

25 September 2025

Portfolio Committee No 3 - Education
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Portfolio Committee No 3 - Education,

**Re: NSW Parliamentary Inquiry into the Children (Education and Care Services
National Law Application) Amendment Bill 2025**

The Australian Childcare Alliance (ACA) NSW is the peak body for over 1,600 privately-owned predominantly small to medium-sized family-owned and operated businesses who provide early childhood education and care services in New South Wales. ACA NSW members employ over 25,000 employees and are committed to providing excellence in early childhood education and care for the more than 125,000 children and their families.

We thank the Parliamentary Committee for inviting us to make a submission and to present tomorrow.

Our primary concern begins with successive NSW Governments who have not yet addressed the growing disconnection between the National Quality Framework and the Australian Early Development Census as they relate to NSW.

	2012	2015	2018	2021	2024
POPULATION: Enrolled Preschool Children in the Year Before School (NSW)	N/A	N/A	85.03%	86.69%	86.99%
QUALITY AREA 1: Education Programming & Practice Services with Meeting the NQS or higher (NSW)	N/A	69.76%	84.64%	92.06%	95.42%
OVERALL RATING: Services with Meeting the NQS or higher (NSW)	N/A	58.53%	79.85%	87.96%	92.00%
AEDC: Children not developmentally on track upon starting school (NSW)	43.90%	44.20%	42.80%	44.50%	45.80%

SOURCES: The Productivity Commission's Report on Government Services (RoGS), the Australian Children's Education & Care Quality Authority (ACECQA)'s National Register & the Australian Early Development Census (AEDC) data

If the NSW Government's Brighter Beginnings' central belief of \$13 to every \$1 invested in early childhood education and care is to remain true, then the NSW Government's and NSW families' investments appear to be ineffective at best.

It is appreciated that the Bill and the future independent NSW Regulatory Authority is primarily intended to address the very public child safety incidences since Operation Tenterfield announced in August 2023. That said, NSW children from birth to preschool age remain underserved without a more articulate roadmap of reform that will not only rebuild confidences but more importantly produce demonstrable positive outcomes we want for our children.

Attachments A and B outline our initial and non-exhaustive list of questions and concerns with respect to the Bill and the corresponding National Regulations (in the NSW context). And Attachments C and D are copies of our submission to the NSW Parliamentary Inquiry into Early Childhood Education and Care in NSW as well as the NSW Budget 2025.

ACA New South Wales

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It is worth highlighting the key questions from our submission:

1. What are the demonstrable children's outcomes that the NSW Parliament and the NSW Government want to achieve through early childhood education and care (during birth to preschool as well as beyond) at state, national and global levels?
2. Is the legal, regulatory and support framework consistent, unbiased and fit-for-purpose for the early childhood education and care services across NSW?
3. Is the (future independent) NSW Regulatory Authority appropriately resourced and transparent to provide effective support while also conducting compliance activities?
4. Will the (future independent) NSW Regulatory Authority also be accountable to parents and families?

ACA NSW welcomes the opportunity to engage with the NSW Parliamentary Committee.

And please feel free to contact us should you need any further information/clarification/assistance.

Yours sincerely,



Chiang Lim
CEO

Attachments: A – Initial Questions in relation to the *Children (Education and Care Services National Law Application) Amendment Bill 2025*

B – Non-Exhaustive List of Questions in relation to the NSW Regulatory Authority's Implementation of the *Education and Care Services National Regulations 2011*

C – Copy of ACA NSW's Submission to the NSW Parliamentary Inquiry into Early Childhood Education and Care in NSW (14 June 2025)

D – Copy of ACA NSW's Submission to the NSW Budget 2025 (13 January 2025)

**INITIAL QUESTIONS IN RELATION TO THE
CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION) AMENDMENT BILL 2025 (NSW)**

Q#	Reference to the Bill	Question(s)	Suggestion(s) (if any)
01	Page 3, line 39 “Paramount consideration [NSW]”	<p>What will be the performance measures against which the NSW Regulatory Authority will judge the service on so as to determine compliance or non-compliance?</p> <p>Already, the NSW Regulatory Authority is concerned about services’ consistency and comprehensiveness of applying the term “critical reflection”.</p> <p>And since “paramount consideration” is term familiar to lawyers and judges, early childhood education and care services’ educators and teachers are not trained to be lawyers, law enforcers nor criminologists. So what training will be given to the sector? And will there be case studies that the sector can learn from to understand how “paramount consideration” is deemed to be complying and non-complying.</p>	
02	Page 4, lines 4 to 26 Section 4 How functions to be exercised	<p>The focus remains on the Approved Provider and the person(s) with management or control.</p> <p>Notwithstanding all the policies, procedures, training, management and oversight of subordinate employees, how will this section be implemented whereby it can be proven that the Approved Provider and the person(s) with management or control remain unaware of the risks to the rights and best interests of a child or children?</p>	
03	Page 5, line 41 “Whether the conduct is expected practice”	<p>Using the example of a school student conduct whereby a school teacher would either engage with that one school student or evacuate the entire class in order to protect the majority. There can be situations whereby conduct may be considered “inappropriate” to a reasonable person.</p> <p>Will the NSW Regulatory Authority publish a minimum set of what is and is not inappropriate conduct so that services can be judged against this provision?</p>	
04	Page 8-52 Penalty — (a) for an individual—\$\$\$; or	<p>Have all these penalties been structured such that the penalties are not only imposed on the Approved Provider or Nominated Supervisor or Person(s) with Management and Control, but also on early childhood educators and/or teachers and others?</p>	<p>We may need a matrix to show the potential penalties that can be imposed against every role, ie Approved Provider, Nominated Supervisor, Responsible Person, Educational</p>

**INITIAL QUESTIONS IN RELATION TO THE
CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION) AMENDMENT BILL 2025 (NSW)**

Q#	Reference to the Bill	Question(s)	Suggestion(s) (if any)
	(b) for a large child care provider— \$\$\$\$; or (c) otherwise—\$\$\$.	Also, why is the legislation using the term “child care” provider. Should it not be “early childhood education and care” provider?	Leader, early childhood educator, early childhood teacher, etc.
05	Page 19-20, line 40 onwards 174AB Approved Provider must notify Regulatory Authority of event under section 174AA [NSW]	While the emphasis should rightly be on the Approved Provider, what happens if the Approved Provider is not aware or was not made aware of the event? Will the penalties still apply to the Approved Provider?	
06	Page 25, line 39 Civil double jeopardy [NSW]	Does this mean that if an individual(s) who has/have been deemed to be guilty of one offence in one service, but is also guilty of the same offence in other services, cannot be ordered to have multiple penalties imposed?	
07	Page 26, line 28 NSW Minister may appoint independent arbiter [NSW]	What is the scope and powers off this Independent Arbiter? And who in NSW’s early childhood education and care sector can engage the NSW Independent Arbiter?	
08	Page 31, lines 20-27 223A NSW Minister may issue guidelines [NSW]	Using the example that currently the National Regulation 168 requires all services to have policies and procedures. That said, since 2012, the NSW Regulatory Authority has never produced a default set of templates to establish minimum requirements, and NSW Authorised Officers have the discretion to impose breaches/non-compliances if the services’ policies and procedures are deemed inadequate (which is likely to be a contributor to NSW having record numbers of breaches/non-compliances in the nation for five consecutive years as published in the Productivity Commission’s annual Report on Government Services (RoGS)). So as to avoid s223A(c), will and when will the NSW Minister instruct the NSW Regulatory Authority to issue detailed guidelines so that all services can fulfill s223A(a)?	
09	Page 33, line 5 (2) To avoid doubt, the Regulatory Authority is not	Why is the NSW Regulatory Authority not subject to the NSW Minister’s direction and control?	

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Q#	Reference to the Bill	Question(s)	Suggestion(s) (if any)
	subject to the direction and control in relation to --		
10	<p>Page 34, lines 7-8</p> <p>[26] Section 270 Publication of information (5) The Regulatory Authority may publish information about enforcement action taken, or being taken, under this Law, including details about any of the following:</p>	<p>We welcome the transparency intended in this provision.</p> <p>That said, will the publication of information about the enforcement action also include all related information that were collected under the current NSW Regulatory Authority's risk-based approach (https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/approvals-process/risk-based-approach)?</p> <p>And to ensure the fairness of such enforcement actions taken or being taken, will the NSW Government impose any impediments for the Approved Provider to contest such enforcement actions either through the NSW Civil and Administrative Tribunal, the courts and/or appeals to the NSW Ombudsman and/or the NSW Auditor-General?</p> <p>This concern is in the context that the sample of services highlighted by the Wheeler Report (https://education.nsw.gov.au/content/dam/main-education/about-us/strategies-and-reports/media/documents/Final_Report_-_Early_Childhood_Education_and_Care_Regulation_in_NSW_Independent_Review_-_May_2025.pdf) highlighted that 66.6% of the sampled Exceeding the National Quality Standards rated services were also deemed to be High Risk or Very High Risk by the same NSW Regulatory Authority (https://nsw.childcarealliance.org.au/news-current/66-6-of-exceeding-rated-services-regarded-high-or-very-high-risk-by-nsw-regulatory-authority).</p>	
11	<p>Page 35, lines 1-23</p> <p>270A Protection from liability for publication under section 270 [NSW]</p>	<p>We welcome this proposed provision as new whistleblower protections.</p> <p>However, it would appear that while the person is protected from liability for whistleblowing, there appears to be no protections for anyone in direct relation to the service (ie the early childhood</p>	

