

5.5 OUTCOME OF ADVERTISING AND ADOPTION OF AMENDMENTS TO LOCAL PLANNING POLICY NO. 7.5.3 - EDUCATION AND CARE SERVICES

- Attachments:**
1. **Local Planning Policy: Child Care and Family Day Care**
 2. **Response to Submission**

RECOMMENDATION:

That Council PROCEEDS with Amendment 2 to Local Planning Policy: Child Care and Family Day Care, pursuant to Clause 5 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* as at Attachment 1.

PURPOSE OF REPORT:

To consider the outcomes of community consultation on Amendment No. 2 to Local Planning Policy: Child Care and Family Day Care and to determine whether to proceed with the amended policy.

BACKGROUND:

At its [8 March 2022 Meeting](#), Council approved conducting community consultation of its intention to amend the Education and Care Services Policy (Policy).

The advertised draft Policy included the following changes:

1. Retitled policy to Child Care and Family Day Care Policy.
2. Improved objectives.
3. Updated definitions to distinguish between 'Centre-Based Child Care Services' and 'Family Day Care Services'.
4. Deleted provisions relating to other legislation or those that are not planning considerations.
5. New provisions relating to:
 - Building design (Clause 1.1)
 - Suitable locations for Centre-Based Child Care Services (Clause 3.1 and 3.2)
 - Car parking and vehicle access (Clause 3.4)
6. Amended existing provisions relating to:
 - Fencing and security (Clause 1.2)
 - Hours of operation (Clause 1.5)
 - External playing space (Clause 3.3)
 - Submission requirements (Clause 4).

In accordance with the City's [Community and Stakeholder Engagement Policy](#), community consultation was undertaken between 16 March and 9 May 2022, which is in excess of the 21 days required.

The draft Policy was advertised on the City of Vincent website, social media channels and through the following public notices:

- Perth Voice – 26 March 2022; and
- notice exhibited at the City's Administration and Library and Local History Centre.

An email was sent to the group of stakeholders whose feedback was sought as part of the review process. These stakeholders included education and care service operators within the City of Vincent, applicants who had lodged a development application in 2020 and 2021, and a selection of community members who had provided a submission to the City in relation to a development application relating to an education or child care service.

DETAILS:

Administration received one submission during the community consultation period, included at **Attachment 2**. This submission related to a previous development where Main Roads WA did not allow access to be granted from Charles Street. The Policy position is that access should be split over multiple frontages if possible, noting that advice from Main Roads WA or the Department of Planning, Lands and Heritage may prevail, as it did in this case.

No substantive modifications to the advertised Policy are recommended. Clause 4e includes a minor modification to clarify that the noise impact assessment will be “as determined by the City”. The final version of the Policy is included at **Attachment 1**.

CONSULTATION/ADVERTISING:

No further consultation is required.

LEGAL/POLICY:

The *Planning and Development Act 2005* and *Planning and Development (Local Planning Schemes) Regulations 2015* provide the criteria for creating, amending, and reviewing Local Planning Policies.

RISK MANAGEMENT IMPLICATIONS:

Low: Adopting the proposed policy is low risk.

STRATEGIC IMPLICATIONS:

This is in keeping with the City’s Strategic Community Plan 2018-2028:

Sensitive Design

Our planning framework supports quality design, sustainable urban built form and is responsive to our community and local context.

Innovative and Accountable

We are open and accountable to an engaged community.

SUSTAINABILITY IMPLICATIONS:

This does not contribute to any environmental sustainability outcomes. This action/activity is environmentally neutral.

PUBLIC HEALTH IMPLICATIONS:

This does not contribute to any public health outcomes in the *City’s Public Health Plan 2020-2025*.

FINANCIAL/BUDGET IMPLICATIONS:

There are no financial implications of adopting this Policy.



LOCAL PLANNING POLICY: CHILD CARE AND FAMILY DAY CARE

Legislation / local law requirements	This Policy has been prepared under the provisions of Schedule 2, Part 2 and 3 of the <i>Planning and Development (Local Planning Schemes) Regulations 2015</i> .
Relevant delegations	16.1.1 Determination of various applications for development approval under the City's Local Planning Scheme.
Related policies, procedures and supporting documentation	<ul style="list-style-type: none"> • <i>Education and Care Services National Law (WA) Act 2012.</i> • <i>Child Care Services Act 2007.</i> • <i>Education and Care Services National Regulations.</i>

PRELIMINARY

INTRODUCTION

The National Quality Framework (NQF) regulates early learning and school age care in Australia and seeks to improve education and care across long day care, family day care, preschool/kindergarten, and outside school hours care services. The NQF is established through an applied laws system and consists of the *Education and Care Services National Law (WA) Act 2012* and the *Education and Care Services National Regulations 2012*.

The *Education and Care Services National Law (WA) Act 2012* and *Education and Care Services National Regulations 2012* identifies two types of childcare services. These are Family Day Care Services and Centre-Based Child Care Services.

PURPOSE

The purpose of this policy is to provide clear direction on the requirements for education and care services within the City of Vincent.

