives of this clause are as follows:

- (a) to establish the maximum development density and intensity of land use, accounting for the availability of infrastructure and generation of vehicular and pedestrian traffic, in order to achieve the desired future character of Rockdale,*
- (b) to minimise adverse environmental effects on the use or enjoyment of adjoining properties,*
- (c) to maintain an appropriate visual relationship between new development and the existing character of areas of locations that are not undergoing or likely to undergo a substantial transformation.*

The maximum floor space ratio prescribed to the site is 0.6:1 on the Floor Space Ratio Map. The amalgamated site of Nos. 13 and 15 Rye Avenue have a site area of 1226m². The proposed gross floor area (GFA) as indicated on the submitted architectural plans is 674m², proposing a 0.55:1 FSR.

The applicant has not included the storage room on the first floor into their GFA calculations. Notwithstanding this, the proposal is compliant with a total GFA of approximately 677m² and FSR of 0.55:1.

Although technically compliant with the setbacks to the side boundary to the north with No. 11 Rye Avenue, it is noted that the external wall is excessively long and imposing for a single building in a residential area, on both the ground and first floor, when viewed from No. 11. Further, the upper level play area that is bounded by a 2 metre high fence extends well beyond the rear of No. 11, exacerbating the concerns. The wall is unarticulated and results in bulk and scale unbefitting of an interface with a residential property.

Concerns over this interface were raised in the additional information letter and discussed during the meeting held at Council. The amended design does include some material articulation. However, this is not sufficient to minimise the overall imposition of the built form as there is no delineation or articulation to the actual mass of the building. The building does not appropriately respond to the interface with a lower density form.

It is Council's view that the proposed built form is intimidating when viewed from No. 11 as there is no break in the mass, resulting in reduced amenity. Accordingly, the design does not align with objective (b) and is a reason for refusal.

5.10 Heritage conservation

There are no heritage considerations as part of this application, as the site is not a heritage item, within the vicinity of an item it may impact, or within a conservation area.

6.1 Acid Sulfate Soils – Class 5

In accordance with the RLEP 2011 the subject site is identified as (potentially) containing Class 5 Acid Sulfate Soils (ASS).

A review of the ASS maps contained within the RLEP 2011 has revealed the subject site is not within 500m of any Class 1, 2, 3 or 4 land that is below 5 metres AHD. In this regard, there is no need for an ASS assessment or management plan. The proposal is therefore considered to satisfy this clause.

6.2 Earthworks

The proposal seeks consent for earthworks, the majority of which will be for the basement car park. It is considered basement parking is reasonable to accommodate the car parking on the site. However, Council has outstanding concerns about the impact of the basement on the roots of the trees on 11 Rye Avenue as discussed in the section on Clause 5.9 of the RLEP 2011.

Clause 6.2(3)(d) states:

Before granting development consent for earthworks, the consent authority must consider ... The effect of the proposed development on the existing and likely amenity of adjoining properties.

With the submitted information, Council cannot determine whether the trees on No. 11 will be affected and therefore it cannot be determined that the proposed development will not negatively impact the existing amenity of adjoining properties.

Further, Council has identified drainage infrastructure and an existing drainage easement between 13 and 15 Rye Avenue.

Clause 6.2(3)(a) states:

Before granting development consent for earthworks, the consent authority must consider the ... likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.

The submitted information makes no reference to the drainage infrastructure or any means of redirecting upstream runoff. It therefore cannot be determined that the proposed works will not have a detrimental effect on the existing drainage patterns of the locality.

Insufficient information has been provided to satisfy the standard and is a reason for refusal.

6.7 Stormwater

Clause 6.7 states:

The objective of this clause is to minimise the impacts of urban stormwater on any of the following:

- (a) Land on which development is carried out,*
- (b) Properties adjoining that land,*
- (c) Native bushland,*
- (d) Receiving waters.*

Stormwater drainage concept plans, prepared by Greenview Consulting (dated 28 June 2017) were submitted with this application. These plans have been reviewed by Council's Development Engineer. While the on-site detention system has been deemed generally acceptable, through the assessment process it has been noted that Council's information indicates there is drainage infrastructure and an existing drainage easement between 13 and 15 Rye Avenue. Refer to Figures 3 and 4.

No information on this easement, ownership and the relocation of the easement and infrastructure has been provided to Council. The stormwater plans do not indicate how the upstream runoff can be diverted to avoid detrimental impacts on the site itself and adjoining properties.

Accordingly, insufficient information has been provided and is a reason for refusal.



Figure 3 – Drainage Infrastructure

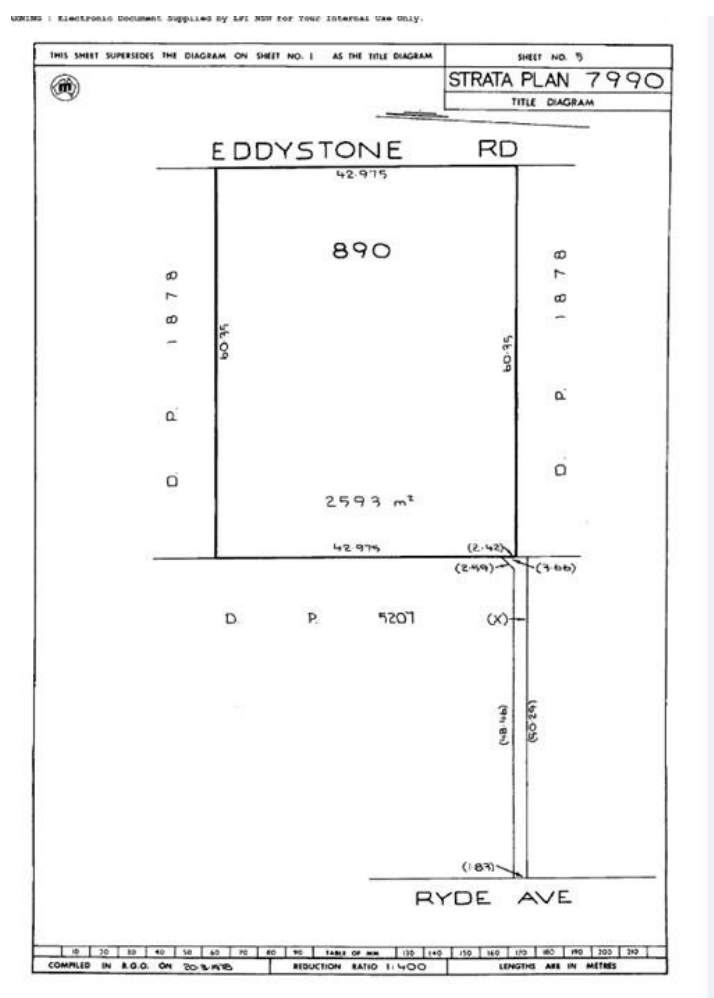


Figure 4 – Strata Plan (Easement marked with X)

6.12 Essential Services

Given the existing residential use of the site and the details provided on the survey plan, it is understood that connection to essential services is available.

Accordingly, the proposal is considered to satisfy this clause.

S.79C(1)(a)(ii) – Provisions of any Draft EPI's

No relevant proposed instruments are applicable to this proposal.

