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GOVERNMENT OF WESTERN AUSTRALIA

Department of **Planning, Lands and Heritage**

Western Australian Planning Commission

Draft Position Statement:

Child care premises

November 2022

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1. Policy intent

This position statement outlines the Western Australian Planning Commission's (WAPC) location and design guidance to decision-makers, proponents and the community for a consistent policy approach to planning for child care premises in Western Australia.

2. Child care premises in Western Australia

Child care premises are a non-residential land use that provides long day care or out of school hours care in facilities specially built or modified for child care.

Child care **approved providers** can be local councils, community organisations, private businesses and not-for-profit organisations. Proponents may seek to develop a child care premises with the intention to sell to an **approved provider** who would own and operate the early childhood service with the required approvals.

Child care premises do not include **family day care** where an educator provides care in their own home to small numbers of children.

This policy addresses State, local government and community considerations relating to the location and development of child care premises. A consistent planning approach is required, particularly regarding:

- location
- site characteristics
- environmental suitability
- design
- traffic and vehicle access
- noise emissions
- amenity health and safety impacts

2.1 Supply and demand for child care premises

Child care premises are an essential community service, and many are privately operated businesses with rental or capital costs influencing the location and availability of the service. The increasing demand for child care premises and the strong focus on their appropriate distribution and location is closely linked to demographic change. The State population is currently about 2.7 million and is expected to rise between 3.1 to 3.4 million by 2031[1]. It is common for parents, carers or guardians to work, which creates a greater demand for child care premises. The out of ordinary hours workforce should also have better access to child care premises. Consequently, the hours of operation and availability of child care premises near the workplace is becoming more important.

The rising demand for child care premises means that these services are becoming larger and have a potentially greater impact, particularly regarding more vehicular traffic related to larger numbers of children, carers and parents.

While the WAPC strongly supports the provision of necessary services, it is important to emphasise that the need for a service does not justify development in inappropriate locations.

[1] Source: WA Tomorrow: Population Report No.11 Medium-Term Age-Sex Population Forecasts 2016 to 2031 (DPLH).

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2.2 Planning for child care premises

The term **child care centre** has been superseded by **child care premises** as defined in the *Planning and Development (Local Planning Schemes) Regulations 2015*. A **child care premises** is usually shown in the land use table of local planning schemes as a discretionary use in various zones which normally requires planning approval following public advertising.

Many local governments have local planning policies dealing with the development of child care premises, which address a range of matters such as building design, setbacks, vehicular access and car parking provision.

While local governments may determine applications for child care premises, the operation of centres is regulated under a national framework of policy and law implemented by the Department of Communities (DoC). Within the national framework, there are specific requirements relating to the design of an early childhood education and care service that must be complied with for a provider to operate. Proponents should have regard to these design requirements when proposing child care premises to avoid the need for costly modifications or centres being constructed that are not fit for purpose.

The *Education and Care Services National Law (WA) Act 2012* (ECSNLA-WA 2012) and *Education and Care Services National Regulations (WA) 2012* (ECSNR-WA 2012) set out requirements and regulations to ensure the health, safety and well-being of children within early childhood education and care services such as:

- Part 4.3 of the ECSNR-WA 2012 Regulations has specific regulations for the physical environment of centres including indoor and outdoor design requirements such as fencing
- laundry and hygiene facilities
- indoor and outdoor space requirements
- toilet and hygiene facilities
- unencumbered indoor and outdoor space in metres (this will determine the number of children the centre can hold)
- ventilation and natural light
- outdoor space – natural environment and shade
- design to support supervision.

3. Application of this Position Statement

This position statement applies to the preparation and assessment of strategic and statutory proposals throughout Western Australia. Also, the policy provides general guidance to local government in the preparation of local planning scheme provisions and local planning policies.

The policy focuses on important location considerations and standards that should apply to the development of child care premises. Child care premises are non-residential land uses providing an educational and community support service.

It is acknowledged that development requirements in the city and inner urban areas are quite different to those in outer suburban areas and small country towns. Accordingly, the policy should be administered accordingly.

