Western Australian Planning Commission

Planning Bulletin 72/2009
Child Care Centres

INACTIVE

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1 Purpose

This planning bulletin outlines the revised child care centre guidelines and aims to:

a) differentiate between child care related activities operating in existing residential area, such as family day care that takes place in dwellings, and non-residential child care activities;

b) outline a consistent policy approach to planning for child care centres; and

c) advise of planning considerations in relation to the location and development of child care centres.

The bulletin has been prepared in consultation with the Department for Child Protection, Department for Communities, Department of Health (DOH), Department of Environment and Conservation (DEC) and local government.

The bulletin supersedes *Planning Bulletin 72 Child Care Centres* (June 2005) and the planning guidelines included in it.

2 Background

The community and local government have raised issues relating to the location and development of child care centres, including centre-based care, family day care, outside school hours care, vocational care and occasional care. A need has been identified for a consistent planning approach, with particular regard to location, site characteristics, environmental suitability, design, traffic, access, noise and health impacts, and safety issues, which could provide guidance when considering proposals for child care centres.

A number of recent decisions by the State Administrative Tribunal have highlighted the lack of policy or shortcomings of existing local policies on child care centres.

The child care centre guidelines have been revised as a result of submissions received following the release of planning bulletin 72 in June 2005. During the public advertising period a total of 19 submissions were received. While these submissions were generally supportive, further refinements and improvements were identified and have been incorporated, where appropriate. The planning bulletin is intended to provide a guidance document for decision-makers, developers and the community for use when planning for child care centres.

Site contamination

The commencement of the *Contaminated Sites Act 2003* on 1 December 2006 has created new statutory obligations for land users and has highlighted the importance of preventing the development of child care services on land that is unsuitable for this use because of soil and groundwater contamination at or near the site.

The *Contaminated Sites Act 2003*, which is administered by the DEC, requires that known or suspected contaminates sites are reported to DEC by:

- an owner or occupier of a site;
- a person who caused or contributed to the contamination of a site; or
- an auditor engaged to investigate and report on site contamination in accordance with the *Contaminated Sites Act 2003*.

Any party considering development of a child care service must obtain and consider any information DEC has about the contamination status of a given site. It should be emphasised that the absence of a report to DEC is no guarantee that a site is uncontaminated. In summary, proposals for the development of a child care service must:

- exercise duty of care to ensure that the site is suitable for use as a child care service;
- seek and consider any information held by DEC about the contamination status of the site; and
- seek and consider any other information about the contamination status of the site, irrespective of whether or not it has been reported to DEC under the *Contamination Sites Act 2003*.

Further information about the *Contaminated Sites Act 2003* can be obtained from DEC on 1300 762 982.

Supply and demand for child care services

The ever-increasing demand for child care centres and the strong focus on their appropriate distribution and location is closely linked to demographic change. In the past 30 years, the population of the state has almost doubled to about two million and is expected to rise to approximately three million by 2031, while households also are becoming more diverse. There is a trend for both parents to work due to economic pressures, which creates a greater demand for child care services. Consequently, the availability of child care centres in close proximity to the workplace is becoming more important.

The rising demand for child care services means that these businesses are becoming larger and have a potentially greater impact. Larger child care centres also tend to have a greater catchment area which may, in some cases, lead to overprovision of facilities. Oversupply in some areas may result in increased vacancy levels that may affect the viability and quality of the services provided.

There is increasing evidence of an oversupply of child care services in many outer urban areas across the Perth metropolitan region, but

in areas of high land value (where the need for these facilities is often greater), such as in or around the central business district, there has been minimal development of new child care centres.

Child care centres provide a much needed community function, but many are operated as a commercial venture, with market forces influencing the location and availability of the service. While the Western Australian Planning Commission (WAPC) strongly supports the provision of necessary facilities, it is important to emphasise that the need for a service does not justify development in inappropriate locations.

Planning for child care centres

Broadly, child care centre activities are located in residential areas; however, there is a growing trend for these services to be located elsewhere.

Typically, where child care centre activities appear in local planning schemes, the use is listed as discretionary under a particular zoning category and, consequently, requires planning approval. Local government in exercising discretion may require proposals to be advertised and external advice may be sought in relation to specialised matters such as noise or pollution.

The *Child Care Services Act 2007* contains regulations that address matters such as staffing, equipment, indoor and outdoor space requirements, shade, fencing, and health and safety. In addition, many local governments have policies dealing with the development of child care centres, which address a range of matters such as building design, setbacks and car parking ratios specific to each locality.

The Federal Government also has regulations relating to the operation of child care centres and services through the requirements in its child care accreditation system. While this system mainly focuses on service delivery, it does outline additional requirements with regard to child health, environmental health and child safety.

3 Policy guidance

The following section provides policy provisions to guide local governments in the preparation of scheme provisions and local policies on child care centres.