S79C(1)(a)(iii) – Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application

Rockdale Development Control Plan 2011

A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vistas	Yes	Yes
4.1.3 Water Management	No	No – see discussion under RLEP 2011 clause 6.7
4.1.4 Soil Management	Yes	Yes
4.1.5 Contaminated Land	Yes	Yes – see discussion under SEPP 55
4.1.6 Development on Sloping Sites	Yes	Yes
4.1.7 Tree Preservation	No	No – see discussion under RLEP 2011 clause 5.9
4.1.8 Biodiversity	Yes	Yes
4.1.9 Lot Size and Site Consolidation	Yes	Yes – see discussion
4.2 Streetscape and Site Context	No	No – see discussion
4.3.1 Open Space and Landscape Design	Yes	No – see discussion
4.4.2 Solar Access	Yes	Yes – see discussion
4.4.5 Visual and Acoustic Privacy	No	No – see discussion
4.4.6 Noise Impact	No	No – see discussion
4.5.2 Equitable Access	Yes	Yes – see discussion
4.6 Parking, Access and Movement	No	No – see discussion

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.7 Site Facilities	Yes	Yes
5.1 Storey Height and Setbacks	No	No – see discussion
6.1 Child Care Centres	No	No – see discussion
6.4 Advertising and Signage	Yes	Yes

4.1.9 Lot Size and Site Consolidation

Child care centres must have a minimum allotment width of 18m. The site has a site of 24.385 metres and is compliant with this requirement.

4.2 Streetscape and Site Context

Assessment of development directly relates to the below objective and control within RDCP 2011:

Objective B – To ensure development responds to predominant streetscape qualities.

Control 1 – Development is to respond and sensitivity relate to the broader urban context including topography, block patterns and subdivision, street alignments, landscape, views and the patterns of development within the area.

The relevant urban context for this area would be development along Rye Avenue.

Development within the relevant context of the site is characterised by generally low and some medium density housing, being primarily single storey detached dwellings houses of older stock with some newer two storey detached houses, dual occupancies and townhouse development. The construction materials are typically brick with pitched tiled roofs. Dwelling houses are characterised by a consistent treatment of a primary front building line/façade and a recessed secondary façade, as shown in the images on the following page and on page 5/6 within Part 5.1 Low and Medium Density Residential of the RDCP 2011. Verandahs are fully located behind the primary façade.

The proposed design is generally considered to be contemporary and the materials reflect this. The design, however, is not keeping in with the prevailing street setback or within the established character of the area. The original design presented no articulation to the front façade. Having raised this as a concern in the additional information letter and discussed at the meeting held at Council, the design was amended to a minimal degree.

The front setback is predominantly 5.83 metres, which does align with the prevailing street setback. However, where articulation is provided (in the form of the external wall, being the lift and stairs), it is pushing forward rather than recessing, creating a portion of the building 5 metres from the boundary. This is a variation to the prevailing street setback.



11, 13 and 15 Rye Avenue – each with a front building line, recessed secondary building façades with verandah and entrance in the space between the front and secondary façades.

(Source: Google Maps)



22, 20 and 18 Rye Avenue

(Source: Google Maps)

Further, the roofed front verandah is fully forward of the front façade, with the roof of the verandah extending forward to be 2.4 metres from the boundary in part, and 3 metres for the remainder, creating substantial bulk forward of the building line that is not reflected elsewhere in the street. This built form is therefore not keeping in with the area, does not respond to the predominant streetscape qualities and presents a negative impact to the streetscape.

Although we acknowledge the two storey aged care facility to the south of the site, the facility differentiates itself from a typical block in that the facility has three street frontages, being

Stoney Creek Road, Rye Avenue and Eddystone Road, and forms what can be described as a bookend for this block.

Despite the presence of this development, this building lacks articulation and would be an example of a building design and philosophy that is contrary to the desired future character of the area. The design reinforces a strong, blocky form that is not sympathetic to its surroundings. As no other building in the vicinity of the site resembles it, it makes the site an anomaly rather than a precedent, desirable or otherwise. Therefore, the aged care facility is not a built form that should be used as a guide for future development in this block.

Council's letter dated 6 October 2017 detailed the concerns with the streetscape presentation and lack of articulation. It was reinforced in the meeting with the applicant that Council's concern was not generally based on the amount of floor space proposed, but its presentation as a rectangular, box like appearance and the lack of articulation and/or indentations to the built form. As the design was submitted, the proposed building presented no notable articulation with dominantly the one material finish. The amended design does incorporate a number of materials and finishes; however, materials are not adequate on their own to provide adequate articulation to offset the impact on the bulk and scale of a development of this size.

The amended plans have not resolved this to the satisfaction of Council's standards. It does not satisfy objective B of Part 4.2 of the RDCP 2011. Given the above, the design of the proposal does not satisfactorily respond to the streetscape and site context and is a reason for refusal.

4.3.1 Open Space and Landscape Design

Child care centres require a minimum landscaped area of 20% of the site area. For this application, this equates to 245.2m². This proposal includes a substantial outdoor play area at the rear, however it would not all technically be defined as 'landscaped area' by the definition in RLEP 2011.

Council's Landscape Architect has determined that the landscaped area appears to be sufficient, though would have the landscape plan updated to indicate the deep soil area and usable space percentages for review.

Subject to the Landscape Architects species recommendations, it is considered that the landscape design satisfies the objectives of the part that relate to providing privacy, amenity, ecological sustainability and matching the streetscape.

The use of permeable artificial turf is appropriate in this instance to allow for infiltration.

4.4.2 Solar Access

Shadow diagrams were submitted with the application. Given the east-west orientation of the site, and as the diagrams indicate, there will be a minimal impact on the adjoining properties in terms of overshadowing, with the bulk of the shadows falling to the street in the morning, onto the driveway of the aged care facility to the south in the middle of the day, and the rear outdoor play area in the afternoon.

4.4.5 Visual and Acoustic Privacy

The proposed windows to the northern, eastern and southern boundaries are considered to be suitably offset or have sufficient separation to minimise overlooking potential.

Council does not support the first floor outdoor play area given Clause 27(a) in Part 6.3 Child Care Centres which states that outdoor play areas are to be located at the rear of a building

and on the ground floor. Notwithstanding this, the Acoustic Report recommends a 1.4 metre high barrier around the outdoor play area for noise attenuation with a possible material as glass. The type of glass is not specified, however were any approval is to be given, the barrier required would not be permitted to be clear glass to the northern boundary due to the potential loss of privacy to the rear private open spaces of the dwelling house at No. 11 Rye Avenue and townhouse development at No. 13 Eddystone Road.

It is also noted that the architectural plans indicate a balustrade around the perimeter of the outdoor play area of a height of approximately 2 metres. Notwithstanding the inconsistency in what height balustrading is proposed, it is considered that a 2 metre balustrade would add substantial bulk as viewed from the side and rear adjoining properties and is not supported.

4.4.6 Noise Impact

The applicable standard of assessment for child care centres is:

3. Non-residential development is not to adversely affect the amenity of adjacent residential development as a result of noise, hours of operation and/or service deliveries.

As part of the submitted documentation, an Acoustic Report was prepared by Rodney Stevens Acoustic. However, the report is unclear as to the level of compliance. Page 15 of the report states:

"With 109 children engaged in outdoor play on the site, the predicted maximum LAeq(15minute) noise levels are expected to be in the order of 59dBA to the north, east and south (including all floors of the adjacent aged care facility) and 33dBA to the west site boundaries."

On the following page, the report continues:

"The assessment criterion relative to emissions to residential receivers, based upon the recommendations of the INP, is that the LAeq(15minute) noise level emitted from the outdoor play area not exceed the background noise level by more than 5dB at the assessment location. The weekday background level at the site, based upon the ambient noise survey results was 44dBA during the daytime. The criterion for the assessment of noise emissions from the proposed outdoor play area therefore, becomes 49dBA. The proposed outdoor play area will comply with the criteria with recommendations set out in this report."

The report indicates that compliance will be achieved with the recommendations of the report (a 1.8 metre high masonry wall to the north and east, and 2.1 metre to the south, of the ground level outdoor play area, and a 1.4 metre high wall on the first floor outdoor play area) but it does not indicate what the noise level would be with these measures in place. Therefore, it cannot be determined that the proposed attenuation measures are sufficient to ensure acoustic standards are met.

The Environmental Health Officer also noted that the Acoustic Report had not considered the potential noise impacts from the 'Dance & Move Classes' and 'Music Classes' that form part of the daily routine. The times and claimed staggered use of the outdoor play areas amongst age groups has not been detailed for assessment.