OBJECTIVE

This Policy seeks to ensure that:

- Centre-Based Child Care Services are adjacent to and complement other non-residential land uses, and are located so as to avoid non-residential development encroaching upon areas which are residential in nature and resulting in adverse impacts.
- Noise-generating activities such as outdoor play areas, vehicle access ways, car parking areas and any plant and equipment is located away from noise-sensitive land uses (such as residential dwellings).
- The privacy of adjoining properties and the child care premise is protected through sensitive design.
- Sites are designed to minimise the impact of traffic associated with Centre-Based Child Care premises on the function and safety of the local road network.
- Adequate parking supply is provided that is functional and protects the safety of drivers and pedestrians.
- Buildings are designed to achieve high quality design and respond to the surrounding context, while providing a safe environment that meets the needs of its users.
- Legibility, functionality, and wayfinding are considered in the overall design of the development.



LOCAL PLANNING POLICY: CHILD CARE AND FAMILY DAY CARE SCOPE

The provisions of this policy apply to all education and care service premises within the City of Vincent. Where a development application does not satisfy the policy provisions, the proposal is to be assessed against the objectives of this Policy.

This Policy prevails over all other planning policies, excluding the City's Heritage Policies.

POLICY PROVISIONS

DEFINITIONS

Centre-Based Child Care Services means an 'Education and Care Service' other than a Family Day Care Service.

Note: Child Care Premises, as defined within the City's Local Planning Scheme No. 2, has the same meaning as Centre-Based Child Care Services.

Education and Care Service means any service providing or intended to provide education and care on a regular basis to children under 13 years of age other than those services listed under Schedule – Education and Care Services National Law, Part 1, Section 5 (1) of the *Education and Care Services National Law (WA) Act 2012*.

Note 1: This term includes services such as centre-based child care and afterschool care.

Note 2: The exclusions include schools, kindergarten, personal arrangements, instructional activities (i.e., sport, dance, music, religion, etc), hospital / medical / therapeutical care services, child protection law, and disability services. Creches, which are primarily ad hoc or casual care are also excluded.

Family Day Care Service means an education and care service that —

- (a) is delivered through the use of 2 or more educators to provide education and care to children; and
- (b) operates from 2 or more residences;

Note 1: A Family Day Care Service that is an approved Family Day Care Service may provide education and care to children from a family day care residence or an approved family day care venue.

Note 2: No more than 7 children can be educated and cared for as part of a Family Day Care Service at a family day care residence or an approved family day care venue at any one time.

In addition to referring to the relevant requirements of the *Education and Care Services National Law (WA) Act 2012* and *Education and Care Services National Regulations 2012* referred to above, applicants are encouraged to refer to the Australian Children's Education and Care Quality Authority (www.acecqa.gov.au) or contact the relevant State Government regulatory authority (Department of Communities, Education and Care Regulatory Unit) for further information and licensing requirements for the establishment and operation of education and care services.

LOCAL PLANNING POLICY: CHILD CARE AND FAMILY DAY CARE POLICY



1. General Requirements For Education And Care Services

1.1 Building design

- a) The orientation and design of buildings, windows and balconies minimises direct overlooking of habitable rooms and private outdoor living areas of neighbouring properties.
- b) Buildings are designed to interact with the street and public spaces while maintaining privacy for its users.
- c) The entrance to the building shall be visible from the street and provided with clear wayfinding from all adjacent car parking areas.

1.2 Fencing and security

Any outdoor space used by children are to be enclosed by a fence or barrier that is a minimum of 1.2 metres in height and designed so that children cannot go through, over or under it.

1.3 Swimming pools

Swimming pools or outdoor spas are not permitted.

1.4 Signage

All signage requirements are to be in accordance with the City's Local Planning Policy - Signs and Advertising.

1.5 Hours of operation

Unless otherwise approved by the local government, with due regard to impact on amenity of surrounding properties, the hours of operation are restricted to between 7.00am to 7.00pm on weekdays and 7.00am to 6.00pm on Saturdays. Premises are not permitted to be operational on Sundays.

2. Family Day Care Services

2.1 Suitable types of dwellings

Family Day Care Services may be considered from a single house or grouped dwelling. Multiple dwellings for the purpose of a Family Day Care Service is not permitted.

2.2 External playing space

Family Day Care Services are to have a minimum external 'playing space' of 40 square metres, with a minimum dimension of 6 metres.

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2.3 Car parking

Family Day Care Services are not required to provide any additional car parking bays, other than what is required under the Residential Design Codes.

3. Centre-Based Child Care Services

3.1 Suitable locations

- a) Centre-Based Child Care Services are to be located with a Mixed Use, Local Centre, District Centre, Regional Centre, Centre or Commercial zone as identified by the City's Local Planning Scheme.
- b) Centre-Based Child Care Services are not permitted on ground floors or at grade level within Regional Centres, District Centres and Local Centres under the City's Local Planning Scheme.

