

appendices

Future Planning Committee



Future Planning Committee
18 July 2018

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8.1 Review of Local Planning Policy 6 Child Care Facilities in Residential Areas

1. AIM

- a) To provide an appropriate planning framework from which planning decisions can be made regarding the location and design of child care facilities within established residential areas.

2. POLICY

- a) Child care premises should generally be encouraged to locate near commercial, community or recreation areas, but where applications for such uses are received within established residential areas, the following criteria should be taken into account:

- i. **Size and Shape of Site**

- The site is to have a regular shape, with a minimum lot area and effective frontage of 1,000m² and 20 metres respectively to provide the opportunity for design aimed at minimising the impact on surrounding properties.

- ii. **Amenity**

- The design of the building is to have a domestic appearance. In order to minimise noise impact on surrounding properties, Council should require erection of suitable fencing, orientation of openings to rooms which may create unreasonable noise levels, such as play areas, away from adjacent residential properties, and the provision of suitable setbacks. Where car parking is provided between the building and street alignment(s) a minimum 2.0 metre wide landscaping strip to be established and thereafter maintained along the street alignment(s).

- iii. **Parking and Traffic**

- The on-site parking provision to be one bay/five children being cared for, at any one time. Traffic associated with the child day care centre is not to unreasonably reduce the function and safety of the adjacent roads.

- b) In relation to family day care for five children or less (including any children of the service provider) when operated within the hours of 7am and 7pm by no more than one person in addition to any occupier of the dwelling, no application for planning approval is required. Where an applicant is proposing family day care for more than five children, the application will require Council determination, and in assessing such an application, Council will have regard to the provisions outlined above relating to child care premises.

All family day care facilities are required to obtain the necessary permits and licences from the Child Care Services Board as required under the *Community Services (Child Care) Regulation 1988*.



INTRODUCTION

The policy establishes a consistent approach for the Council to consider proposals for the establishment of new or expanded child care services within the Town, with particular regard to location, site characteristics, environmental suitability, design, traffic, access, noise, and health and safety issues.

OBJECTIVES

- (a) To provide an appropriate planning framework from which planning decisions can be made regarding the location and design of family day care services and child care premises;
- (b) To clarify the circumstances in which a family day care service will require development approval to be obtained from the Town;
- (c) To locate family day care services and child care premises appropriately in relation to their surrounding service area;
- (d) To minimise the impact a child care premises has on its surrounds, in particular on the amenity of existing residential areas;
- (e) To minimise the impact that the surrounds may have on a child care premises; and
- (f) To consider the health and safety of children attending the child care premises within the confines of the planning system.

POLICY SCOPE

This policy aims to differentiate between child care related activities operating in existing residential areas, such as family day care that takes place in dwellings, and non-residential child care activities, namely 'Child Care Premises', that are centre-based child care services operated from purpose-built facilities.

DEFINITIONS

The following terms are defined specifically under Council's Town Planning Scheme No. 1.

General and expanded definitions are provided below, having regard to the *Education and Care Services National Law (WA) Act* and the *Education and Care Services National Regulations*, and to clarify the application of the provisions contained in this policy.

Child Care Premises means premises where:

- (a) an education and care service as defined in the *Education and Care Services National Law (Western Australia)* section 5(1), other than a family day care service as defined in that section, is provided; or

- (b) a child care service as defined in the *Child Care Services Act 2007* section 4 is provided.

More generally, a child care premises refers to a centre-based child care service that offers education and care from a premises used exclusively for this purpose and includes long day care, out of school hours care and occasional care.

Family Day Care means premises where a family day care service as defined in the *Education and Care Services National Law (Western Australia)* is provided.

The Act refers to the *Education and Care Services National Law (Western Australia) 2012*.

Under the Act, a **family day care service** means an education and care service that is delivered through the use of 2 or more educators to provide education and care for children in residences whether or not the service also provides education and care to children at a place other than a residence.

The Regulations refers to the *Education and Care National Regulations 2012*.

Under the Regulations, a family day care educator must not educate and care for more than seven (7) children at a family day care residence or approved family day care venue at any one time, with no more than four (4) being of preschool age or under.