3.1 Introduction

This policy focuses on matters pertaining to the proper location, considerations and standards that should apply to the development of child care centres. A child care centre is defined as premises used for the daily or occasional care of children in accordance with the regulations for child care under the *Child Care Services Act 2007*. Child care centres are non-residential land uses providing an educational and community support function mainly in residential and employment areas.

The purpose of the policy is to provide guidance to decision-makers, developers and the community for use when planning for child care centres. It is acknowledged that development requirements in the city and inner urban areas are quite different to those in outer suburban areas, and the guidelines should be administered accordingly.

3.2 Objectives

The objectives of this policy are to:

a) locate child care centres appropriately in relation to their surrounding service area;

b) minimise the impact a child care centre has on its surrounds, in particular on the amenity of existing residential areas;

c) minimise the impact the surrounds may have on a child care centre; and

d) consider the health and safety of children attending the child care centre within the confines of the planning system.

3.3 Location of child care centres

The appropriate location of a child care centre is crucial in meeting the needs of children and their families. It also is crucial in limiting the impact a child care centre may have on surrounding activities and vice versa.

This may be achieved by locating child care centres on sites that are:

a) distributed strategically to provide the maximum benefit to the community it serves;

b) within easy walking distance or part of appropriate commercial, recreation or community nodes and education facilities;

c) located in areas where adjoining uses are compatible with a child care centre (includes considering all permissible uses under the zoning of adjoining properties);

d) serviced by public transport (where available);

e) considered suitable from a traffic engineering/safety point of view; and

f) of sufficient size and dimension to accommodate the development without affecting the amenity of the area.

Child care centres generally would not be suitable where:

g) soil contamination exceeds the levels regarded by DEC and DOH as suitable for standard residential land uses with accessible soils as published in guideline *Assessment Levels for Soil, Sediment and Water* Department of Environment, November 2003);

h) groundwater is to be abstracted for the irrigation of gardens and play area within the child care centre and groundwater contamination exceeds 10 x Australian drinking water criteria in accordance with the *Contaminated Sites Reporting Guideline for chemicals in groundwater* (DOH 2006);

i) the service provided by the centre will have a demonstrable, adverse impact on the existing or planned level of child care centre services enjoyed by the local community;

j) access is from a major road or in close proximity to a major intersection where there may be safety concerns;

k) access is from a local access street which may impact on the amenity of the area due to traffic and parking;

l) the current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site;

m) noise produced by roads, railways and aircraft are likely to have an adverse impact on the site; and/or

n) the site is in a heavy industry area or in the buffer area of a heavy industry area.

3.4 Site characteristics

Sites selected for child care centres should be of sufficient size and suitable shape to accommodate the development, including all buildings and structures, parking for staff and parents, outdoor play areas and landscaping, as determined by the relevant local planning scheme or local policy and applicable regulations. As a general rule sites in a residential area should be of regular shape and greater than 1000 sqm.

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

Sites selected for child care centres should also be assessed to determine their potential for soil and groundwater contamination. Section 6 of the DEC's *Contaminated Sites and the Land Use Planning Process* (April 2006) guideline sets out a useful methodology to assist local governments in carrying out such assessments.

The licence to operate a child care centre, issued under the regulations (*Child Care Services Act 2007*) limits the number of children the centre can accommodate.

3.5 Design of centres

The visual appearance of the child care centre, including any signage, building design, colour, scale, shape and form, should be in accordance with the local government local planning scheme or relevant local policy and applicable regulations. In the absence of any specific provisions, the visual appearance of the development should reflect the character of the area, enhance its amenity and be considered appropriate for regular use by children.

Parking areas should be located in front of the building. If this is not possible they should be clearly visible and easily accessible from the entry to the site. As a general rule, the minimum parking requirement for a child care centre, including staff parking, will be one space per five children. The number of parking bays may be varied by the local government given the specific provisions of the local planning scheme or relevant local policy and any unique circumstances relating to the proposed development, such as reciprocal parking arrangements, available public transport and street parking. Vehicles will be required to enter and exit the site in a forward gear, and there may be additional requirements resulting from a traffic impact assessment.

Outdoor play areas should be in a safe location on the site, and away from any adjoining noise-sensitive premises, such as dwellings and nursing homes.

Landscaping should be provided in accordance with the relevant local planning scheme or relevant local policy or applicable regulations. In the absence of any such provisions, landscaping will be required along the street frontage of the development to a standard equal to that required or provided for on adjacent properties. Landscaping should not include potentially hazardous heights, landscape fittings, and potentially toxic plants.

3.6 Traffic impacts

A traffic impact statement/ assessment should be required for the development of a child care centre.

This statement/assessment should address:

a) the site characteristics and surrounding area;

b) the proposal and its expected trip generation;

c) parking requirements, including the design of parking areas, and any pick-up and drop-off facilities;

d) existing traffic conditions and any future changes expected to the traffic conditions;

e) current road safety conditions, including a crash history in the locality; and

f) the expected impact of the proposed development on the existing and future traffic conditions.