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		<p>educator, teacher, Nominated Supervisor, the Approved Provider, etc).</p> <p>Moreover, there appears no legal nor industrial protections afforded to the service and its personnel should they disclose child safety concerns with any of the NSW authorities.</p> <p>And none of the NSW authorities appear to be obligated to share information with the service's appropriate personnel so as to effectively protect the child/children from any/all child safety risks.</p>	
12	<p>Page 40, lines 19-32</p> <p>297 Meaning of "protected disclosure" [NSW]</p>	<p>We welcome this proposed provision as new whistleblower protections.</p> <p>That said, it would appear that while the person is protected from liability for whistleblowing, it appears that there are no protections for the Approved Provider and/or personnel of that service from a legal (eg defamation) and industrial perspective to take reasonable action in order to effectively protect the child/children.</p>	
13	<p>Page 50, lines 28-37</p> <p>(ia) child-safe recruitment practices ...</p> <p>(ib) ongoing child-safe employment practices ...</p>	<p>Given this is to be inserted before Regulation 168(2)(i)(i), since 2012, the NSW Regulatory Authority has never produced a default set of templates to establish minimum requirements as obligated under the National Regulation 168. And NSW Authorised Officers have the discretion to impose breaches/non-compliances if the services' policies and procedures are deemed inadequate (which is likely to be a contributor to NSW having record numbers of breaches/non-compliances in the nation for five consecutive years as published in the Productivity Commission's annual Report on Government Services (RoGS)).</p> <p>So as to avoid the Bill's proposed s223A(c), will and when will the NSW Minister instruct the NSW Regulatory Authority to issue detailed guidelines of what are child-safe recruitment practices and child-safe employment practices so that services can be fairly assessed against by the NSW Authorised Officers?</p>	
14	In relation to this Bill and the broader reform, including	This Bill does not address the disconnections between the Quality Ratings of services and the same services' potential risk	

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CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION) AMENDMENT BILL 2025 (NSW)**

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	addressing child safety and the public's understanding of quality via the published quality ratings	<p>assessments by the same NSW Regulatory Authority in accordance with the current NSW Regulatory Authority's risk-based approach (https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/approvals-process/risk-based-approach).</p> <p>This was highlighted by the Wheeler Report (https://education.nsw.gov.au/content/dam/main-education/about-us/strategies-and-reports/media/documents/Final_Report_-_Early_Childhood_Education_and_Care_Regulation_in_NSW_Independent_Review_-_May_2025.pdf) which showed that 66.6% of the sampled Exceeding the National Quality Standards rated services were also deemed to be High Risk or Very High Risk by the same NSW Regulatory Authority (https://nsw.childcarealliance.org.au/news-current/66-6-of-exceeding-rated-services-regarded-high-or-very-high-risk-by-nsw-regulatory-authority).</p> <p>When and how will the NSW Government address this?</p>	
15	In relation to this Bill and the broader reform, including addressing child safety and the public's understanding of quality via the published quality ratings	<p>When will the NSW Government review the apparent inconsistent use of existing laws, including:</p> <ol style="list-style-type: none"> 1. National Law: Section 23(1) – The Regulatory Authority can amend provider approval at any time. 2. National Law: Section 25(b) – The Regulatory Authority can suspend a service for failure to comply with a condition of the provider approval at any time. 3. National Law: Section 55(1) – The Regulatory Authority can amend a service approval at any time. 4. National Law: Section 70(b) and 70(f) – The Regulatory Authority can suspend service approval if the service breaches any condition(s) or failed to comply with a direction, compliance notice or emergency order in anywhere across Australia. 5. National Law: Section 73 – The Regulatory Authority can suspend service approval without show cause. 	

**INITIAL QUESTIONS IN RELATION TO THE
CHILDREN (EDUCATION AND CARE SERVICES NATIONAL LAW APPLICATION) AMENDMENT BILL 2025 (NSW)**

Q#	Reference to the Bill	Question(s)	Suggestion(s) (if any)
		<p>6. National Law: Section 77(a) – The Regulatory Authority can cancel service approval if the service constitutes an unacceptable risk to the safety, health or wellbeing of any child or class of children.</p> <p>7. National Law: Section 80(1) – The Regulatory Authority can cancel service approval to the extent that it relates to associated children's service</p> <p>8. National Law: Section 75 – The Regulatory Authority can suspend service approval to the extent that it relates to associated children's service.</p> <p>9. National Law: Section 70(d) – The Regulatory Authority can suspend service approval for not meeting the National Quality Standards and there have not been any improvements.</p>	
16	In relation to this Bill and the broader reform, including addressing child safety and the public's understanding of quality via the published quality ratings	<p>Notwithstanding the NSW Authorised Officers appointed to regulate services are provided additional training by the NSW Regulatory Authority, their formal training is only 3 weeks conducted with the Australian Children's Education & Care Quality Authority (ACECQA), and their performances (ie reports on reliability drift tests (see page 62 of ACECQA's Annual Report (https://www.acecqa.gov.au/sites/default/files/2024-12/Annual-Report-2024_0.pdf)) are not publicly available.</p> <p>When will the NSW Regulatory Authority mandate a minimum set of qualifications, skills and experiences required of all their NSW Authorised Officers?</p> <p>This is relevant as the NSW Regulatory Authority requires services to have early childhood educators and teachers with very specific minimum set of qualifications, skills and experiences. So why not the NSW Authorised Officers on the basis that they can then be truly effective in regulating the sector.</p>	
17	In relation to this Bill and the broader reform, including addressing child safety	At the NSW Parliamentary Inquiry on Early Childhood Education and Care in NSW (14 August 2025), the representatives from the NSW Police and the NSW Children's Guardian expressed	

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		<p>concerns about their visibility of child safety issues that the NSW Regulatory Authority did not share with those other authorities.</p> <p>https://nsw.childcarealliance.org.au/news-current/first-2-days-of-the-nsw-parliamentary-inquiry-into-early-childhood-education-and-care-in-nsw</p> <p>So, when will there be a harmonised, effective, transparent and fair process for reporting and addressing child safety concerns?</p>	
18	In relation to this Bill and the broader reform, including addressing child safety	<p>This Bill does not refer to the anticipated national register of care workers (as called for by ACA NSW (https://nsw.childcarealliance.org.au/news-current/nsw-advocacy-national-register-for-care-workers)).</p> <p>When will we see this occur as well as the comprehensiveness of information to be contained in this national register (via the National Quality Agenda Information Technology System (NQAITS)), especially the timeliness of information delivery to the Approved Provider and services for immediate action to ensure child safety?</p> <p>And when will the NSW Reportable Conduct Scheme achieve information sharing with relevant regulators, agencies as well as jurisdictions?</p>	
19	In relation to this Bill and the broader reform, including addressing child safety	What is the full timeline of these changes/reforms, especially in terms of the effective times for implementation and thus compliance by NSW-based early childhood education and care services?	
20	Emulating the Victorian Parliament's new Shared Intelligence and Risk Assessment Capability	Will the NSW Government emulate Victoria's Shared Intelligence and Risk Assessment Capability? And if so, when?	
21	Consequence of poor quality training	Given Skills NSW already publishes job readiness ratings (https://skills.education.nsw.gov.au/chc30121-q) of training entities (including TAFE is reported to be 70% Job Ready, and there are two training organisations at 98%), when will the NSW	