The number of and sound level of the air conditioning units and placement has not been fully assessed. The plans indicated two units on the roof, however the acoustic report does not indicate whether two units were needed and what the sound level when used simultaneously.

Particularly given the application seeks to more than double the maximum number of children of 50, as stated in clause 3 in Part 6.3 of RDCP 2011, and the location of the site in a residential

area, the potential for the noise generated by the development must be rigorously assessed to ensure the amenity of adjoining properties is maintained. With the above questions outstanding, there is insufficient information to satisfy Council that the amenity of adjacent residential development as a result of noise is not adversely affected and is a reason for refusal.

4.5.2 Equitable Access

An accessible car space is provided in the basement, with a lift to provide access between all levels of the centre. A separate accessible bathroom is also provided on the first floor.

A BCA Compliance Statement was submitted as part of the application. Subject to the requirements detailed with the statement, compliance is considered achievable.

4.6 Parking, Access and Movement

The child care centre proposes basement car parking. The key objective of the control is:

- A. *To provide sufficient, convenient and safe on-site parking while encouraging alternative modes of transport, such as walking and cycling.*

The childcare centre generates the following car spaces:

1 car space per 20 children. Therefore, $109/20 = 5.45$ car spaces

1 car space per 2 members of staff (part or full time). Therefore, $24/2 = 12$ car spaces.

Total = 17.45 spaces

It is noted in the RDCP 2011 that parking calculations are to be rounded up where they are not whole numbers. Therefore, 18 car spaces are required.

The basement accommodates 17 car spaces including an accessible space in the amended plans submitted to Council and is therefore 1 space short of the required spaces.

The Traffic and Parking Impacts Report submitted with the application and a supplementary cover letter with the amended plans rationalise this shortfall as acceptable due to sufficient parking being available on the street. The consultant conducted a parking survey over two days and presented results that indicated more than adequate availability of on-street parking.

Despite the above, it is not considered this there is sufficient cause to justify varying this standard. The site is not constrained by any notable factors to warrant varying parking provisions. The Bayside Traffic Committee determined the proposal should be compliant in terms of car parking and that no parking restrictions would be considered for on-street drop off or pick up spaces. The centre must accommodate its own parking requirements.

The accessible car space has a column supporting the upper levels obstructing its use. The column must be relocated so that the shared area can be kept clear for the ease of use of disabled visitors.

The original submitted basement design included a turning bay, however the turning circles encroached into the pedestrian pathway and was a safety concern. This was raised in Council's letter to the applicant. The amended basement design does not provide a turning bay, having widened the aisle to enable vehicles to exit the basement without use of a turning bay. This amended layout has not been supported by turning circles by the applicant's traffic consultant for Council's review. Notwithstanding this, should each parking space be occupied, another vehicle entering the site will not be able to leave in a forward direction. The lack of a turning bay is therefore not supported.

In this instance, the proposal does not achieve Objective A of the Part 4.6 of the RDCP 2011 and is a reason for refusal.

5.1 Storey Height and Setbacks

A child care centre located within a residential zone must be designed in character with the existing streetscape per the below objective and clause.

Part 6.1 Objectives

- G. *To ensure the child care centre integrates with the character of the streetscape and local built form.*

Part 6.1 Child Care Centres – Building Design

11. *Child care centres must be designed in character with the existing streetscape (ie buildings located in residential areas must maintain an appearance consistent with the nearby residential streetscape).*

The key objective of the residential setback controls is:

- A. *To encourage development of a high standard of architectural merit and design*

The front setback must be consistent with the prevailing street setback. The prevailing street setback on the eastern side of Rye Avenue is approximately 5.8-5.9 metres. This is accurately detailed on the submitted Site Plan.

While the external wall is located generally in line with the prevailing street setback, the front roofed verandah is sited fully forward of the prevailing street setback, presenting sizeable bulk and scale to the street that is out of character with the streetscape. This roof extends up to 3.4 metres forward of the prevailing street setback (and 2.4 metres from the boundary) and will be a dominant, uncharacteristic element within the streetscape.

The dwelling houses within the street are all characterised by a stepped front façade, being a primary and recessed secondary front façade. All roofed verandahs are located behind the prevailing street setback, in front of the recessed front façade.

The original submitted plans made no effort to reflect the streetscape character in this manner. This issue formed part of the additional information letter and was raised in the meeting with the applicant. This information was also detailed as part of the Pre-DA advice. The amended plans have setback the first floor storage room behind the prevailing street setback and pulled forward the lift and stairs on both floors in an effort to provide some articulation to the front façade. There are no site constraints to warrant a variation to the prevailing street setback. As the front verandah remains fully forward of the prevailing street setback, it is not supported. The lift and stairs external wall forward of the prevailing street setback is also not supported.

The side setbacks are required to be a minimum of 900mm on the ground floor, and 1.5 metres for the first floor. To the northern side setback, the ground and first floor is setback 1.55 metres and is compliant.

However, as part of the amended plans, the southern side setback on both floors extends into the side setback by 250mm – to be a 1.25 metre setback. There is no site constraint to justify this variation and is not acceptable to Council.

The rear setback is to be a minimum of 3 metres on the ground floor and 6 metres on the first floor. As the outdoor play area occupies the rear of the site, both rear setbacks are substantially over the minimum and are compliant.

It is also noted that the building is not well articulated, presenting mostly as a straight rectangular shape. Clause 11 of Part 6.1 Child Care Centres within the RDCP 2011 states:

“Child care centres must be designed in character with the existing streetscape (ie buildings located in residential areas must maintain an appearance consistent with the nearby residential streetscape).”

In light of this, certain standards are to be met in terms of articulating the built form. Specifically, Control 8 of Part 5.1 Low and Medium Density Residential in the RDCP 2011 states:

“Large expanses of blank walls are to be avoided through the use of architectural design features, modelling and fenestration.”

The above control is applicable to a child care centre in a residential zone given Clause 11 of Part 6.1. The design of the child care centre is not articulated and therefore fails to align with this clause.

Although concerns about articulation have been raised as part of the additional information letter and at the meeting held at Council, this has not been addressed to the satisfaction of Council.

The amended design included a greater variety of materials which was a notable improvement on the original design. Material articulation on its own, however, is not sufficient to reduce the impact of the bulk and scale proposed. Large expanses of the side elevations are still blank, without much in the way of architectural design features, modelling or fenestration.

Further, the length of the walls with no massing breaks is not keeping in with either the dwelling houses or townhouses in the immediate vicinity. The two storey townhouses at No. 17 Eddystone Road have comparable length of walls yet were designed with separate roof forms that are broken up to minimise the scale of the two storey built form, step down the slope, and have multiple protruding and recessive elements to provide for articulation. The proposed building lacks measures to minimise this massing and is not reflective of the residential streetscape and local built form.

Given the above concerns regarding the front and side setbacks, and the lack of articulation, Council is not satisfied that the design is of a high standard of architectural merit, or that it will integrate with the character of the streetscape. Accordingly, the application is recommended for refusal.

6.1 Child Care Centres

Provision of Child Care Places

Council requires a minimum of 33% of the places dedicated for children under the age of 2 years.

The child care centre proposes 30% of their child care spaces for children under the age of 2 years – 33 of the proposed 109 spaces. For children aged 2-3 years, 33 spaces are provided, and 43 spaces for children aged 3-5 years.

The Statement of Environmental Effects submits that the variation is supported by a document prepared for the application, ‘Childcare Needs Assessment’. The assessment supports the need for a new purpose built childcare centre.

It is considered that the variation would be acceptable were the outstanding concerns detailed in this report were resolved.

Council's standard is for a maximum of 50 children in a child care centre in residential zones, unless it can be demonstrated by the applicant that any additional children will not result in unreasonable impact on the amenity of adjoining properties and/or streetscape.