For a centre to operate, an **approved provider** must obtain a service approval under the (ECSNLA-WA 2012) from the DoC, Education and Care Regulatory Unit (ECRU). A **service approval** will require that the centre meets the requirements of the (ECSNR-WA 2012) and specify the number of children that can attend the centre. The number of children is determined based on the unencumbered indoor and outdoor space meterage.

While the DoC is not an approving authority for the purposes of planning and development, proponents should be aware of all the requirements in design and development that may influence the ability to obtain a **service approval**.

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4. Policy objectives

The objectives of this policy are to:

- encourage the co-location of child care premises on scheme reserves (intended for community and educational uses) and mixed commercial type zones
- locate child care premises where they are compatible with and complementary to residential land use and the road network
- ensure child care premises do not have a detrimental impact on the amenity of the adjoining residents and the locality
- minimise any detrimental impact that surrounding land uses may have on a child care premises
- ensure child care premises are appropriately designed to ensure the health and safety of children attending the early childhood education and care service.

5. Policy measures

Key planning considerations for the location, siting and design of child care premises include:

5.1 Child care premises supporting data

The WAPC is of the view that a proponent does not have to demonstrate there is sufficient demand for the facility. However, the Department of Education (DoE) and the appropriate local government may require an assessment on a school site reserve and on other reserves or zoned land respectively.

Depending on the scale of the proposal, the proponent may be required to provide further information regarding the existing child care premises in the locality, anticipated population catchment for the new premises and the location of existing primary schools and kindergartens in the locality.

Also, there may be a need for the proponent to clearly demonstrate that the development will not have an adverse impact on the locality.

A pre-lodgement discussion with the decision-maker is recommended to assist with the early identification and resolution of issues, prior to a development application being lodged.

5.2 Local Planning Schemes

The land use 'Child care premises' should be classified in the zoning table of a local planning scheme as a class 'A' use (a use that is not permitted unless the decision-maker has granted approval after advertising) in the residential zone and class 'D' use (a use that is not permitted in the zones unless the decision-maker has granted approval) within other designated zones. Child care premises may be considered as incidental to a predominant use on suitable scheme reserves when compliant with the region and local planning scheme, local planning policy and/or relevant planning instruments.

5.3 Public consultation

Public consultation should be undertaken to consider the likely impact a child care premises may have on the amenity of adjoining residential properties. As a minimum requirement the local government should advertise a proposal in accordance with the public notification procedure of the local planning scheme.

Comprehensive consultation on a development application may not be necessary where the location of a child care premises was predetermined in a structure plan or similar strategy with a site assessment completed prior to any residential development in the vicinity.

5.4 Suitable requirements for child care premises

Convenient access to a child care premises is crucial in meeting the needs of children and their families. Also, it is important to limit the potential impact a child care premises may have on surrounding land uses as well as the potential impact that surrounding land uses may have upon the child care premises.

Sites selected for child care premises should be level, regular in shape and of sufficient size to accommodate the proposed development. This includes all buildings and structures, car parking bays for staff and parents, pick up and set down area (depending on the age of children accommodated at the premises), outdoor play areas and landscaping, in accordance with the requirements of the local planning scheme, local planning policy and the ECSNR-WA 2012.

The topography of the site and surrounds should also be considered as steep slopes may affect access, noise transfer and methods of noise mitigation.

Child care premises may be located and accord with the following:

- Child care premises and playgroups may be co-located on a private or public-school site (primary school and/or K-12) in consultation with the private school or the DoE respectively. The DoE may require 2500m^2 or additional land for larger child care premises for related

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facilities, car parking bays and pick up-set-down areas. Child care premises adjoining or within proximity to private and public schools should provide their own drop-off and pick-up car bays and adequate car parking bays. This should be evaluated based upon the hours of operation, traffic activity and whether there are any reciprocal arrangements with the school.