In addition to referring to the relevant requirements of the Act and Regulations 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 for further information and licensing requirements for the establishment and operation of education and care services.

REQUIREMENT FOR DEVELOPMENT APPROVAL

Family Day Care

Under Schedule A 'Supplemental Provisions to the Deemed Provisions' of the Scheme, a family day care service is exempt from the requirement for development approval where:

- (a) it is for five (5) children or less (including any children of the service provider(s)); and
- (b) operates within the hours of 7am and 7pm by no more than one person in addition to any occupier of the dwelling.

A family day care service that does not operate in strict accordance with the above requires development approval to be obtained from the Council.

Notwithstanding the above, the operators of family day care services exempt from the requirement for development approval are encouraged to locate, design and operate their services in accordance with the requirements set out in this policy.

Child Care Premises

Development approval is required to be obtained from the Council to establish a child care premises in all instances.

An education and care service that does not satisfy the requirements of the Act or Regulations with respect to a family day care service is deemed to be, and will be assessed as, a child care premises in accordance with the provisions of Council's Scheme and this Local Planning Policy.

POLICY REQUIREMENTS

1. Requirements Applying to Family Day Care (where development approval is required)

1.1 Location

Family day care services should be appropriately located to ensure they meet the needs of children and their families as well as limiting any adverse impacts they may have on surrounding activities and vice versa.

(a) Family day care may be suitable in locations that are:

- i. within convenient walking distance (5-10 minutes) of appropriate commercial, recreation or community nodes and education facilities, (e.g. local parks and playground facilities, schools and kindergartens, etc.); and
- ii. serviced by public transport (where available); and
- iii. considered suitable from a traffic engineering/safety perspective.

1.2 Design

(a) Dwelling Type

- i. Family day care should preferentially be provided from a Single House on a site of sufficient size and shape to provide:
 - all required outdoor play space or other facilities required under the Act and Regulations;
 - adequate security and privacy;
 - minimal potential for adverse impacts on adjoining residential properties; and
 - adequate on-site car parking for the drop-off and collection of children.
- ii. The operation of family day care from a Grouped Dwelling will only be supported if it can be demonstrated by the applicant that the requirements detailed in *i.* above can be achieved, as well as having regard to the outcomes of any required community consultation; and
- iii. The operation of family day care from a Multiple Dwelling will not be permitted, having regard to their limited ability to adequately provide for the facilities and outdoor play spaces required under the Act and Regulations, and the significant potential for adverse amenity impacts to occur with the residents of other Multiple Dwellings by way of car parking, noise, disturbance or other impacts.

(b) Building Appearance

Where alterations or additions are required to the dwelling to accommodate the family day care service the dwelling must continue to comply with the relevant requirements of the Residential Design Codes, Council's Scheme and all relevant Local Planning Policies, including the *Local Planning Policy 25 – Streetscape*.

(c) Street Walls and Fencing

All front fencing to primary and secondary streets must comply with the relevant

requirements applicable to a residential dwelling on the site, as per the *Local Planning Policy 25 – Streetscape* or any applicable Design Guidelines.

(d) Signage

Any signage in relation to a family day care service is limited to that permissible for a Home Occupation, as per Council's Local Planning Policy and/or Local Law related to Signs.

1.3 Car Parking and Vehicular Access

(a) On-site Car Parking

Car parking shall be provided in accordance with Council's *Local Planning Policy 23 – Parking Policy*.

(b) Vehicular Access

- i. The provision of family day care services from dwellings situated on a rear battleaxe lot should be avoided, due to their constrained ability to accommodate the on-site parking of vehicles for the drop off and collection of children, and the increased traffic and safety hazards associated with customer vehicles reversing onto the street.
- ii. The driveway servicing the family day care service are to be designed to allow customer vehicles to enter the street in forward gear where:
 - the distance from the nominated car parking bay/drop off and collection area to the street is 15m or more; or
 - the public street to which it connects is designated as a primary distributor, district distributor or integrated arterial road.
- iii. Where the driveway servicing the family day care service is situated on land held in common property and/or is shared by a dwelling other than the dwelling from which the family day care is proposed to operate, then the signed consent of all affected landowners who own or have a right of access to utilise the shared driveway is required to be provided as part of the application.