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Q#	Reference to the Bill	Question(s)	Suggestion(s) (if any)
		Government reward those who provide effective quality training, and address under-performing training entities?	
22	Potentially false and misleading information	Will the NSW Government legally allow the NSW Regulatory Authority to be prosecuted by families for issuing a quality rating and/or all information relating to enforcement actions and risk-based approach assessments that may be deemed as false and misleading information about the service that those families' children attend?	
23	NSW authorities' obligation to prevent child safety risks	<p>Although NSW and Australia's legal philosophy originates from the position of innocent until proven guilty, it also recognises actions as crimes before the crime is committed, for example attempt to murder (see <i>NSW Crimes Act 1900</i>, s29 (https://www5.austlii.edu.au/au/legis/nsw/consol_act/ca190082/s29.html)) and s344A (https://classic.austlii.edu.au/au/legis/nsw/consol_act/ca190082/s344a.html).</p> <p>It should also be noted that the recent <i>Child Protection (Working with Children) and Other Legislation Amendment Bill 2025 [NSW]</i> (https://www.parliament.nsw.gov.au/bill/files/18779/First%20Print.pdf) that was passed recognised that the NSW Children's Guardian may share information with others in order to make a decision (see s30(2), s30D(3) and s44(2)).</p> <p>Hence, the NSW authorities (ie the NSW Regulatory Authority, the NSW Children's Guardian and the NSW Police Force) must have harmonised legal obligations to compel the sharing of information about any child safety concerns so that child safety risks are prevented from occurring.</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
01	<p>Page 28, Section 4 - Definitions</p> <p><i>"approved education and care qualification"</i></p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.4</p>	<p>This definition subjects all early childhood educators and teachers to perform based on their training.</p> <p>Unfortunately, their training is dependent on the provider, for example TAFE which according to Skills NSW is shown to be <u>70% job ready</u> (ie the proportion of students who gained an employment benefit from undertaking training). The two training organisations with the highest ratings are at 98% job ready.</p> <p>Yet 41.67% of those listed by Skills NSW do not have any job ready rating and remain supported by <u>NSW Smart and Skilled Funding</u>.</p> <p>Questions:</p> <ol style="list-style-type: none"> Given the Australian Early Development Census results about children not developmentally on track upon starting school (from 2009 to 2024), are those qualifications' curriculum fit-for-purpose for the expectations of early childhood educators and teachers, including child safety? Is the definition of "job ready" appropriately calibrated to demonstrate the correct skills required of graduates? Should NSW and federal government funding continue to support training organisations who do not produce early childhood educators and teachers that are fit-for-purpose? 	
02	<p>Page 37, Section 10 – Meaning of actively working towards a qualification</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.10</p>	<p>Despite what the National Regulation states, NSW Authorised Officers do not appear to have a consistent interpretation for the purposes of considering <u>Regulation 126(1)</u> (and arguably <u>Regulation 127</u>).</p> <p>Some NSW Authorised Officers may say this requirement is satisfied if a unit is completed every 3 months. Other NSW Authorised Officers may say a unit every 6 months will suffice. There are potentially other interpretations too.</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		<p>Question:</p> <p>a. What is the definitive interpretation of Section 10 for the purposes of Regulation 126(1)?</p>	
03	<p>Page 53, Section 29 – Condition on service approval – insurance</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.29</p>	<p>Around March/April 2024, ACA NSW appreciates the updating of the NSW Department of Education's Service Approvals Policy to ensure clarity that insurance is required per service against public liability with a minimum cover of \$10,000,000.</p> <p>However, there is anecdotal evidence that services continue to be approved with an insurance policy that does show public liability cover of at least \$10,000,000 but not explicitly for that specific service.</p> <p>Questions:</p> <p>a. How is the NSW Regulatory Authority ensuring that each insurance policy is specifically for that service being approved?</p> <p>b. Given the removal of an upper limit for the number of places for any early childhood education and care service, is the minimum \$10,000,000 cover adequate?</p> <p>c. How is the NSW Regulatory Authority confirming, a year or years after the service approval, that the service continues to have the required minimum \$10,000,000 insurance cover that is not shared with other services?</p> <p>d. Given the child safety concerns, and in the context that since January 2012 there no longer has been an upper limit on the number of places, ACA NSW is concerned that a \$10,000,000 cover per service would benefit children/parents very differently depending on the number of places approved per service (eg a 477-place service (eg</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		SE-40003003) compared to a 4-place service (eg SE-00016939)?	
04	<p>Page 53, Section 31 – Condition on service approval – quality improvement plan</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.31</p>	<p>While ACA NSW appreciates the importance of transparency and access, the NSW Authorised Officers have to date interpreted this requirement to mean that the Quality Improvement Plan must be printed and made available in hardcopy so as to ensure maximum access (eg anticipating the outages of electricity and/or communications services).</p> <p>If maximum access were the measure, then are services at risk of non-compliance if the hardcopy version were not in all possible languages in the catchment? And must the service provide a Braille version if one or more of their parents/community members sight impaired?</p> <p>Moreover, how will services address the supporting environmental responsibility as required by the National Quality Standard, Element 3.2.3 – Environmentally responsible, in particular:</p> <ul style="list-style-type: none"> • “sharing information and supporting children to access resources about the environment and the impact of human activities on environments” • “spaces that promote the development of life skills, such as growing and preparing food, waste reduction and recycling, and children being actively engaged in these experiences” • “the service’s environmental strategy being implemented.” <p>Question:</p> <p>a. Why can't services employ the use of QR codes that are overtly published and accessible in public spaces within their service such that the QR codes point to the always current Quality Improvement Plan of the service and in a multitude of languages, including for the sight-impaired?</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		<p>b. If services must have hardcopies of their Quality Improvement Plan available, can the NSW Regulatory Authority overtly confirm that one copy in English is the minimum requirement for compliance purposes?</p> <p>Please note, Regulation 171 should also be considered in a similar light.</p>	
05	<p>Page 65, Section 55 – Quality Improvement Plans</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.55</p>	<p>Although since January 2012, the National Authority (ACECQA) has published and provided resources for services to produce their Quality Improvement Plans (including an optional Quality Improvement Plan template and training modules), the onus is placed on services to develop its own Quality Improvement Plans (QIP) without leveraging explicit consensus-determined examples of QIP content to achieve the full range of expected children's outcomes, including child safety.</p> <p>Moreover, although nationally leading, the NSW Department of Education has a Continuous Improvement Team since late 2019 that assists NSW-based services to ensure compliance with the National Quality Standards as well as support services in anticipation of their upcoming Assessments and Ratings.</p> <p>However, ACA NSW has anecdotally learned of services who did leverage and appreciate the Continuous Improvement Team but did not get the anticipated results following their Assessment and Ratings.</p> <p>Moreover, the Continuous Improvement Team does not seem to be making any positive results due to the record number of breaches/non-compliances by NSW-based services compared to the rest of Australia combined during FY2019/2020 to FY2023/2024. In fact, the Productivity Commission reported an ever-increasing probability for NSW-based services to receive a breach/non-compliance (ie 325% probability per NSW service for FY2023/2024, up from 303% for FY2022/2023).</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		<p>Question:</p> <ul style="list-style-type: none"> a. When will the NSW Regulatory Authority publish a minimum Quality Improvement Plan alongside a minimum set of default policies and procedures that any service can adopt and comply with to ensure 100% compliance and zero breaches/non-compliances if literally followed? b. When will the NSW Department of Education's Quality Improvement Team provide sufficiently high confidence for the service to achieve the mutually anticipated Quality Ratings following Assessments and Ratings of the service? 	
06	<p>Page 75, Regulation 77 – Health, hygiene and safe food practices</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.77</p>	<p>For the purposes of clarity and consistency with NSW Authorised Officers, as well as to ensure all services to achieve adequate health and hygiene practices and safe practices for handling, preparing and storing food, it has become clear that the NSW Regulatory Authority must produce explicit and performance-based minimum requirements.</p> <p>Question:</p> <ul style="list-style-type: none"> a. When will the NSW Regulatory Authority publish a minimum set of tangible standards to achieve compliance with Regulation 77? b. If the NSW Regulatory Authority is unable to do that, can it explicitly refer to a trusted authority whereby their instructions if followed will ensure compliance with Regulation 77? 	
07	Page 76, Regulation 78 – Food and beverages	While Regulation 78(1) and 78(2) are focused on the Approved Provider and Nominated Supervisor, they are up to two individuals	

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EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
	https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.78	<p>compared to all the early childhood educators and teachers deployed to be working directly with children.</p> <p>Yet, despite the stipulated policies, procedures, training direction given by the Approved Provider and/or the Nominated Supervisor, if any early childhood educator or teacher is deemed to not fulfil the requirements of Regulation 78(1) or 78(2), it is the Approved Provider or the Nominated Supervisor that is subject to a breach/non-compliance or worse, a penalty of \$2,200 for each offence.</p> <p>Question:</p> <ol style="list-style-type: none"> Can Regulation 78(3) be re-worded such that any centre-based educator or teacher, or family daycare educators are obligated to the same expectations? 	
08	<p>Page 77, Regulation 79 – Service providing food and beverages</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.79</p>	<p>For the purposes of clarity and consistency with NSW Authorised Officers, as well as to ensure all services to fulfil the definitions of nutritious and adequate food or beverage, it has become clear that the NSW Regulatory Authority must produce explicit and performance-based minimum requirements.</p> <p>Question:</p> <ol style="list-style-type: none"> When will the NSW Regulatory Authority publish a minimum set of tangible standards to achieve compliance with Regulation 79? If the NSW Regulatory Authority is unable to do that, can it explicitly refer to a trusted authority whereby their instructions if followed will ensure compliance with Regulation 79? 	
09	Page 78, Regulation 80 – Weekly menu	For the purposes of clarity and consistency with NSW Authorised Officers, it has become clear that the NSW Regulatory Authority	

NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
	https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.79	<p>must produce explicit examples and performance-based minimum requirements.</p> <p>Question:</p> <ul style="list-style-type: none"> a. To what level does the NSW Regulatory Authority require services to publish the weekly menus, especially to fulfil Regulation 80(1)(b) and Regulation 80(2)(b)? To what level of granularity does the NSW Authorised Officer expect the service to publish the components of the composition of the food and beverages? b. If the NSW Regulatory Authority is unable to do that, can it explicitly refer to a trusted authority whereby their instructions if followed will ensure compliance with Regulation 80? 	
10	<p>Page 79, Regulation 83 – Staff members and family day care educators not to be affected by alcohol or drugs</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.83</p>	Based on the way Regulation 83(1) and Regulation 83(2) is worded, could there be a loophole whereby centre-based educators and teachers can still be affected by alcohol or drugs, thereby putting children at risk?	
11	<p>Page 80, Regulation 84 – Awareness of child protection law</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.84</p>	<p>In this section of the National Regulation, the terms “awareness” and “advised” appear to be inadequate and lack precision in terms of outcomes.</p> <p>Question:</p> <ul style="list-style-type: none"> a. Is awareness and advice the tests that the NSW Authorised Officers use to determine compliance? b. Can the NSW Regulatory Authority as well as the NSW Children’s Guardian use (de-identified) real examples of 	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
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Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		child safety failures as well as successes as part of compulsory training and resources to reinforce “awareness” and “advice” to those listed in Reg84(2)?	
12	<p>Pages 80-84, Regulations 84A-84D in relation to sleep and rest</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#ch.4-pt.4.2-div</p>	<p>It is commonly accepted and expected that services and the NSW Regulatory Authority refer to the Red Nose organisation for their advice as well as articulation of best practices for safe sleeping.</p> <p>That said, it is unclear if the effectiveness of the following may be contributing toward the record number of breaches/non-compliances as well as child safety issues with respect to safe sleep and rest:</p> <ul style="list-style-type: none"> • qualification training for early childhood educators and teachers (ie Certificate III, Diploma and degree); and • the absence of a published checklist listing a minimum set of performance and outcomes-based requirements of services, educators and teachers. <p>Question:</p> <p>a. Can the NSW Regulatory Authority as well as the NSW Children’s Guardian use (de-identified) real examples of safe sleep and rest failures as well as successes as part of compulsory training and resources to reinforce services’ ability to ensure the fulfilment of Reg84A-84D?</p>	
13	<p>Page 86, Regulation 89 – First aid kits</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.89</p>	<p>There is a general question that first aid training currently may not be fit-for-purpose in the context of all circumstances of children with all early childhood education and care services. And the level of expectation is beginning to be that one or more personnel in each service may need to have a medical background in order for any training to be thorough.</p> <p>Trainers themselves do not appear to need medical training in order to train others.</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		<p>Questions:</p> <ul style="list-style-type: none"> a. Does first aid training need to be childcare specific and not combined with other course codes? b. When a first aid session for HLTAID012 is combined with other first aid for speed and rostering of the training organisation, then the "childcare" specific elements can go missing. What benefit does the educator get when completing a first aid session that is covering other first aid codes, often the last 20 minutes of the session they make you stay back to do the epi-pen and fill in an incident form. Perhaps the training needs to be early childhood specific and not allowed to be combined with other course codes? c. Is 3 years to renew first aid too long? Currently, HLTAID012 is renewed every 12 months along with CPR. Many educators do not use their first aid skills often so they easily forget and then become flustered when an emergency does arise-training more frequently may mean less incidents occur. d. What is the time frame for educators to complete first aid training before they start their employment? e. Should all educators be first aid trained? Currently you just need someone on site at all times who is first aid, asthma and anaphylaxis trained. f. Will NSW Authorised Officers only use Australian Standard AS 2675 to assess compliance against Regulation 89? And if the NSW Authorised Officer need additional standards to assess compliance, when will the NSW Regulatory Authority publish such standards so that 	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
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Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
		services can ensure compliance predictably, especially to ensure all children's safety?	
14	<p>Page 91, Regulation 97 – Emergency and evacuation procedures</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.97</p>	<p>Notwithstanding the NSW Department of Education's alignment with the Australian Standard AS 3745 with respect to evacuation diagrams, there still remains some NSW Authorised Officers who misinterpret Regulation 97(4) to exceed AS3745.</p> <p>Also, services must include lockdown considerations and outcomes as part of its emergency and evacuation. Unfortunately, the term "lockdown" is not featured in the National Regulations.</p> <p>Similarly, other possible emergency scenarios may need to be considered by the service despite them not having had occurred to date.</p> <p>Question:</p> <ol style="list-style-type: none"> Can the NSW Regulatory Authority and the NSW Office of Children's Guardian publish a list that sets out the minimum set of scenarios, performances and outcomes expected of services to ensure regulatory compliance and effective safety of children? 	
15	<p>Page 93, Regulation 99 – Children leaving the education and care service premises</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.99</p>	<p>It is appropriate that there are penalties for non-compliances by the Approved Provider and the Nominated Supervisor.</p> <p>However, given Regulation 99(3), why are penalties absent for centre-based educators who effect non-compliance(s) of Regulation 99, especially despite appropriate training, policies and resources given to educators?</p>	
16	<p>Page 104, Regulation 103 – Premises, furniture and equipment to be safe, clean and in good repair</p>	<p><i>"The approved provider of an education and care service must ensure that the education and care service premises and all equipment and furniture used in providing the education and care service are safe, clean and in good repair."</i></p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
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Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
	https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.103	<p>Is there a published guide or standard so that both the Approved Provider and the NSW Authorised Officer(s) can be in sync in their understanding of what and when “the premises and all equipment and furniture” are deemed to be “safe, clean and in good repair”?</p> <p>Due to its subjectivity, it is ACA NSW’s understanding that there have been instances where the NSW Authorised Officer has issued breaches/non-compliances against services for furniture that are not in good repair (while still being safe and clean) due to:</p> <ul style="list-style-type: none"> • its discolouration (for being exposed to sunlight); • some of its surface/fabric not in perfect condition (due to general use). <p>Question:</p> <p>a. Can the NSW Regulatory Authority publish an official set of examples of what are premises, equipment and furniture that are safe, clean and in good repair, versus what are premises, equipment and furniture that are not safe, clean and in good repair?</p>	
17	<p>Page 105, Regulation 105 – Furniture, materials and equipment</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.105</p>	<p>The intention of Regulation 105 is clear and focussed on the need of each child. However, the term “sufficient” and “appropriate” have been at times of debate with NSW Authorised Officers.</p> <p>Question:</p> <p>a. Can the NSW Regulatory Authority publish an official set of minimum quantities and list developmentally appropriate equipment that are suitable for every corresponding child’s needs?</p>	
18	Page 107, Regulation 109 – Toilet and hygiene facilities	In light of child safety concerns, should Regulation 109 be expanded to address/overcome potential risks?	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
	https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.109		
19	<p>Page 108, Regulation 112 – Nappy change facilities</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.112</p>	<p>In light of child safety concerns, should Regulation 112 be expanded to address/overcome potential risks?</p>	
20	<p>Page 144, Regulation 157 – Access for parents</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.157</p>	<p>In light of child safety concerns, services' personnel are required to have Working With Children Checks and other child safe related expectations.</p> <p>However, families and the communities currently do not have any legal obligation to advise child safety risks that they might present.</p> <p>Can Part 4.6 be reviewed from that perspective in order to anticipate and avoid all such risks appropriately?</p> <p>NOTE: Regulations 163-164 may also need to be similarly reviewed.</p>	
21	<p>Page 152, Regulation 167 – Record of service's compliance</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.167</p>	<p>Following the recent child safety incidences, it has become clear that Approved Providers do not have access to <u>all</u> records of their service(s)' compliance, especially with respect to Regulation 167(1)(c).</p> <p>Currently, all Approved Providers access the National Quality Agenda Information Technology Service (NQAITS) to view their compliance history. However, not only are the compliance records incomplete, there is no access with respect to the NSW Department of Education's risk-based approach.</p> <p>When can Approved Providers be given full access to both sets of information? And is amendment to Regulation 167 required?</p>	

**NON-EXHAUSTIVE LIST OF QUESTIONS IN RELATION TO THE NSW REGULATORY AUTHORITY'S IMPLEMENTATION OF THE
EDUCATION AND CARE SERVICES NATIONAL REGULATIONS 2011**

Q#	National Regulation Reference	Question(s)/Concern(s)	Suggestion(s) (if any)
22	<p>Pages 153-155, Regulation 168 – Education and care service must have policies and procedures</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.168</p>	In light of publicly highlighted failures, perhaps it is now time for the NSW Regulatory Authority to publish a full set of templates of policies and procedures to satisfy Regulation 168 and achieve compliance with all NSW Authorised Officers.	
23	<p>Page 171, Regulation 187 – Prescribed form of identity card</p> <p>https://legislation.nsw.gov.au/view/whole/html/inforce/current/sl-2011-0653#sec.187</p>	In light of child safety incidences, it may be appropriate for an example of what the NSW Authorised Officer's identity card looks like, and an online system to confirm the validity of the identity card.	



Submission to the NSW Parliamentary Inquiry: Early Childhood Education & Care in New South Wales

#BestStartInLife

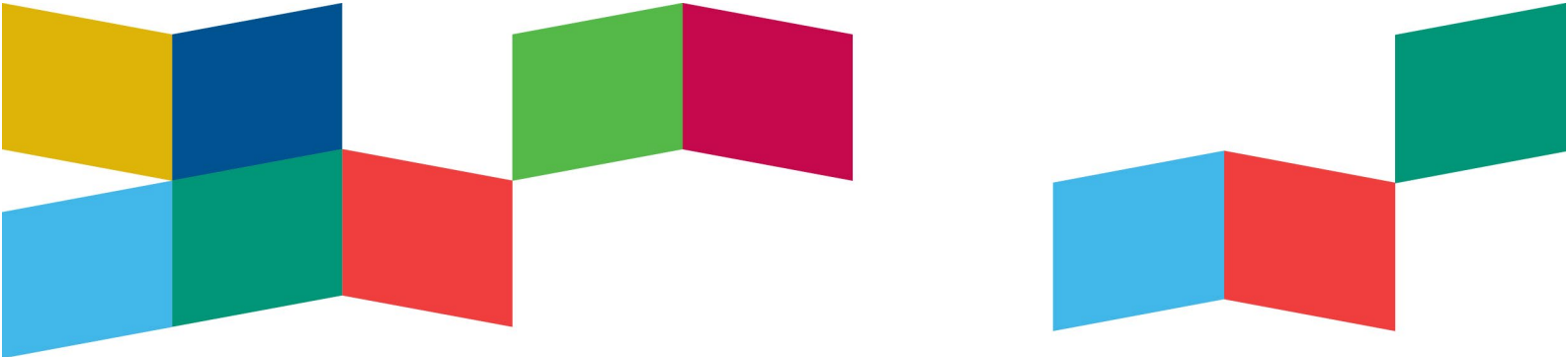
14 June
2025





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Foreword

For over 50 years, the Australian Childcare Alliance (ACA) NSW is the largest not-for-profit industry association representing over 1,600 predominantly privately-owned early childhood education and care services that educate and care for about 55% of all enrolled children in New South Wales.