The application proposes 109 children, more than double the minimum. The applicant has not satisfied Council that the variation in the number of children is warranted. The submitted design results in an unreasonable impact to the amenity of the adjoining properties and streetscape in terms of built form and setbacks, and noise as discussed throughout this report.

Location

A review of the locational criteria indicates that the site is generally acceptable to accommodate a child care centre. The subject site is located near public transportation and within a purpose built building for a child care centre. It is within 600m of St Gabriel's Catholic School and 100m of Bexley Park. It adjoins only two residential properties, being to the north and east boundaries.

There are no known environmental or health factors that would be of concern affecting the site. There are no land use conflicts, being drug clinics, adult entertainment, or the like. The site is not flood affected or a steep site. Rye Avenue is not a classified road, nor is it a narrow, one way, or dead end road.

It is noted there are several child care centres within 1km of the site, all but one of which have some (limited) vacancies available at the time of assessment.

Building Design

Child care centres must be designed in character with the existing streetscape. Given the site is located in a residential area, it must observe the relevant controls of a dwelling house. The proposed built form is not considered appropriate in terms of setbacks and articulation as it does not reflect the streetscape and character of the area. Refer to the discussions under Part 4.2 and 5.1 of the DCP.

Visual and Acoustic Impact

An Acoustic Report was submitted with the application. As discussed under Part 4.4.6 of the RDCP 2011, insufficient information has been provided to adequately assess the impacts.

It is noted, in addition to the above, that were any approval to be issued, a requirement must be to keep the windows shut. The Acoustic Report states:

"5.2 Noise Emissions from Indoor Activities

Based on an internal reverberant sound pressure level of 73dBA within the separate internal play areas (maximum of 20 children/room, standard 4mm glass) the predicted cumulative LAeq(15minute) noise level at the neighbouring receiver to the north, east and south, with the proposed internal configuration and associated capacity, is 56dBA with windows open. Noise emissions to the neighbouring residence is predicted to be 46 dBA with the glazing closed.

The recommended assessment criterion of 49dBA will not be achieved with the windows open but will achieve criteria with the windows closed."

It further states:

"5.4 External Noise Intrusion

5.4.1 Indoor Spaces

External noise intrusion into the play rooms is not considered to be acoustically significant. Based on a daytime road traffic (and other environmental sources) noise level LAeq (15 hour) was 58 dBA, predicted noise intrusion to the indoor play area is 48 dBA with windows open and 38 dBA with windows closed. Predicted intrusion to the sleeping areas is predicted to be below 30dBA with windows closed. Windows will need to be closed to meet the criteria.”

Both passages indicate that to satisfy the acoustic criteria for noise emissions from the indoor play areas to adjoining properties, and from external noise (road traffic) to the sleeping areas, the windows must be shut. Therefore, any approval that would be issued would necessitate keeping the windows closed to ensure compliance is achieved.

Indoor and Outdoor Space

A minimum of 3.25m² of unencumbered indoor play area and 7m² of unencumbered outdoor play area are required per child. Sufficient space has been allocated for the children to meet this standard.

Clause 27(a) states that ‘*outdoor play spaces are to be located at ground level and at the rear of the centre.*’ The proposal includes a first floor outdoor play area in the form of a largely open air balcony and presents a concern to Council from an amenity perspective in terms of the additional bulk it adds to the building, noise and potential overlooking as discussed within this report.

A rainwater tank of a minimum capacity of 2,000 litres is required by clause 27(h) of the RDCP 2011. No rainwater tank has been proposed.

Sandpits are required to be a minimum of 12m² to allow children to gather and play together per clause 28 of RDCP 2011. A sandpit has been proposed, however it is only of an approximate 10m² and does not satisfy the minimum requirement.

Parking and Pedestrian Safety

The proposed basement car parking is considered appropriate for the site for the use by a child care centre.

In the amended design, the pedestrian pathway in the basement has been separated by a fence from the vehicular movement area to ensure safety of parents and children accessing vehicles.

The amended proposal accommodates 17 car spaces, including the accessible parking space, which is 1 car space below the 18 required, as discussed in the section on Part 4.6 Parking, Access and Movement above. Per the Bayside Traffic Committee’s recommendations, Council does not support the shortfall in parking. There are no site constraints to justify not supplying the required spaces on site. Council would also not support restricting on-street parking spaces for drop-off or pick up. The shortfall in parking is a reason for refusal.

Concern was raised by the Traffic Committee regarding the intersection of Rye Avenue and Stoney Creek Road and the history of 3 incidents in the last 5 years of vehicles turning right onto Stoney Creek Road. The applicant was requested in the additional information letter to demonstrate that the additional traffic generated from the child care centre does not exacerbate the crash history.

In response, the applicant confirmed their modelling did not indicate an increase in the crash potential. Further, they suggested implementing in the plan of management information on alternate routes to avoid the intersection. The Traffic Committee and Council supports this

approach and encourages any approval to include as a condition that alternative route information is supplied to parents.

Hours of Operation

The hours of operation proposed were 7am to 7pm Monday to Friday and align with the RDCP 2011 control. These hours are acceptable to Council.

S.79C(1)(a)(iv) - Provisions of regulations

The regulations have been considered in this assessment of this application.

S.79C(1)(b) - Likely Impacts of Development

The Education and Care Services National Regulations, specifies staff to child ratios which are to be adhered to by child care centre operators. The Plan of Management submitted to Council indicates that a minimum of 13 staff would be employed to support a director and a second in charge for a total of 15 plus a cook. The Statement of Environmental Effects and architectural plans indicate educators per room, totalling 23 staff.

An assessment against the regulations is undertaken below:

Staff to Child Ratio	Requirement	Proposed	Complies
	0-2yrs 1 per 4 children (33 children = 8.25 staff)	9	Yes
	2-3yrs 1 per 5 children (33 children = 6.6 staff)	8	Yes
	3-6yrs 1 per 11 children (43 children = 3.9 staff)	6	Yes

The Plan of Management incorrectly states the minimum number of staff. Any approval would require 19 child care staff on site to comply with the regulations in terms of child care staffing numbers.

The proposed development has been assessed in terms of the likely impacts of the development in terms of both natural and built environments, and social and economic impacts, and is determined to have an unacceptable impact on the streetscape and adjoining properties as discussed throughout this report.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal.

The site is zoned R3 Medium Density Residential and centre-based child care centres are permissible with consent of Council. However, the scale to which the application seeks is beyond what can be reasonably expected to be accommodated on the site given the adverse effects on the streetscape and adjoining properties as discussed above.

S.79C(1)(d) - Public submissions

The application has been notified in accordance with the provisions of Rockdale DCP 2011 and 6 submissions were received and a 37 signatory petition. The main issues raised in the submissions are discussed below:

Issue 1: Parking and Traffic Impact

The concerns raised are summarised as the following:

- Provision of parking complies with the DCP provisions, but is still inadequate to prevent significant traffic disruption during peak pick-up and drop-off times.
- Parents in a rush will pick-up or drop-off on local streets, not in the six (6) parking drop-off spaces in the basement.
- The impact of the additional traffic on the intersection of Rye Avenue and Stoney Creek Road will exacerbate the existing safety issues.

Comment:

The original application was compliant in this regard but did not satisfy adequate dimensions. Amended plans submitted to Council have a shortfall of one car space. As discussed in this report, the shortfall of one space is not supported by Council or the Bayside Traffic Committee and adequate provision of spaces within the site is required.

The Bayside Traffic Committee has further stated that, in the event of an approval, the applicant's suggestion to include in the plan of management to distribute information to parents of alternate routes to avoid delays and/or safety issues with the Rye Avenue and Stoney Creek Road unsignalized intersection. The intersection would also be monitored in case further action would become necessary to manage traffic.

Issue 2: The need for the Childcare Centre

- Many other centres in the area that do not currently achieve capacity

All applications for child care centres are assessed in terms of their context of the site and its surroundings. A child care centre is permissible under the R3 Medium Density Residential zoning of this land. The site is suitable to accommodate a childcare centre. An application that does not have a detrimental impact on the streetscape and adjoining properties would be considered acceptable to Council. However, as outlined in this report this application has not satisfied Council and is therefore not supported.