1.4 Noise Impacts

(a) Hours of Operation

As a general rule, the hours of operation of a child care premises should be limited to between the hours of 7 am and 7 pm Monday Saturdays, and 9am to 5 pm on Sundays, unless otherwise agreed to by Council.

(b) Noise Regulations

Sound levels associated with a family day care service are required to comply with the provisions of the *Environmental Protection (Noise) Regulations 1997* at all times.

2. Requirements Applying to Child Care Premises

2.1 Child care premises proposed within or adjacent to residential areas

Where a child care premises is proposed adjacent to or on land zoned for Residential purposes, the provisions of Council's *Local Planning Policy 3 – Non-Residential Uses In or Adjacent to Residential Areas* (LPP3) shall apply to the development, in addition to the provisions of this policy. In the circumstance that there is a conflict between a provision of this policy and a provision of LPP3 then the provisions of this policy shall prevail.

LPP3 provides a range of provisions relating to building size/plot ratio, setbacks, design, privacy, landscaping, signage, traffic and noise (amongst others) that may affect the location, design or operation of a child care premises proposed on or adjacent to Residential zoned land, in addition to the policy requirements outlined below.

2.2 Location

Child care premises should be appropriately located to ensure they meet the needs of children and their families as well as limiting the impact they may have on surrounding activities and vice versa.

(a) A proposed child care premises may be suitable in locations that are:

- i. within convenient walking distance (5-10 minutes), or part of, appropriate commercial, recreation or community nodes and education facilities (e.g. local parks and playground facilities, schools and kindergartens, etc.);
- ii. located in areas where adjoining uses are compatible with a child care premises (includes considering all permissible uses under the zoning of adjoining properties);
- iii. serviced by public transport;
- iv. considered suitable from a traffic engineering/safety perspective; and
- v. of sufficient size and dimension to accommodate the development, including provision of sufficient outdoor play space and other facilities as required by the Act and the Regulations, and on-site car parking, without affecting the amenity of the area.

(b) Child care premises are not considered suitable in locations where:

- i. 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);
- ii. groundwater is to be abstracted for the irrigation of gardens and play area within the child care premises and groundwater contamination exceeds 10 x Australian Drinking Water Criteria in accordance with the "Contaminated Sites Reporting Guideline for chemicals in groundwater" (Department of Health 2006);
- iii. access is from a major road or in close proximity to a major intersection where there may be safety concerns;
- v. access is from a local access street where there may be impacts on amenity due to traffic and parking;
- vi. 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;

- vii. noise produced by roads, railways and aircraft are likely to have an adverse impact on the site; and/or
- viii. the site is in a heavy industry area or within the buffer area of a heavy industry area.

2.3 Site Characteristics

(a) Size and Shape of Site

- i. Sites selected for child care premises 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.
- ii. Sites in residential areas should have a regular shape, with a minimum lot area of 1,000m² and effective frontage of 20 metres width to provide the opportunity for design aimed at minimising the impact on surrounding properties.

(b) Topography

The site should generally be flat or gently sloping, as steep slopes may affect access to the facility, noise transfer and methods of noise mitigation

(c) Site Contamination

As a sensitive land use, any party considering development of a child care premises should obtain and consider any information the Department of Water and Environment Regulation (DWER) may have about the contamination status of a given site. Even in the absence of a report to DWER there is no guarantee that the site has not been contaminated by a previously operating land use and applicants/operators must exercise a duty of care to ensure that the site is suitable for use as a child care premises.

If the site or adjoining site(s) may have been used for a potentially contaminating activity, a *Form 2 – Request for a Summary of Records in Respect of Land* is to be applied for and obtained from the Department of Water and Environment Regulation (available from <https://www.der.wa.gov.au/your-environment/contaminated-sites/57-forms>) for all relevant sites, and supplied to Council with the development application.