- Child care premises may be located adjoining or nearby to a school site, on residential zoned land provided that outdoor play areas are at ground level adjoining the school site where applicable and do not have an adverse impact on the amenity of the locality.
- Child care premises may be co-located on suitable **region** or **local scheme reserves** such as **public purposes** or **community purpose** reserves respectively and co-located with, for example, an aquatic centre or hospital where permitted or permissible under the region scheme (where applicable) and local planning scheme with adequate setback from residential dwellings.
- Child care premises may be co-located on shopping centres, office or commercial zoned land where the land use is permitted or permissible.
- It should be suitably located to provide safe and convenient access to the community it serves.
- It should be located in areas where adjoining land uses do not adversely impact a child care premises.
- It should be located in areas considered suitable from a transport planning/ engineering pedestrian and vehicle safety point of view.
- It should provide convenient access to public transport.

5.5 Undesirable characteristics for child care premises site

Child care premises are not suitable where in the opinion of the decision-maker:

- The size and dimension of the site is inadequate to accommodate the development and accordingly likely to adversely affect the amenity of the locality.
- The amenity of the adjoining and nearby properties would be adversely affected by noise, traffic movement, insufficient parking and pedestrian safety.
- Access is proposed from a major road or is located within proximity to a major intersection where there may be safety concerns for pedestrians and vehicles.
- Access is from a local access street which may impact on the amenity of the area due to high peak-hour traffic volumes.
- The current use or any permissible use within the zone of the adjoining properties generates unacceptable levels of air, dust, noise and odour emissions or poses a potential fire or chemical hazard because of activities or materials stored or used on site.
- Noise and/or emissions generated by roads, railways and aerodromes or airports are likely to have an adverse impact on the child care premises.
- The site is located within the separation distance for either a noxious or offensive industry, sewerage treatment plant or extractive industry.
- The site is in a river floodway/flood fringe or bushfire prone area.
- It does not comply with separation distances as identified in the *Guidance for the Assessment of Environmental Factors* (Environmental Protection Authority, June 2005).
- Soil contamination exceeds the levels regarded by the Department of Water and Environmental Regulation (DWER) and Department of Health (DoH) as suitable for standard residential land uses with accessible soils as published in guideline *Assessment and management of contaminated sites* (Department of Environment Regulation, December 2014).
- Contaminated groundwater is proposed to be used for the irrigation of gardens and play area within the child care premises. If groundwater is proposed to be used in any manner it is to be tested and demonstrated to meet suitable standards.

Mitigation measures may be applied to a proposed child care premises to address any adverse impacts. These measures may be considered and approved by the decision-maker having first consulted with relevant State agencies and expertise in the related field as applicable.

5.6 Design of child care premises

The visual appearance of the child care premises, including any signage, building design, colour, scale, shape and form, should be in accordance with the local planning scheme and/or local planning policy and ECSNR-WA 2012.
The development should be complementary to the residential character of the area where it abuts residential dwellings, enhance its amenity, and be suitably designed from a safety point of view and include facilities appropriate for regular use by children.

Car parking at a child care premises in a residential area that is visible from the street should complement the residential streetscape character. For example, brick paving with integrated landscaping may be more visually appealing than a grey concrete hardstand area.

Generally, the minimum car parking requirement for a child care premises, including staff and visitor parking, will be one space per five children.
The number of parking bays may be varied by the decision-maker given the

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specific provisions of the local planning scheme and/or local planning policy and any unique circumstances relating to the proposed development, such as reciprocal parking arrangements, available public transport and street parking.

Vehicles are required to enter and exit the site in a forward gear with vehicular access to be obtained from the lower order road network, where possible, in the event the site abuts a regional/arterial road. A **transport impact statement** (TIS) or **transport impact assessment** (TIA) is generally provided supporting a child care premises to address safety and traffic concerns.

Outdoor play areas should be in a safe location on the site and, where possible, away from any adjoining noise-sensitive uses such as dwellings and residential aged care facilities. Play areas adjacent to state roads are not encouraged, however if proposed, a barrier for errant vehicles should be provided within the development site.