Issue 3: Capacity of the Centre

- The proposed number of children in the centre is well beyond Council's 50 place maximum standard
- Has not satisfactorily addressed the impacts of the proposed bulk and scale to adjoining properties

As discussed in this report, Council has a number of concerns about the streetscape presentation and the bulk and scale of the centre to adjoining properties. These have not been satisfied and accordingly the application is not supported.

Issue 4: Noise

- An additional child care centre will add to the noise pollution in Bexley.

All applications for child care centres are assessed in terms of their context and the noise impact on the adjoining properties. As has been detailed in this report, there remain outstanding questions about the level of compliance of the child care centre. Accordingly, it cannot be determined with certainty that the application will not have an unreasonable noise impact on adjoining properties and forms a reason or refusal.

S.79C(1)(e) - Public interest

The proposed development has not satisfied the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. The impacts of the proposed development on the streetscape and adjoining properties have not been appropriately addressed and managed. As such, it is considered that the proposed development is not in the public interest and is not supported.

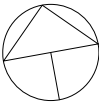
SHEET LIST	
SHEET NAME	SHEET NUMBER
TITLE	A100
SITE AND ROOF PLAN	A201
CARPARK PLAN	A202
GROUND FLOOR PLAN	A203
FIRST FLOOR PLAN	A204
CROSS SECTION	A301
EAST AND WEST ELEVATION	A401
SOUTH AND NORTH ELEVATION	A402
GROSS FLOOR AREA PLAN	A501

AREA SCHEDULE	
TOTAL SITE AREA (SURVEY)	1226 m2
TOTAL GROSS FLOOR AREA (GFA)	674 m2
NUMBER OF CHILDREN	109 CHILDREN
NUMBER OF STAFF	23+1 STAFF

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
B	ISSUED FOR COMMENT	31/05/2017
C	DRAFT DA	09/06/2017
D	REVISED DRAFT DA	29/06/2017
E	FOR DA APPROVAL	30/06/2017
F	CARPARK AMMENDMENTS	06/11/2017
G	DA REQ. AMMENDMENTS	07/12/2017

LEGEND	
<div></div>	INTERNAL FLOOR AREA
<div></div>	UNENCUMBERED INDOOR AREA
<div></div>	UNENCUMBERED OUTDOOR AREA
<div></div>	DEMOLISHED WALLS
<div></div>	PROPOSED METAL ROOF
FHG	FULL HEIGHT GLAZING
HHG	HALF HEIGHT GLAZING
PH	PEEP HOLE
DP	DOWN PIPE
<div></div>	DOOR
<div></div>	GATE
<div></div>	WATER BUBBLERS
<div></div>	EXISTING RL
<div></div>	PROPOSED RL
<div></div>	OPERABLE WINDOW ABOVE FIXED GLAZED PANEL

FOR DISCUSSION



ARMADA
Architecture Masterplanning and Design Agency

Studio 55 Level 5
61 Marlborough Street
Surry Hills, NSW 2010
directors@armadaarchitects.com.au