While acknowledging that the major funding for early childhood education and care services is through the Federal Government's Child Care Subsidies¹, the implementation of the National Quality Framework², the National Law³ and National Regulations⁴ in NSW since January 2012 and other funding arrangements remain the primary responsibilities of the NSW Government.

Notwithstanding now over 13 years of the existing regulatory and financial framework, the NSW early childhood education and care sector has not been able to overtly illustrate the profession's benefits of "*roughly \$8.60 for every \$1 spent*"⁵ nor even the Australian estimates of "*approximately \$2 of benefits for every \$1 spent*"⁶ and NSW Health's "*\$13 for every \$1*"⁷. Hence, to ensure the continuation of the public's trust, public investments and actions of the NSW Government must ultimately and overtly demonstrate dividends through children's outcomes alongside workforce participation and sector sustainability.

Since 2012, all early childhood education and care services are periodically assessed and rated against the National Quality Standards, and for each service their Overall Quality Rating is published. As of 31 March 2025, the Australian Children's Education & Care Quality Authority (ACECQA) as the national regulator reported⁸ that 91% of services were rated Meeting the Quality Standards or higher. At a state/territory level, 92.6% of NSW services versus 90.2% of non-NSW services were rated Meeting the National Quality Standards or higher.

With such apparently high Quality Ratings, it therefore is extremely perplexing that NSW has the highest and record number of breaches/non-compliances for the last 5 consecutive financial years. So large are these numbers that NSW's breaches/non-compliances were higher than the rest of Australia combined.

¹ [Child Care Subsidies](#) were introduced by the Federal Government in July 2018.

² Australia's [National Quality Framework](#) is administered by the National Authority, the Australian Children's Education & Care Authority (ACECQA).

³ The National Law achieves legislative effect via the NSW Parliament's [Children \(Education and Care Services\) National Law Act 2010](#)

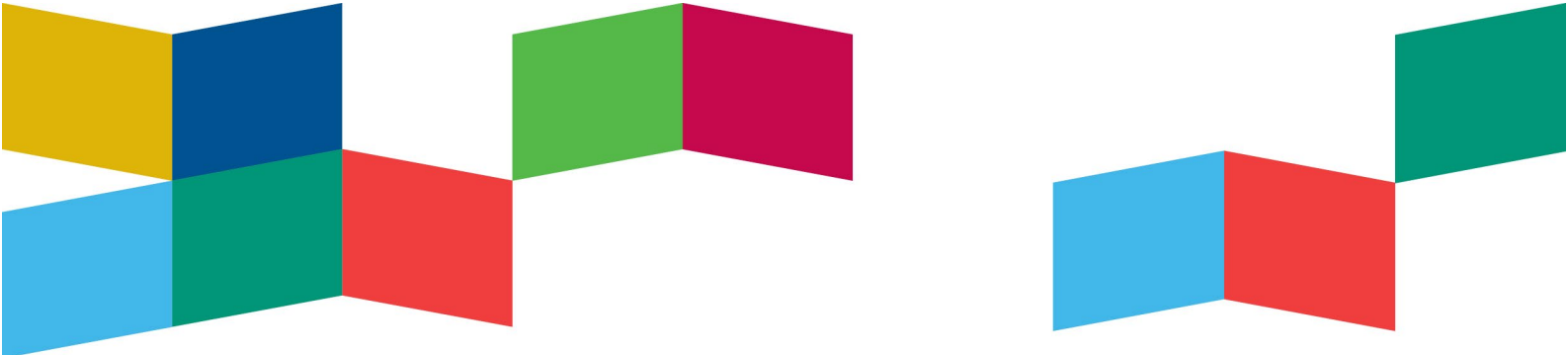
⁴ The National Regulations is the subordinate legislative instrument of the National Law via the NSW Parliament's [Education and Care National Regulations 2011](#).

⁵ "[The Economics of Early Childhood Investments](#)" by Nobel Prize winner Professor James J Heckman (January 2015)

⁶ "[A Smart Investment for a Smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia](#)" by The Front Project (June 2019)

⁷ "[Acting early: The economic case for early intervention](#)", by NSW Health (April 2021)

⁸ [National Quality Framework Snapshot for Q1 2025](#), by ACECQA (May 2025)



And notwithstanding arguably more than ample legislated powers available to all regulatory authorities, there appears to be extremely low enforcement actions and decisions made relative to the significantly high numbers of breaches/non-compliances.

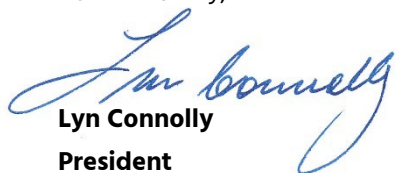
Also surprisingly, the NSW Department of Education⁹ and the then new Federal Minister for Education¹⁰ publicly shared their concerns that 40%-45% of children were not developmentally on track upon starting school despite the very high compliance with the National Quality Standards.

Similar lack of advancement of children's outcomes concerns are also through the limited successes of the *First Steps (the NSW Aboriginal Children's ECE Strategy)*¹¹ and the still yet to be determined, tools and consensus on preschool outcomes measures¹².

Consequently over time, NSW early childhood educators, teachers and service providers became increasingly frustrated and losing faith due to their interactions with, the workload of the regulatory response and the apparent lack of significant positive children's outcomes. The confidence of NSW's early childhood education and care sector was also further eroded by persistently low use of their Transition to School Statements¹³ by primary school.

ACA NSW has never wavered from the promises of the potential of early childhood education and care. And we continue to be committed to ensuring that **every child in New South Wales** has access to high quality, affordable, sustainable and effective early learning services, and therefore the **best start in life**. That said, this submission highlights a range of issues and challenges as well as solutions for the NSW Parliament's consideration.

Yours sincerely,



Lyn Connolly
President



Australian Childcare Alliance (ACA) NSW

⁹ A [slide from a public presentation](#) by the NSW Department of Education (12 September 2022)

¹⁰ [Speech](#) by the Federal Minister for Education, the Hon Jason Clare MP, at the Early Childhood Australia National Conference (6 October 2022)

¹¹ [First Steps \(the NSW Aboriginal Children's ECE Strategy\) 2021-2025](#)

¹² [Preschool Outcomes Measure, NSW Department of Education](#)

¹³ [How are Transition to School Statements performing at NSW schools?](#) (7 April 2025)



About ACA NSW's Submission

Our submission to the *NSW Parliamentary Committee #3 – Education* for its *Inquiry into Early Childhood Education and Care in NSW* has been assembled as follows:

■ Part A: Strategic Questions

- A.1 Are we realising the promises of early childhood education and care (ECEC)?
- A.2 Are NSW's Aboriginal children benefiting from ECEC?
- A.3 Are 100+50 new/upgraded preschools on school grounds benefiting all children?
- A.4 Are NSW's Health & Development Checks working?
- A.5 Are NSW's Quality Ratings reliable?
- A.6 Are NSW's Regulatory Practices working?

■ Part B: Immediate Issues

- B.1 Are our children safe and protected?
- B.2 Does NSW have a sustainable supply of skilled labour?
- B.3 Is NSW's ECEC Requirements fit-for-purpose?

■ Part C: Complementary Issues for consideration

- C.1 Does NSW have effective planning for the supply of ECEC?
- C.2 Are NSW's ECEC services ready for the digital risks and challenges?
- C.3 Is NSW Payroll Taxes fair for NSW tax-paying ECEC services?



A.1 Are we realising the promises of early childhood education and care?

Throughout time, the benefits of early childhood education and care have been instinctively valued by all parents and families. And since January 2012, all Australian governments professionalised early childhood education and care through the implementation of the National Quality Framework, the National Law and National Regulations.

It is worth highlighting two universally accepted measures of the potential dividends of early childhood education and care in economic terms that encompass children's outcomes and workplace participation:

- United States' Nobel Prize winner Professor James J Heckman (published January 2015):

*"In total, the existing research suggests expanding early learning initiatives would provide benefits to society of roughly \$8.60 for every \$1 spent, about half of which comes from increased earnings for children when they grow up."*¹⁴

- Australia's The Front Project (with assistance from PriceWaterhouseCoopers) (published June 2019):

*"Overall, the study has identified approximately \$2 of benefits for every \$1 spent on early childhood education."*¹⁵

It is worth noting that the NSW Government published a far more encouraging return on early childhood investment of "\$13 for every \$1"¹⁶ as part of its *Brighter Beginnings: The First 2000 Days of Life* initiative.