Landscaping should be provided in accordance with the local planning scheme and/or local planning policy or applicable regulations. Landscaping should be provided along the street frontage within the development site to a standard equal to that required or provided for on adjacent properties. Outdoor play area landscaping and structures should provide shade and not be hazardous to children.

5.7 Traffic impacts

Proponents are advised to refer to the WAPC's *Transport Impact Assessment Guidelines (2016)* for guidance on preparing supporting transport impact reports.
See **Planning guidelines - Transport impact assessment**

A TIS or TIA should address the following elements:

- the site characteristics and surrounding area
- overview of the proposal and its expected AM and PM peak hour trip generation
- vehicle access locations, including consideration of access via lower order roads where possible
- parking requirements, including the design of parking areas and any pick-up and drop-off areas
- current road safety conditions, including crash history in the locality
- the expected impact of the proposed development on the existing and future traffic conditions.

An application for a child care premises should demonstrate that it will not create any unsafe conditions for children and families using the premises as well as for pedestrians, cyclists and vehicles near the child care premises.

5.8 Noise and emission impacts

The proponent should minimise any noise impact of the child care premises on adjacent residential properties to a level acceptable to the decision-maker. This may be achieved either by physical separation, design and layout of the centre or by implementing noise-mitigation measures, such as acoustic treatments to buildings.

A **noise impact assessment** may be required by the decision-maker for the development of a child care premises. For noise legislation refer to the *Environmental Protection (Noise) Regulations 1997*. Where a child care proposal is in proximity to a transport corridor (road, rail, aerodrome or airport), refer to WAPC *State Planning Policy 5.4 Road and Rail Noise (September 2019)*, WAPC *State Planning Policy 5.1 Land use planning in the vicinity of Perth Airport (July 2015)* and WAPC *State Planning Policy 5.3 Land use planning in the vicinity of Jandakot Airport (January 2017)* respectively.

The hours of operation of a child care premises in residential areas should generally be limited to between 7:00 am and 7:00 pm weekdays and on Saturdays, unless otherwise agreed by the decision-maker. For child care premises located on scheme reserves and mixed commercial type zones, hours of operation should be extended to accommodate workers that work outside normal business hours.

A child care premises proposal will need to be assessed on its merits however the following basic principles apply:

- Where a child care premises is located adjacent to a noise-sensitive use, the noise-generating activities of the child care premises, such as the outdoor play areas, parking areas and any plant and equipment, are to be located away from the noise-sensitive use where practicable and appropriate noise mitigation is to be undertaken.
- The design and construction of buildings should include noise mitigation measures to reduce any impact from external adverse noise sources and to achieve acceptable noise limits.

The decision-maker should consult and obtain advice from the DoH regarding any external emission sources likely to have an adverse and unacceptable impact on the child care premises. For example, gaseous emissions from service stations and high volumes of passing traffic may be unacceptable in terms of noise and emissions.

5.9 Site contamination

It is important to ensure that child care premises are not developed on land that is unsuitable for this use because of soil and groundwater contamination at or near the site. The DWER contaminated sites guidelines reflect the *Contaminated*

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Sites Act (2003), *Contaminated Site Regulations (2006)* and the *National Environment Protection (Assessment of Site Contamination) Measure 1999 (NEPM)*.

Proponents for the development of a child care premises must:

- exercise duty of care to ensure that the site is suitable for use as a child care premises
- obtain a summary of records from DWER of the contamination status of the site via this **link**.

Decision-makers must:

- consult with DWER and DoH about the suitability of land for development of a child care premises where a memorial is registered on the certificate of title under section 58 (6) of the *Contaminated Sites Act 2003*
- research the site file records to determine if any site contamination through previous land uses has possibly occurred; if records indicate possible contamination may have occurred, the planning application should be referred to DWER for further advice.

Definitions

Child care premises has the same meaning as under the *Planning and Development (Local Planning Schemes) Regulations 2015*, Schedule 1 the Model provisions for local planning schemes Part 6, clause 38.