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PROJECT

**BEXLEY CHILDCARE
CENTRE**

No. 13-15 Rye Avenue, Bexley

TITLE
TITLE

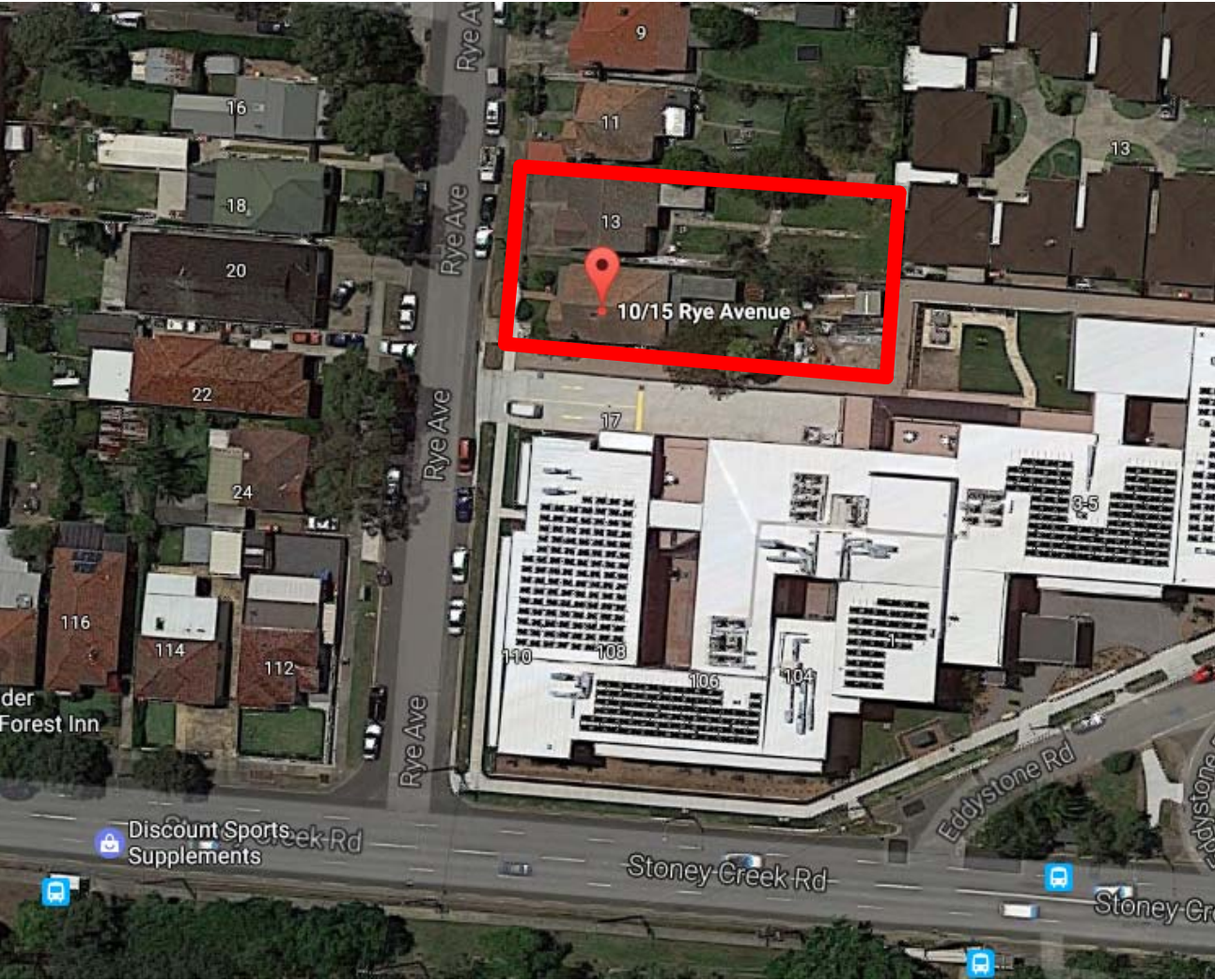
DATE
07/12/17

DRAWN
RM

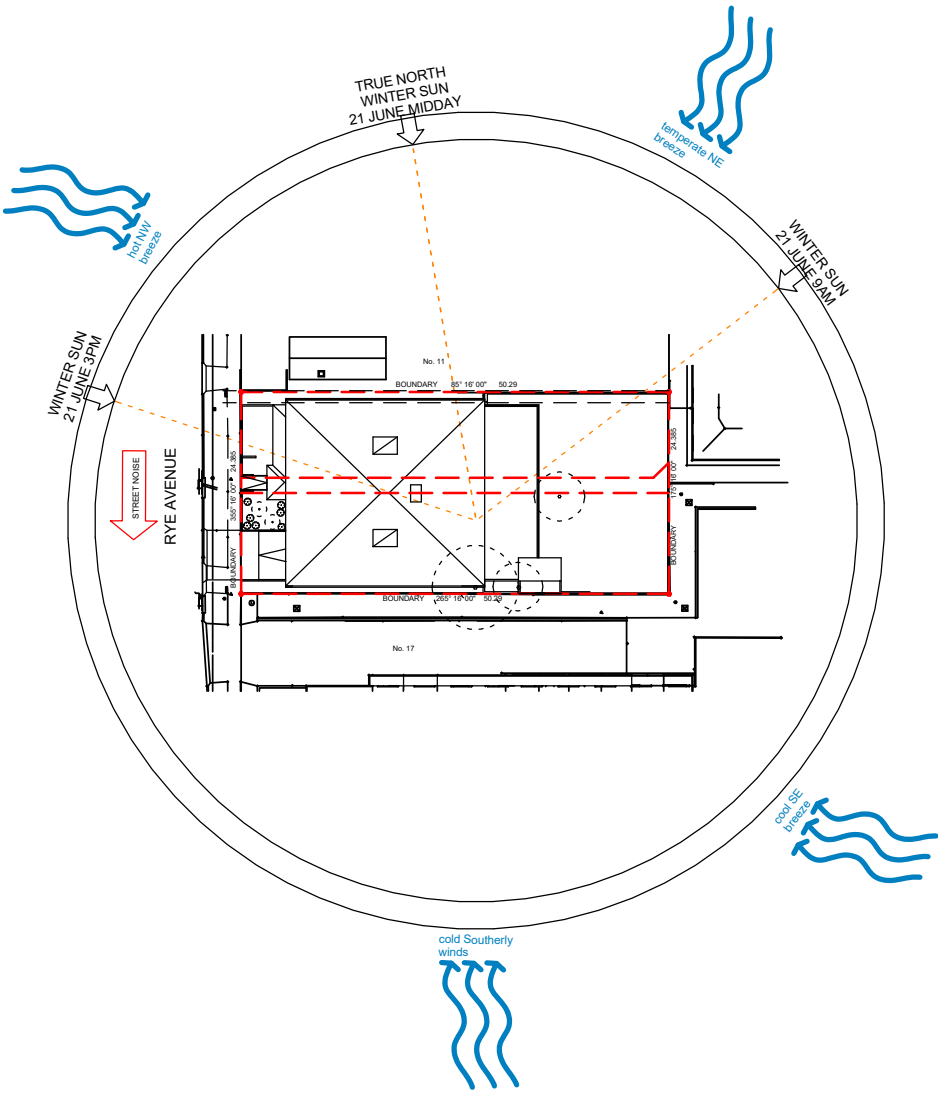
SCALE
1 : 200@A3

DRAWING NO.
A100

REVISION
G



LOCATION PLAN
NTS



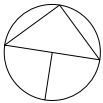
SITE + ANALYSIS PLAN
NTS

NUMBER OF CHILDREN	109 CHILDREN
NUMBER OF STAFF	23 STAFF

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
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LEGEND	
	INTERNAL FLOOR AREA
	UNENCUMBERED INDOOR AREA
	UNENCUMBERED OUTDOOR AREA
	DEMOLISHED WALLS
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PROJECT

BEXLEY CHILDCARE CENTRE

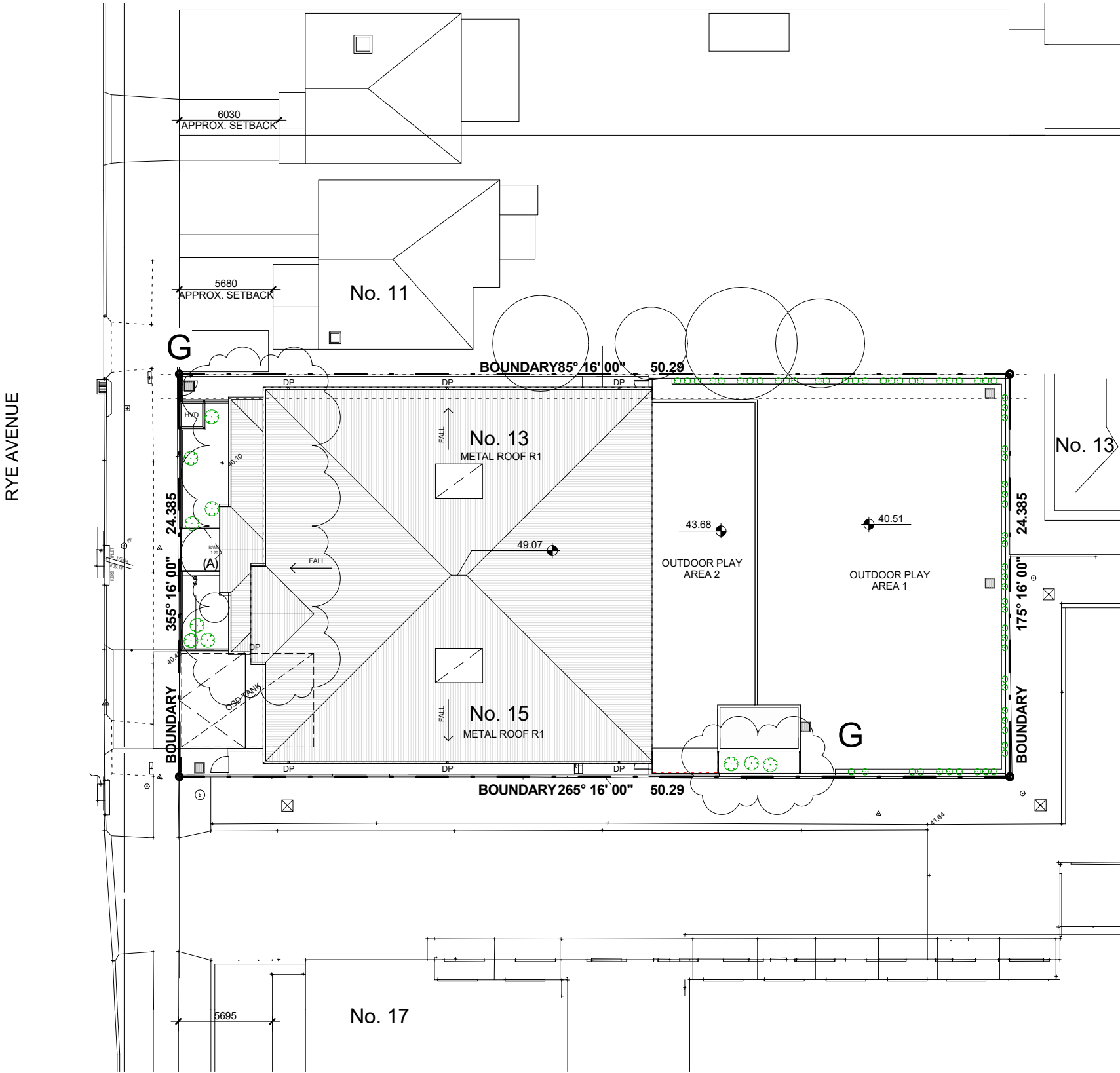
No. 13-15 Rye Avenue, Bexley

TITLE

SITE AND ROOF PLAN

DATE	DRAWN	SCALE
07/12/17	RM	As @A3 indicated

DRAWING NO.	REVISION
A201	G

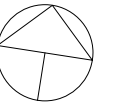


① **SITE AND ROOF PLAN**
1 : 300

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
B	ISSUED FOR COMMENT	31/05/2017
C	DRAFT DA	09/06/2017
D	REVISED DRAFT DA	29/06/2017
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LEGEND	
	INTERNAL FLOOR AREA
	UNENCUMBERED INDOOR AREA
	UNENCUMBERED OUTDOOR AREA
	DEMOLISHED WALLS
	PROPOSED METAL ROOF
FHG	FULL HEIGHT GLAZING
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DP	DOWN PIPE
	DOOR
	GATE
	WATER BUBBLERS
	EXISTING RL
	PROPOSED RL
	OPERABLE WINDOW ABOVE FIXED GLAZED PANEL