Yet, after 13 years, no Australian government can consistently measure nor present its public investments against such yardsticks in terms of children's outcomes as dividends.

An illustration of this is the noticeable observation that early childhood education and care is generally siloed and not structurally leveraged by schools in order to further their successes and/or outcomes of their students.

¹⁴ ["The Economics of Early Childhood Investments"](#) by Nobel Prize winner Professor James J Heckman (January 2015)

¹⁵ ["A Smart Investment for a Smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia"](#) by The Front Project (June 2019)

¹⁶ ["Acting early: The economic case for early intervention"](#), by NSW Health (April 2021)

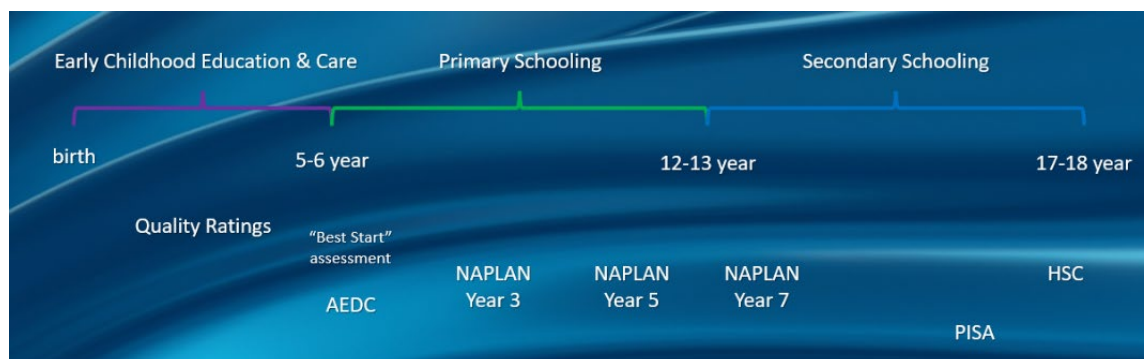


Figure A.1(a) – Departments of Education’s measures of success and/or outcomes from birth to 18 years old

An example of such disconnections was when, after then 10 years of the National Quality Framework, the National Law and National Regulations, the following unintentional remarks were made:

- The NSW Department of Education (on 12 September 2022):

“2 out of 5 children are not developmentally on track upon starting school”¹⁷

- The Federal Minister for Education, the Hon Jason Clare MP (6 October 2022):

“Last year, 55 percent of four and five year olds were assessed as developmentally ready to start school.”¹⁸

It was explained that such statements were based on the Australian Early Development Census (AEDC)¹⁹ which is not harmonised with the National Quality Framework, the National Law nor the National Regulations.

Yet, such public statements sit uncomfortably with the national authority (the Australian Children’s Education & Care Authority (ACECQA)) who published the following corresponding:

- their NQF Snapshot (Q4 2022):

“89% of services with a quality rating of Meeting National Quality Standards or above”²⁰

- their NQF Snapshot (Q4 2021):

“87% of services with a quality rating of Meeting National Quality Standards or above”²¹

As such, early childhood education and care persists to be broadly deemed as predominantly childcare and a public policy to address workplace participation for parents.

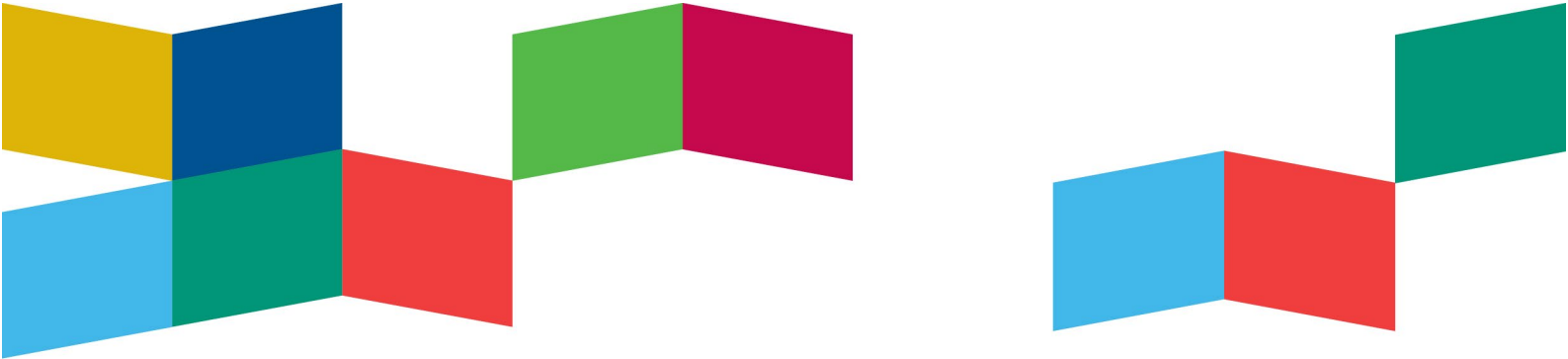
¹⁷ A [Slide from a public presentation](#) by the NSW Department of Education (12 September 2022)

¹⁸ [Speech](#) by the Federal Minister for Education, the Hon Jason Clare MP, at the Early Childhood Australia National Conference (6 October 2022)

¹⁹ Reference to the [Australian Early Development Census \(AEDC\)](#) (circa 2021)

²⁰ ACECQA’s [NQF Snapshot Q4 2022](#) (February 2023)

²¹ ACECQA’s [NQF Snapshot Q4 2021](#) (February 2022)



Such views can contribute risks toward the generation of adequate supply and professional effectiveness of skilled early childhood educators and teachers, as well as achieving the maximum possible children's outcomes as originally promised by the early childhood education and care profession.

Notwithstanding, it is encouraging that the Federal Government established a preschool Expert Advisory Group²² in 2021 with a report due by 2022. All Australian governments have since agreed to design a set of preschool outcomes measures²³ to be trialled across all jurisdictions during 2025, with consensus on what the preschool children's outcomes should be and how to measure them still to be determined.

Similarly, the NSW Government implemented its \$376.5m Brighter Beginnings initiative over four years as announced in its NSW Budget 2022. This initiative included two aspects that should be harmonised with the early childhood education and care sector's focus on children's outcomes:

- \$111.2m - introducing health and developmental checks (for children in their year before school)
- \$57.2m - developing the Digital Baby Book (ie an electronic version to the hardcopy NSW Blue Book)

RECOMMENDATION A.1-01: NEW TASKFORCE TO ESTABLISH PUBLIC DASHBOARD AND DATA PORTAL OF NSW CHILDREN'S OUTCOMES FROM BIRTH TO 18 YEARS OLD

- That the NSW Government establishes a taskforce that will develop a NSW set of empirical measures and data availabilities of children's outcomes as they develop from birth to 18 years old.
- That the NSW set of measures of children's outcomes must include health, development, transition to school statements and educational outcomes.
- That such NSW measures be appropriately presented via an appropriately accessible and designed public dashboard and data portal for the benefit of parents and use by the full spectrum of NSW's education sector.

RECOMMENDATION A.1-02: NSW CENTRES OF EXCELLENCE OF ECEC

- That the NSW Government annually publishes a set of ECEC services that overtly demonstrates the long-lasting benefits of early childhood education and care (as demonstrated by their respective children in terms of their children's outcomes), so that other ECEC services can learn from and emulate.

²² ["New Expert Advisory Group to focus preschool outcomes launched"](#), The Sector (September 2021)

²³ [Preschool Outcomes Measure](#), Federal Department of Education



A.2 Are NSW's Aboriginal children benefiting from ECEC?

The NSW Department of Education's vision is that all Aboriginal children in NSW can access quality early childhood education and care (ECEC) and are supported to embrace their culture and identity for a strong start to lifelong learning. Hence, its *First Steps – the NSW Aboriginal Children's Early Childhood Education Strategy 2021-2025*²⁴.

Unfortunately, one of its primary objectives of “55% of Aboriginal children will be assessed as developmentally on track in all 5 domains of the Australian Early Development Census by 2031” is unlikely to be fulfilled because:

- in 2021²⁵, 34.3% of Aboriginal and Torres Strait Islander children commencing school nationally were assessed as being developmentally on track in all five AEDC domains; and
- this is a decrease from 35.2% in 2018.

Despite the promises of the multiplier effect of early childhood education and care by Professor Heckman⁷ and NSW Health⁹, the trajectory of outcomes for Aboriginal children from birth to 5 years old require an immediate review, including if the AEDC measures remain appropriate and how the existing early childhood education and care framework, practices and support may be deficient.

And rather than relying on the AEDC data that is conducted every 3 years, an annual assessment of outcomes for Aboriginal children may be more urgently warranted.

Moreover, all NSW-based ECEC services are obliged to comply with the NQF, the National Law and National Regulations. There therefore is a concern that they are not appropriately harmonised with the objectives of the First Steps Strategy for Aboriginal Children. Without proper alignment, there is a great risk that the full benefits of early childhood education and care may not be realised for Aboriginal children.

It should be noted that the most up-to-date AEDC data was released on 12 June 2025²⁶ and is yet to be fully analysed.