A child care centre should be approved only if it can be demonstrated that it will have a minimal impact on the functionality and amenity of an area and will not create or exacerbate any unsafe conditions for children and families using the centre, or for pedestrians or road users.

3.7 Noise impacts

A noise impact assessment may be required for the development of a child care centre.

The objectives should be to limit the noise impact of the child care centre on adjacent properties, and also limit any noise impact from external sources on the child care centre. 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.

As a general rule, the hours of operation of a child care centre should be limited to between the hours of 7 am and 7 pm weekdays and on Saturdays, unless otherwise agreed to with the local government.

Although each application will need to be assessed on its merits, the following basic principles apply:

a) Where a child care centre is located adjacent to a noise-sensitive use, such as houses, retirement villages and nursing homes, the noise-generating activities of the child care centre, such as the outdoor play areas, parking areas and any plant and equipment, are to be located away from the noise-sensitive use.

b) Where, due to design limitations or safety considerations, noise-generating activities such as outdoor play areas are located close to noise-sensitive uses, appropriate noise mitigation is to be undertaken.

c) As there is now a considerable body of research that demonstrates the negative impact of inappropriate noise on child development, the design and construction of buildings may include noise-mitigation measures to reduce impact from external sources and to achieve accepted indoor noise limits.

3.8 Need for child care centres

Legal decisions have discounted the requirement for an applicant to prove the need for commercial facility, for example through market surveys, as part of the planning approval process. However, if there is a demonstrable impact on the amenity of an area or the level of service enjoyed by a community, then this is a relevant local planning consideration.

Accordingly, the WAPC is of the view that, although a proponent does not have to demonstrate there is sufficient demand for the activity, there may be a need to show that the development will not have an adverse impact on the amenity of the area or the level of service to the community by similar existing or approved facilities.

In such instances, and depending on the scale of the proposal, the applicant may be asked to provide further information in regard to the level of existing services in the locality, proximity to other centres, population catchments for the new centre and the number of primary schools and kindergartens in the locality, in relation to the development of a new facility.

3.9 Consultation

Appropriate consultation should be undertaken to consider the likely impact a child care centre may have on the amenity of an existing residential area. A minimum requirement should be for the local government or the applicant to advise adjoining neighbours in writing and display public advertisements on the site, in accordance with the public notification procedures of the local government.

Where the location of a child care centre was predetermined in a structure plan, or similar wide-ranging site assessment completed prior to any residential development in the vicinity, comprehensive consultation on a planning application may not be necessary.

3.10 Implementation

This policy provides guidance to decision-making authorities on the location and development of the child care centres.

Development of a child care centre usually requires planning approval from the local government, or in some cases the WAPC, and a licence from the Department for Communities, pursuant to the relevant regulations for child care under the *Child Care Services Act 2007*. The regulations address a wide range of issues including indoor and outdoor space requirements, shade, fencing, some internal structural requirements and environmental health needs.

Local governments have local planning schemes or relevant local policies that address a variety of other planning matters, such as the appearance of buildings, parking requirements and the provision of landscaping, and should be contacted for further information.

3.11 Application requirements

In addition to completion of the mandatory application form and fees, applications for child care centres should be accompanied by:

a) a written statement outlining the number of children proposed, age group breakdown, days and hours of operation and staff requirement;

b) a location plan depicting surrounding lots and road layout;

c) a site contour survey plan prepared by a licensed land surveyor, indicating the location of the proposed building and existing buildings and structures on adjacent sites;

d) a detailed site plan to a scale sufficient to identify clearly the boundaries and all proposed structures, external play areas; landscaping, refuse storage area, car parking, pedestrian and vehicle access ways, crossover/s and kerb locations, verge width and associated road infrastructure (eg light poles, traffic islands) for the full road reserve width for all roads abutting the application site;

e) floor plans and elevations to all sides of the proposed building to a minimum scale of 1:100, or such other scale as required by the decision-making authority;

f) a traffic impact statement/ assessment, if required by the decision-making authority;

g) a noise impact assessment, if required by the decision-making authority;

h) a signage strategy;

i) if the site has been used for a potentially contaminating activity the information listed in section 6 of DEC's *Contaminated Sites and Land Use Planning Process* (available on the DEC website at www.dec.wa.gov.au); and

j) any additional information relevant to the assessment of the application.

3.12 Review

If a planning application for a child care centre is refused or an applicant is aggrieved by any of the conditions of an approval, there is a right of review of the decision by the State Administrative Tribunal, in accordance with the relevant legislation. Such applications for review must be lodged with the tribunal within the prescribed time and in accordance with the rules and regulations of the tribunal.

Applicants considering making such an application for review should consult the tribunal and, if necessary, a legal practitioner or other appropriate professional in relation to commencement and conduct of a review.

4 Comment and further information

Further information, any enquiries or correspondence on this planning bulletin should be directed to:

Director
Policy Development and Coordination
Department of Planning
Albert Facey House
469 Wellington Street
Perth WA 6000

quoting file reference
WAPC/09/0014

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