3.2 Suitable locations in Residential zones

Centre-Based Child Care Services will be considered within a Residential zone under the City Local Planning Scheme where it is adjacent to other non-residential land uses.

3.3 External playing space

- a) Centre-Based Child Care Services are to have a minimum external playing space area in accordance with the *Education and Care Services National Regulations* (as amended).
- b) At least 30 percentage of the external playing space is to be provided as canopy coverage.
- c) Landscaping is encouraged over artificial materials and should be integrated into the overall design of the space.
- d) External playing spaces shall be on a safe location of the site (e.g. away from a major road), and away from any adjoining noise-sensitive land uses (e.g. residential dwellings).

3.4 Car parking and vehicle access

- a) All car parking and vehicular access requirements is to be in accordance with the City's Local Planning Policy – Non-Residential Development Parking Requirements.
- b) A drop off/ pickup area is required in accordance with the City's Local Planning Policy - Parking and Access and shall:
 - have convenient access to the entrance of the building
 - be located away from any adjoining noise-sensitive land uses

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- be time limited to encourage turnover of vehicles during peak periods

The management of the drop off/ pick up area shall be demonstrated within the parking management plan (see Clause 4 - Submission Requirements).

- c) Dedicated and clearly defined pedestrian paths shall be provided from the street and onsite parking areas to the entrance of the building.
- d) Where dual access to a site is available, ingress to the site and egress from the site shall be provided from different streets to distribute the traffic volume over multiple streets.

Where it can be demonstrated that the amount of traffic would not affect the amenity of surrounding properties, vehicle access shall be from the secondary street.

Note: Advice from the Department of Planning, Lands and Heritage or Main Roads WA may prevail.

4. Submission Requirements

In addition to submission of the development application form, fees, and mandatory information detailed on the application checklist, applications for a Family Day Care Service or Centre-Based Child Care Services must also be accompanied by:

- a) a management plan outlining the number of children proposed, age group breakdown, days and hours of operation, staff requirement, and explanation of why the use is appropriate for its location;
- b) 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 (e.g. light poles, traffic islands) for the full road reserve width for all roads abutting the application site;
- c) a traffic impact statement is required for applications proposing 10 – 100 children, and traffic impact assessment is required for applications proposing more than 100 children, in accordance with the Western Australian Planning Commission's *Transport Impact Assessment Guidelines*;
- d) a parking management plan in accordance with the City's Local Planning Policy relating to Non-Residential Development Parking Requirements;
- e) a noise impact assessment in accordance with the City's Local Planning Policy relating to Sound Attenuation, demonstrating the internal and external play spaces, car parking and access ways would not cause an adverse impact on adjoining properties, nor be adversely affected by surrounding land uses, as determined by the City;
- f) a waste management plan in accordance with the City's Waste Guidelines for New Developments;

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- g) a detailed landscaping plan, including indicative design of external playing spaces;
- h) signage details or a signage strategy in accordance with the City's Local Planning Policy relating to Signs and Advertising; and
- i) any additional information or written justification relevant to the assessment of the application.

5. NATIONAL CARE SERVICES LAW AND REGULATIONS

In addition to the requirements listed in this policy, the applicant is to ensure that the proposed Education and Care Service premises are compliant with the *National Education and Care Services Regulations 2012*. These requirements will not form part of the City's assessment. For further information, please contact the Department of Communities, Education and Care Regulatory Unit.

OFFICE USE ONLY	
Responsible Officer	Manager Policy & Place
Initial Council Adoption	27 March 2001
Previous Title	Local Planning Policy 7.5.3 Education and Care Services
Reviewed / Amended	12 March 2013
Next Review Date	2027

No.	Submitter Comment	Administration comment
1.	<p>I have just been through the experience of a childcare centre being placed on the corner of Paddington and Charles Street North Perth. I'm a little amused by the way this child Centre has been managed and approved.</p> <p>I protested at the meeting in saying that the traffic in entry and exit to this centre would be horrendous on our local street. I suggested an exit into Charles Street with a Paddington St entry which would create a better flow through. This was not allowed and according to main roads department they will not allow such an exit to exist on a development in Charles Street.</p> <p>This is absurd when all up and down Charles Street we have entries and exits into apartments community centres etc and yet a childcare centre cannot have an exit into Charles Street!</p> <p>I was given the Angove Street example and said there were objections initially with that child Centre. Yet the entry and exit is a flow through which is completely different to what will be proposed and built in the Charles Paddington complex. In this instance residents have not been considered when there should be a workable solution To the traffic congestion that will emanate once the Child Centre is active. I am not against the development other than hoping that common sense would prevail but in this instance we are blocked with bureaucracy.</p>	<p>The City investigated alternate access routes to and from the site during the assessment process. However, the subject site abuts Charles Street which is proclaimed as a highway pursuant to Section 13 of the <i>Main Roads Act 1930</i> and is under the care, control and management of MRWA.</p> <p>Clause 3.4 d of the Policy requires dual vehicle access where possible to distribute the traffic volume over multiple streets, noting advice from other governing bodies may prevail.</p>