²⁴ [“First Steps – the NSW Aboriginal Children's Early Childhood Education Strategy 2021-2025”](#), NSW Department of Education

²⁵ [Closing the Gap](#), information repository, Productivity Commission

²⁶ [Australian Early Development Census \(AEDC\) 2024 National Report](#)



RECOMMENDATION A.2-01: BETTER AND MEASUREABLE OUTCOMES FOR ABORIGINAL CHILDREN

- That the NSW Government conducts a multi-agency (including the NSW Department of Education, NSW Health, NSW Department of Communities and Justice) review to assess the effectiveness of the *First Steps Strategy for Aboriginal Children* in response to the AEDC data as well as the National Quality Framework, the National Law and National Regulations for the benefit of Aboriginal children.

A.3 Are 100+50 new/upgraded preschools on school grounds benefiting all children?

Prior to the NSW State Election on 25 March 2023, the then NSW Labor Opposition announced that it would build 100 new preschools on school grounds by 2027 (valued at \$769.3m).

Clarification²⁷ was also received in June 2022 from then NSW Shadow Minister for Education and Early Childhood Learning (now the NSW Deputy Premier the Hon Prue Car MP), that stated:

“Recognising oversupply currently exists in a number of areas, co-located preschool under this plan will be targeted to areas with identified genuine need of additional preschool places.”

Such reassurance to avoid oversupply was also provided via a video discussion²⁸ with then NSW Shadow Minister Prue Car MP on 9 March 2023.

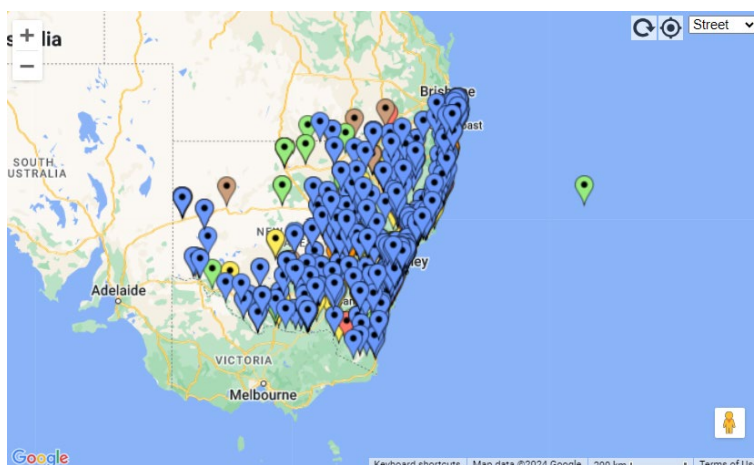
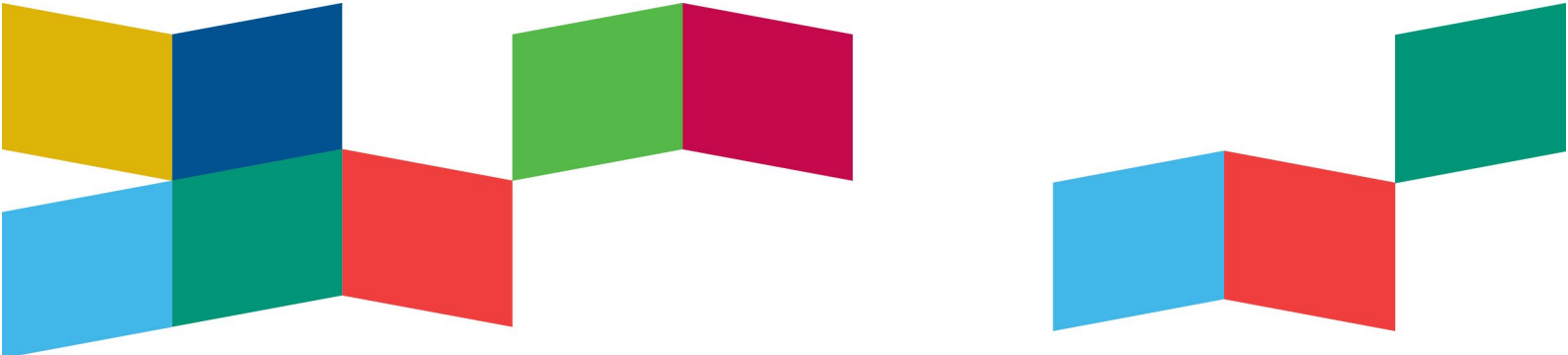


Figure A3.1(a) – Interactive map²⁹ of sites of proposed 100 preschools alongside existing preschool and long daycare services with preschool programs, as well as proposed new non-government preschools and long daycare services with preschool programs

²⁷ [Clarification of preschool availability in NSW](#), Prue Car MP (24 June 2022)

²⁸ [Video discussion with NSW Shadow Minister Prue Car](#) (9 March 2023)

²⁹ [Interactive map](#) available as published by ACA NSW (20 February 2024)

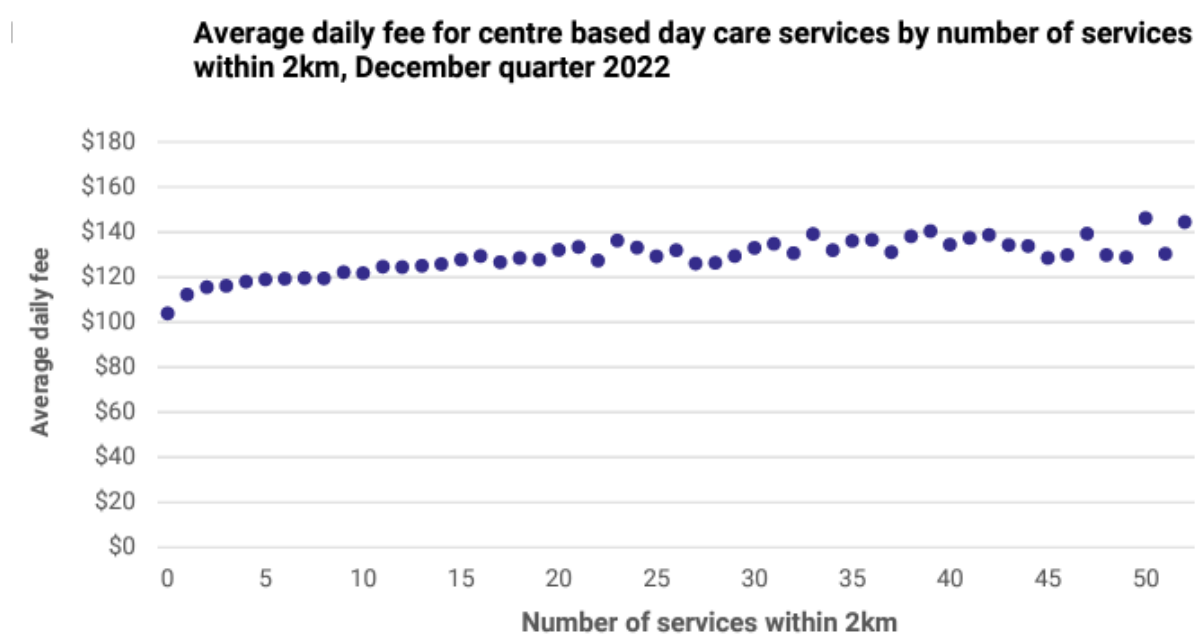


Excessive and unnecessary competition and oversupply have been the subject of significant concerns since 2017, especially since the introduction of the NSW *State Environmental Planning Policy (Educational Establishments and Child Care Facilities)*³⁰ (now known as the *State Environmental Planning Policy (Transport and Infrastructure) 2021*³¹).

The negative consequences are experienced as:

- loss of places (especially for children birth to 2 years old) offered due to loss of early childhood educators³² and teachers³³ due to their respective rigid educator:children and teacher:children ratios; and
- consequential increases in fees to parents.

It should be noted that in 2023, the ACCC confirmed that oversupply of services tends to increase the average fees to parents by up to 40% or more.



Source: ACCC analysis of Department of Education administrative data.

Figure A3.1(b) – [ACCC Childcare Inquiry Interim Report](#) (June 2023)

³⁰ [NSW State Environmental Planning Policy \(Educational Establishments and Child Care Facilities\)](#) (introduced in September 2017)

³¹ [State Environmental Planning Policy \(Transport and Infrastructure\)](#) (introduced in 2021)

³² [Regulation 123 Educator to child ratios – centre-based services](#), NSW Regulations

³³ [Regulation 272 Early childhood teachers – children preschool age or under](#), NSW Regulations

Moreover, the Assessment Panel Decision Making Framework³⁴ used to determine the sites of the proposed 100 preschools appears to be structured such that existing and planned supply can have a structurally skewed and maximum weighting of 9.375% of the full criteria.

Criteria	Weighting	Sub-Criteria	Weighting
Educational Needs	62.5%	Socio-economic Disadvantage (30% of 62.5%)	18.75%
		Developmental Vulnerability (30% of 62.5%)	18.75%
		Access (40% of 62.5%)	25.00%
Community Impact	37.5%	Existing/planned supply (25% of 37.5%)	9.375%
		Existing/planned funded services (25% of 37.5%)	9.375%
		Existing/planned co-located preschools (25% of 37.5%)	9.375%
		Existing/planned Aboriginal/Torres Strait services (25% of 37.5%)	9.375%
TOTAL	100%		100%

Figure A3.1(c) – Summary of weightings within the Assessment Panel Decision Making Framework (NSW Department of Education)

It is also important to contrast the NSW Department of Education's 100 chosen sites for new/upgraded preschools with the NSW Independent Pricing and Regulatory Tribunal (IPART)'s recommendations³⁵ for sites for new early childhood education and care services to address undersupply.