The site will be assessed by Council to determine potential of soil or groundwater contamination having regard to previous or currently operating land uses on and within the vicinity of the site, and may refer the application to the Department of Environment Regulation for comment and advice should the subject site be known or suspected to be affected by a potentially contaminating land use.

2.4 Design

(a) Building Appearance

- i. 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, with a welcoming and inviting appearance from the street.
- ii. The development should be designed having regard to any adopted design

guidelines, built form/streetscape policies or other development requirements applicable to the site under the relevant Precinct Plan.

- ii. Development within or adjacent to residential areas should reflect a residential appearance, character and proportions that responds to the requirements of Council's *Local Planning Policy 3 – Non-Residential Uses In or Adjacent to Residential Areas*. Particular regard should be given to appropriate building setbacks, roof form and style, external colours, finishes and materials and orientation of building openings, that is sympathetic to surrounding development.

(b) Street Walls and Fencing

- i. Fencing and walls visible from the street should be suitably designed to provide appropriate access, privacy, safety and security, whilst maintaining adequate levels of passive surveillance (i.e. 'open style' fencing) and have a visually interesting appearance.
- ii. Areas of solid walls or screening visible from the street should be of high quality materials and be articulated/visually interesting. Soft landscaping should also be used to reduce the visual dominance of solid portions of walls or fences and soften their appearance from the street.
- iii. Front fences to child care premises within or adjacent to residential areas should attempt to comply with residential street fencing requirements as far as possible and be constructed of appropriate materials that compliment the development and respect the amenity of the streetscape and surrounding residential properties.

(c) Fencing to Boundaries with Neighbouring Properties

- i. New or upgraded boundary fencing shall be required to be a minimum of 1.8 metres high and is encouraged to be of masonry construction in a colour/finish that complements the development as well being of compatible colours and materials to any neighbouring residential properties.
- ii. Efforts should be made to obtain agreement with neighbouring properties regarding the height, materials and finish of any new/upgraded boundary fencing.
- iii. The provision of new/upgraded boundary fencing may be applied as a condition of development approval where it is deemed necessary by the Council to reduce the impacts of the development, in particular where the site adjoins residential properties.

(d) Location of openings, play areas and other noise sources

Openings to rooms which may create a source for unreasonable noise levels, such as play areas, should be oriented away from adjacent residential properties, and be provided with suitable setbacks.

(e) Landscaping

- i. Where car parking is provided between the building and street alignment(s) a minimum 1.5 metre wide landscaping strip to be established and thereafter maintained along the street alignment(s).
- ii. The development to be designed to retain and conserve existing mature trees on the site as well as existing Council verge trees, wherever possible.

- iii. Car parking areas to be landscaped and provided with shade trees at a minimum rate of 1 tree per 4 car parking bays provided.

(f) Signage

- i. All signage associated with the development should be detailed as part of the development application. Where final specifications are unknown, a signage strategy identifying the location, size and type of external advertising signage to be installed on the building/site is to be submitted to Council as part of the development application.
- ii. Signage should be designed integrally with the building/site and be of modest scale and proportions so as not to visually dominate the site/building or detract from the visual amenity of the streetscape or surrounding properties.
- iii. The use of tethered banners, inflatable signage or free-standing transportable signs is inappropriate and will not be supported by Council.
- iv. The design, type, location and number of signs on the site/building is subject to the requirements of Council's Local Planning Policy and/or Local Law related to Signs and/or a signage strategy approved by Council as part of a development application for the site.

2.5 Car Parking, Vehicular Access and Traffic

(a) On-site Car Parking and Vehicular Access

Car parking and vehicular access shall be provided and designed in accordance with Council's *Local Planning Policy 23 – Parking Policy*.

(b) Traffic Generation

- i. Development should only be permitted where it does not negatively impact the function or safety of the adjacent roads or cause undue conflict through the generation of traffic or demand for parking.
- ii. In assessing an application for a new or expanded child care premises, in addition to considering matters such as traffic volumes, road capacity and road safety from a technical engineering perspective, Council will have also regard to these matters from a residential amenity perspective.
- iii. A Transport Impact Statement (TIS) or Transport Impact Assessment (TIA) prepared by a suitably qualified independent traffic consultant may be required to be submitted as part of a development application, which assesses the likely traffic impacts associated with the proposed development and details how parking and/or traffic will be managed..
- iv. The appropriate level of traffic assessment required to be undertaken for the proposed development will be determined by Council having regard to the requirements of the Western Australian Planning Commission's (WAPC) (2016) *Transport Impact Assessment Guidelines*.