FOR DISCUSSION



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Architecture Masterplanning and Design Agency

Studio 55 Level 5
61 Marlborough Street
Surry Hills, NSW 2010
directors@armadaarchitects.com.au

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PROJECT

**BEXLEY CHILDCARE
CENTRE**

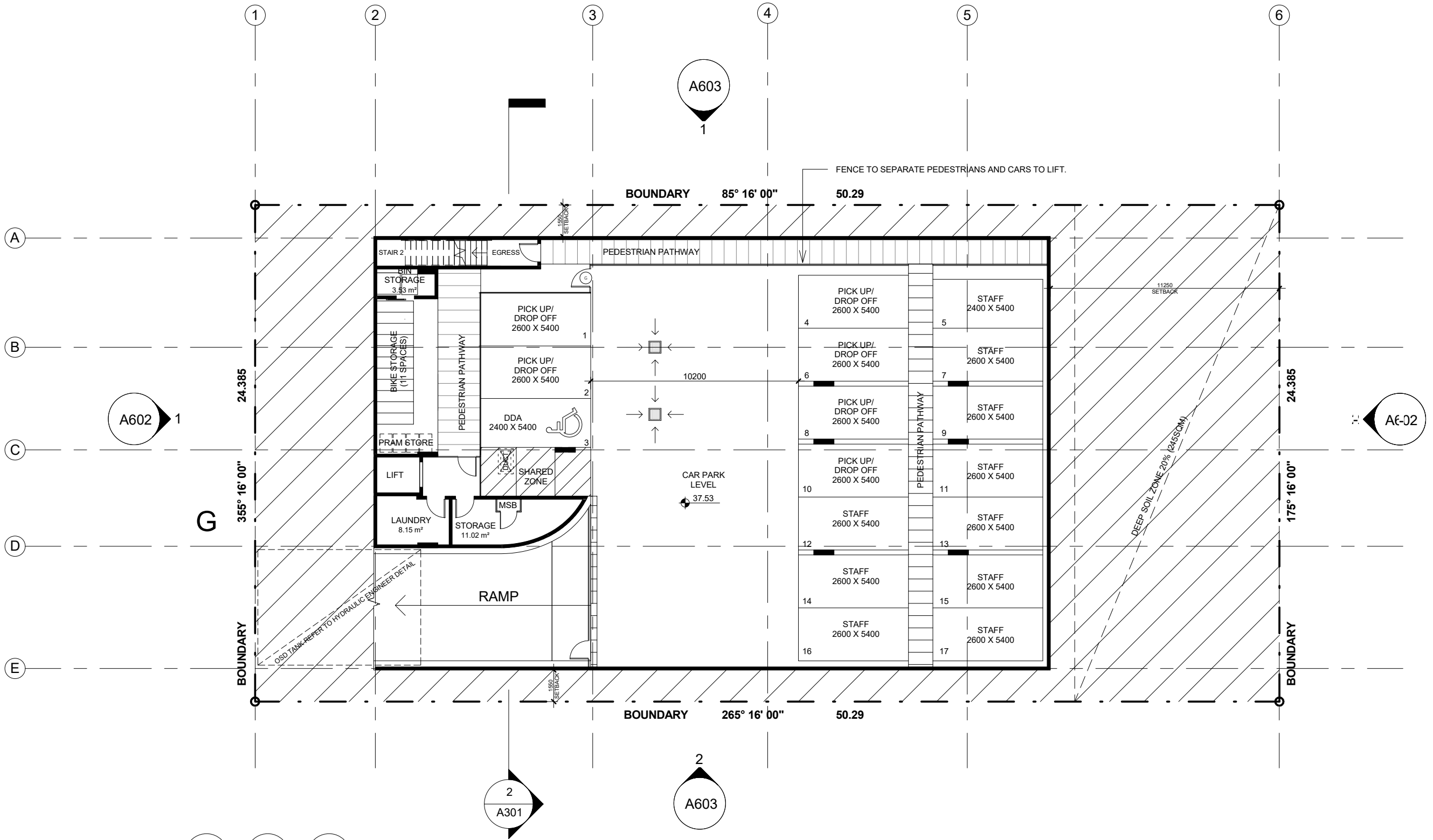
No. 13-15 Rye Avenue, Bexley

TITLE

CARPARK PLAN

DATE 07/12/17 DRAWN RM SCALE 1 : 200@A3

DRAWING NO. A202 REVISION G



1 CARPARK PLAN
1 : 200

G

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
B	ISSUED FOR COMMENT	31/05/2017
C	DRAFT DA	09/06/2017
D	REVISED DRAFT DA	29/06/2017
E	FOR DA APPROVAL	30/06/2017
F	CARPARK AMMENDMENTS	06/11/2017
G	DA REQ. AMMENDMENTS	07/12/2017

LEGEND	
	INTERNAL FLOOR AREA
	UNENCUMBERED INDOOR AREA
	UNENCUMBERED OUTDOOR AREA
	DEMOLISHED WALLS
	PROPOSED METAL ROOF
	FHG FULL HEIGHT GLAZING
	HHG HALF HEIGHT GLAZING
	PH PEEP HOLE
	DP DOWN PIPE
	D DOOR
	G GATE
	WB WATER BUBBLERS
	EXISTING RL
	PROPOSED RL
	OPERABLE WINDOW ABOVE FIXED GLAZED PANEL

FOR DISCUSSION

ARMADA
Architecture Masterplanning and Design Agency

Studio 55 Level 5
61 Marlborough Street
Surry Hills, NSW 2010
directors@armadaarchitects.com.au