2.6 Noise Impacts

(a) General Design and Layout Considerations

Child care premises should be appropriately designed and operated to minimise the noise impact it may have on adjacent properties, and also limit the impact noise from

external sources may have on the child care premises. This may be achieved either by physical separation, design and layout of the premises or by implementing noise-mitigation measures, such as acoustic treatments to buildings or other noise attenuation measures. The following basic principles will apply when considering a proposal:

- i. Where a child care premises is located adjacent to a noise-sensitive use, such as residential dwellings, retirement villages and nursing homes, 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;
- ii. 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; and
- iii. The design and construction of buildings may include noise-mitigation measures to reduce impact from external sources and to achieve accepted indoor noise limits.

(b) Noise Impact Assessment

In general a noise impact assessment/acoustic report will be required by Council where a child care premises is proposed adjacent to a noise sensitive use such as a residential dwelling(s), retirement village or a nursing home.

(c) Hours of Operation

As a general rule, the hours of operation of a child care premises should be limited to between the hours of 7 am and 7 pm Monday to Saturday, and 9am to 5 pm on Sunday, unless otherwise agreed to by Council.

(d) Noise Regulations

Sound levels associated with a child care premises are required to comply with the provisions of the *Environmental Protection (Noise) Regulations 1997* at all times.

3. CONSIDERATION OF APPLICATION FOR DEVELOPMENT APPROVAL

3.1 Submission Requirements

In addition to the mandatory application form and fees and standard application requirements for non-residential development, applications for family day care or a child care premises should also be accompanied by:

- (a) a written statement and/or 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/assessment, where the proposed development is of a scale that warrants its submission, in accordance with the WAPC's *Transport Impact Assessment Guidelines*;

- (d) a noise impact assessment (in the case of a child care premises), where the proposal is located adjacent to one or more noise-sensitive uses;
- (e) signage details or a signage strategy;
- (f) if the site or adjoining site(s) may have been used for a potentially contaminating activity, a *Form 2 - Request for a Summary of Records in Respect of Land* is to be applied for and obtained from the Department of Environment Regulation (available from <https://www.der.wa.gov.au/your-environment/contaminated-sites/57-forms>) for all relevant sites, and supplied to Council with the development application; and
- (g) any additional information or written justification relevant to the assessment of the application.

3.2 Community Consultation

Development applications for a family day care service or child care premises will be publicly advertised by the Council, including seeking the comments of the owners and occupiers of adjoining or surrounding properties, in accordance with *Local Planning Policy 37 – Community Consultation on Planning Proposals* (LPP37). The applicant may also be required to advertise the proposal in a local newspaper and install sign(s) on site during the community consultation period, where required by LPP37.

3.3 Conditions of approval

Where a development application is submitted to Council for approval of a family day care service or child care premises the Council shall have regard to and may apply conditions relating to matters including hours and days of operation, number of children/customers to the site, car parking, deliveries, advertising signs, provision of landscaping and boundary fencing, and other matters pertaining to the design and operation of the development.

3.4 Building Regulations 2012 and Building Code of Australia Requirements

The conversion of an existing building to a child care premises may trigger the requirement to undertake building improvement works to bring the building into compliance with the disabled access and facilities requirements of the Building Code of Australia.

Applicants are encouraged to consult the services of a registered building surveyor and/or universal access consultant to ensure that any applicable requirements are capable of being met, prior to submission of an application involving the conversion of an existing building.

VERSION CONTROL

Date Initially Adopted :	Former Policy 3.9 under Town Planning Scheme Policy Manual – adopted 30 September 1998
Date(s) Amended :	1. Adopted as Local Planning Policy 6 at Ordinary Council Meeting 9 February 2016.