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PROJECT

BEXLEY CHILDCARE CENTRE

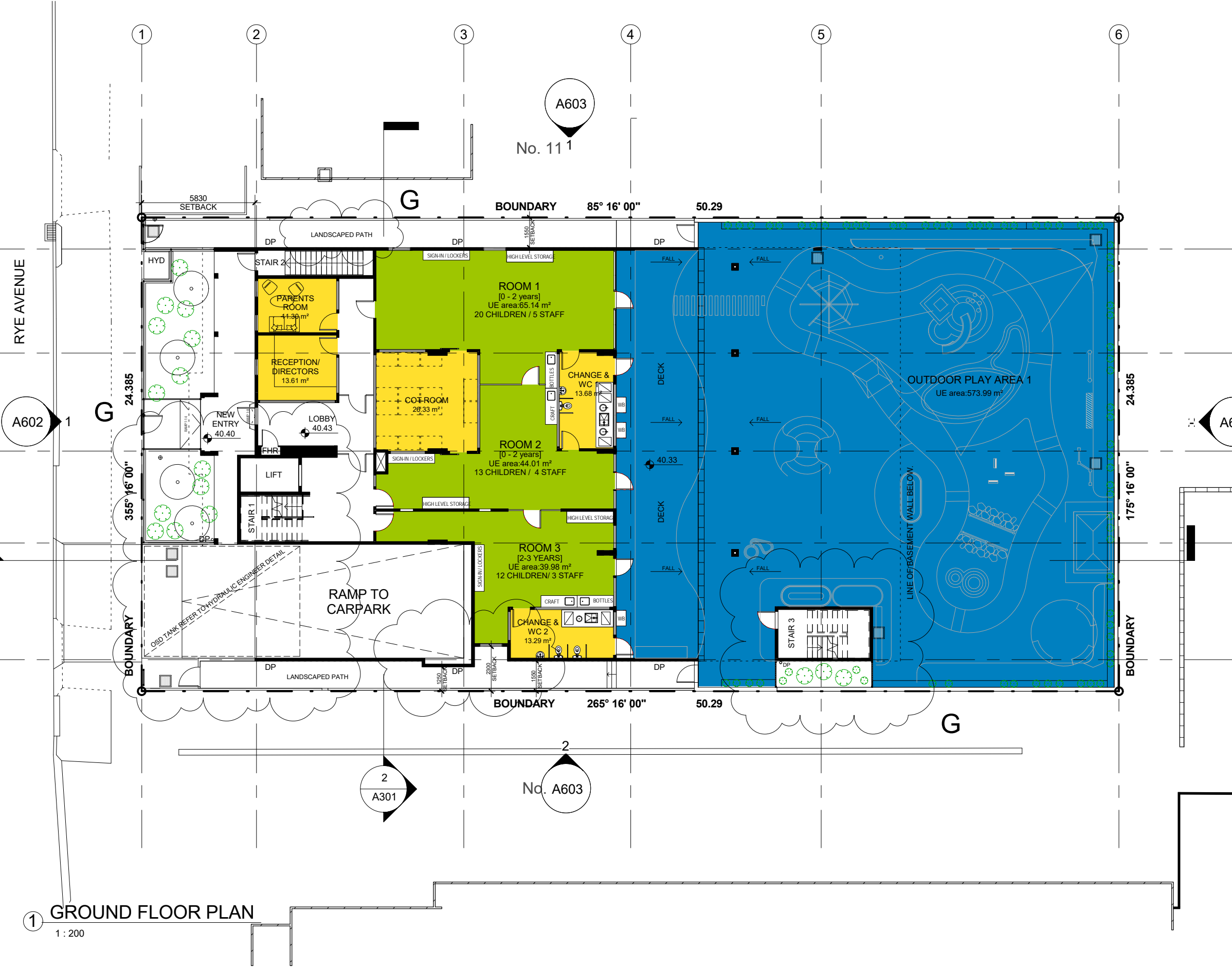
No. 13-15 Rye Avenue, Bexley

TITLE

GROUND FLOOR PLAN

DATE 07/12/17 DRAWN RM SCALE 1 : 200@A3

DRAWING NO. A203 REVISION G

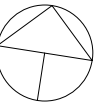


GROUND FLOOR PLAN
1 : 200

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
B	ISSUED FOR COMMENT	31/05/2017
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LEGEND	
	INTERNAL FLOOR AREA
	UNENCUMBERED INDOOR AREA
	UNENCUMBERED OUTDOOR AREA
	DEMOLISHED WALLS
	PROPOSED METAL ROOF
FHG	FULL HEIGHT GLAZING
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DP	DOWN PIPE
	DOOR
	GATE
	WATER BUBBLERS
	EXISTING RL
	PROPOSED RL
	OPERABLE WINDOW ABOVE FIXED GLAZED PANEL

FOR DISCUSSION



ARMADA
Architecture Masterplanning and Design Agency

Studio 55 Level 5
61 Marlborough Street
Surry Hills, NSW 2010
directors@armadaarchitects.com.au

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PROJECT

**BEXLEY CHILDCARE
CENTRE**

No. 13-15 Rye Avenue, Bexley

TITLE
FIRST FLOOR PLAN

DATE
07/12/17

DRAWN
DK

SCALE
1 : 200@A3

DRAWING NO.
A204

REVISION
G



1 FIRST FLOOR PLAN
1 : 200

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
B	ISSUED FOR COMMENT	31/05/2017
C	DRAFT DA	09/06/2017
D	REVISED DRAFT DA	29/06/2017
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LEGEND

- INTERNAL FLOOR AREA
- UNENCUMBERED INDOOR AREA
- UNENCUMBERED OUTDOOR AREA
- DEMOLISHED WALLS
- PROPOSED METAL ROOF
- FHG
- FULL HEIGHT GLAZING
- HHG
- HALF HEIGHT GLAZING
- PH
- PEEP HOLE
- DP
- DOWN PIPE
-
- DOOR
-
- GATE
- WB
- WATER BUBBLERS
-
- EXISTING RL
- RL
- PROPOSED RL
-
- OPERABLE WINDOW ABOVE
FIXED GLAZED PANEL

FOR DISCUSSION

ARMADA
Architecture Masterplanning and Design Agency

Studio 55 Level 5
61 Mariborough Street
Surry Hills, NSW 2010
directors@armadaarchitects.com.au

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PROJECT

**BEXLEY CHILDCARE
CENTRE**

No. 13-15 Rye Avenue, Bexley

TITLE

EAST AND WEST ELEVATION

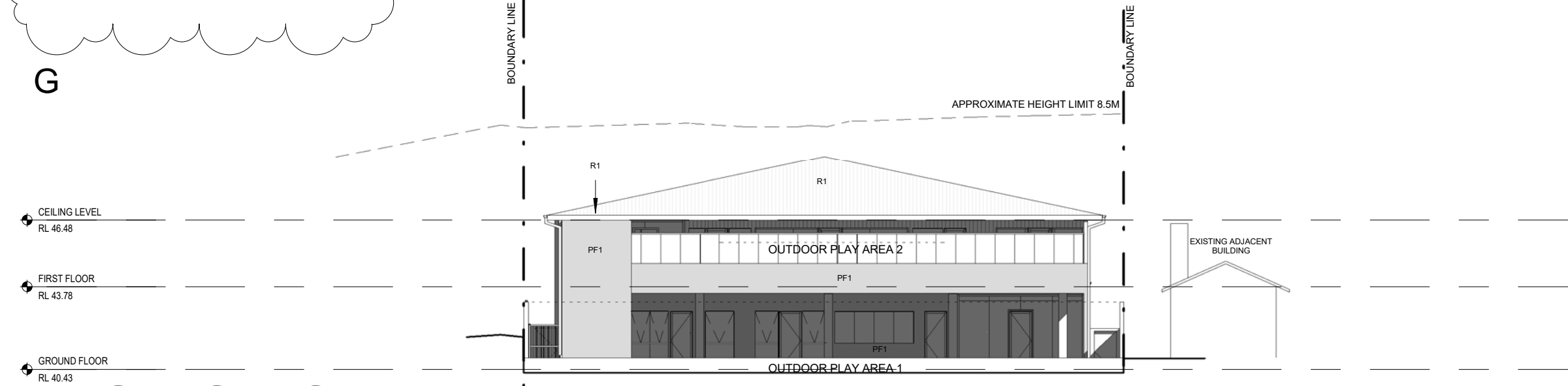
DATE	DRAWN	SCALE
07/12/17	DK	As indicated

DRAWING NO.	REVISION
A401	G



1 WEST ELEVATION
1 : 200

G



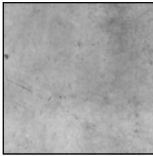
2 EAST ELEVATION
1 : 200

G

EXTERNAL FINISHES



R1 PROPOSED ROOF FINISH MATCHING
DOWNPIPES AND ACCESSORIES.
COLOR TO MATCH COLOURBOND
SHALE GREY FINISH.



R2 PROPOSED CONCRETE
ROOF FINISH



PF1 PROPOSED PAINT FINISH TO
MATCH DULUX TERRACE
WHITE FINISH.



WB1 SELFLOK ECOGROOVE 150mm.
OR APPROVED EQUIVALENT.



WB2 600mm WIDE FC SHEET CLADDING
OR APPROVED EQUIVALENT
PRODUCT. COLOUR TO MATCH PF1



FE1 OPEN FLAT TOP PICKET
FENCE WITH POWDER COAT
FINISH TO MATCH
WOODLAND GREY.



FE2 ACOUSTIC LAPPED AND
CAPPED TIMBER FENCE

G

No.	Description	Date
A	DRAFT CONCEPT	29/05/2017
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FOR DISCUSSION

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PROJECT
BEXLEY CHILDCARE CENTRE
No. 13-15 Rye Avenue, Bexley

TITLE
SOUTH AND NORTH ELEVATION

DATE
07/12/17

DRAWN
DK

SCALE
1 : 200@A3

DRAWING NO.
A402

REVISION
G