Table 5.3 Most undersupplied areas in Greater Sydney, for population aged 0-5, by SA2 – lower demand estimate

Nr	SA2 Name	Remoteness	CALD	Indig	Disab	SEIFA	Places ^a
1	Warwick Farm	Major Cities	43%	2%	8%	1	47
2	Regents Park	Major Cities	63%	0%	5%	3	77
3	Lakemba	Major Cities	51%	1%	5%	1	364
4	Berala	Major Cities	63%	0%	5%	3	89
5	Liverpool - West	Major Cities	43%	2%	8%	1	608
6	Prospect Reservoir	Major Cities	32%	9%	9%	-	199
7	Wiley Park	Major Cities	51%	1%	5%	2	174
8	Chullora	Major Cities	47%	1%	6%	8	63
9	Bidwill - Hebersham - Emerton	Major Cities	32%	9%	9%	1	260
10	Lurnea - Cartwright	Major Cities	43%	2%	8%	1	296
11	Edensor Park	Major Cities	56%	1%	7%	3	195
12	Fairfield - West	Major Cities	56%	1%	7%	1	215
13	Fairfield - East	Major Cities	48%	1%	7%	1	335
14	Auburn - South	Major Cities	63%	0%	5%	3	354
15	Merrylands - Holroyd	Major Cities	48%	1%	7%	3	930

a. This is the current number of ECEC places for 0-5-year-olds in the SA2 at July 2023, based on NSW Department of Education QARS data. Note: 'CALD' refers to children from culturally and linguistically diverse backgrounds, 'Indig' refers to Aboriginal and Torres Strait Islander children and 'Disab' refers to children with disability/additional needs.

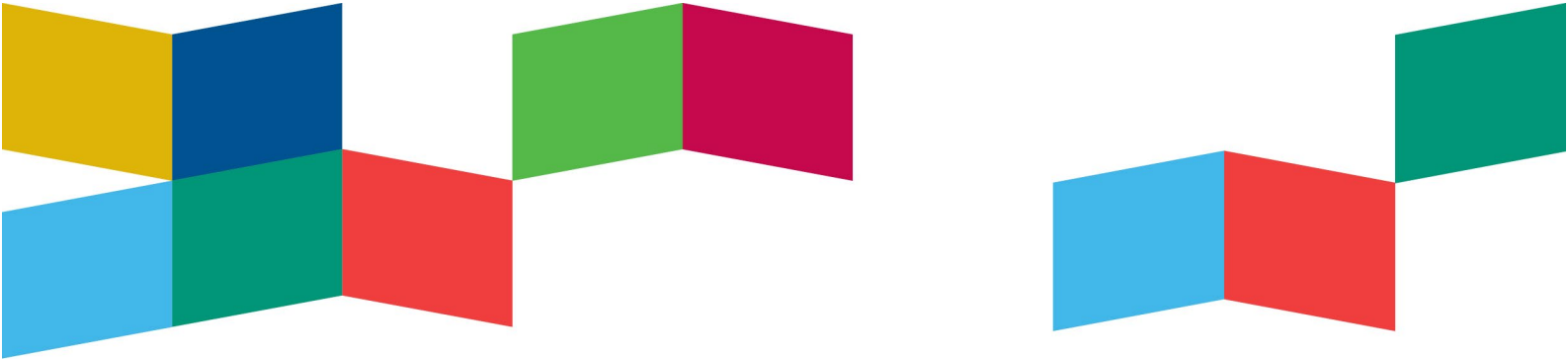
Source: Cth Department of Education CCS data, 2022 Community Preschool and NSW Government preschool censuses, NSW Department of Education QARS, July 2023, NSW Department of Planning and Environment Population Projections, ABS Census 2021, ABS, Disability, Ageing and Carers, Australia: Summary of Findings, 2018, and IPART analysis.

Figure A3.1(d) – IPART Report to the NSW Minister on sites for ECEC services to address undersupply

Although recognising that both may not bear the exact same objectives, it is worth contrasting the two sets of site selections on the basis that the 100 sites for new/upgraded preschools were selected without an adequate assessment component to measure educational deficit through existing services as part of the overall criteria (in addition to

³⁴ [Assessment Panel Decision Making Framework](#), NSW Department of Education (2023/2024)

³⁵ [NSW IPART Report to the Minister](#) (December 2023)



appropriate weighting on existing services). In other words, the IPART's approach may be more effective with addressing undersupply than the decisions made in relation to the 100 sites for preschools on school grounds.

As such, some of the 100 sites chosen by the NSW Government for their new public preschools on school grounds are projected to cause oversupply of services in their catchments.

Where the NSW Government has chosen sites to insert their new public preschools on school grounds and thus causing oversupply, it can only be concluded that the NSW Government is circumspect of the Quality Ratings and children's outcomes of the existing services, and has accepted the AEDC data results and/or feedback from the local school principal(s).

As best as can be determined, it is surprising that there has not been any attempts nor planned attempts by the NSW Department of Education to address the apparent deficiencies that produce the poor AEDC data results and/or opinions of the local school principal(s) in those particular catchments.

Moreover, without such remedial efforts, such poor children's outcomes may also be experienced in other clusters of existing early childhood education and care services. Hence, notwithstanding the Quality Ratings of the cluster(s) of services, are current and future children at risk of not receiving quality early childhood education and care? And will the NSW Government consider additional new public preschools on school grounds in order to compensate for what may be deficiencies by those cluster(s) of early childhood education and care services?

RECOMMENDATION A.3-01: URGENT NEED TO CLARIFY NSW GOVERNMENT'S STRATEGY TO ADDRESS TRUE UNDERSUPPLY OF EARLY CHILDHOOD EDUCATION AND CARE SERVICES

- That the NSW Government overtly articulates how ECEC services are to be measured to demonstrate if existing services are successfully producing the children's educational and developmental outcomes the NSW Government will accept instead of intervening to address undersupply of quality and effective services.
- That, in maximising government interventions to address undersupply, the NSW Government prioritises a group(s) of children who tend not to be adequately supported otherwise (including vulnerable children, children at risk, children with developmental needs, and non-Australian citizens (for example children of refugees)).
- That in anticipation of the use of taxpayer funds to exercise government intervention to address undersupply, the NSW Government expands its assessment criteria on the consideration of service settings (ie creating new centre-based infrastructure versus leveraging existing family daycare infrastructure).
- That the NSW Government abandons the NSW Department of Education's Assessment Panel Decision Making Framework, and task the NSW IPART to develop a new model for identifying and prioritising new preschools on school grounds based on demonstrable need, while avoiding oversupply.

Please note that Recommendation A.3-01 should also be considered in conjunction with Part C.1 Planning for ECEC.



A.4 Are NSW's Health and Development Checks working?

First announced on 21 June 2022, the NSW Government introduced its \$376.5m Brighter Beginnings³⁶ initiative beginning 1 July 2023. This initiative includes \$111.2m for a trial of free health and developmental checks for children in the year before school.

Conducted on the premises of early childhood education and care services, health professionals across all 15 NSW local health districts will check children's health and development such as:

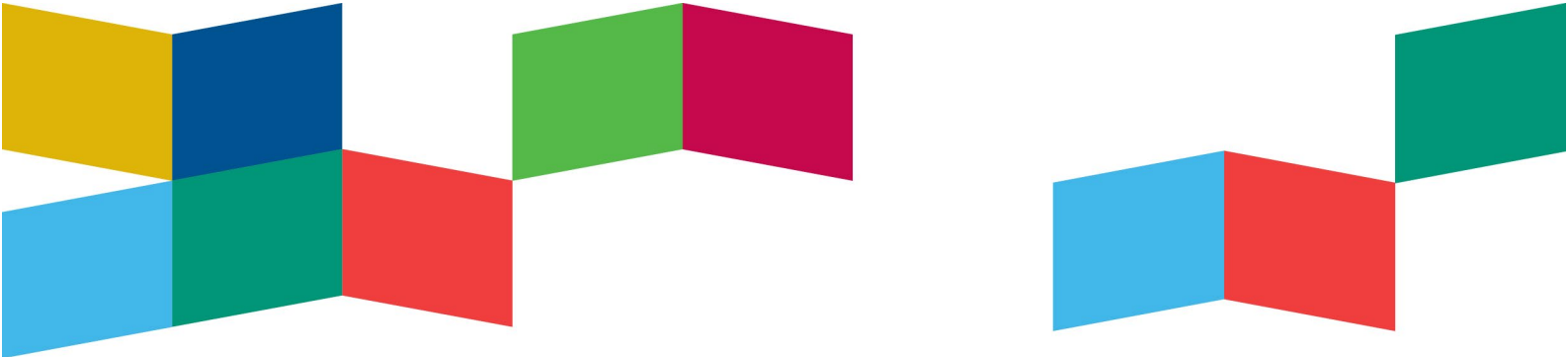
- their listening and talking skills;
- their social skills and behaviour;
- their gross and fine motor skills;
- their learning, thinking and problem-solving skills; and
- how their bodies are growing, such as their height, weight, and teeth.

This is an initiative that ACA NSW wholeheartedly supports as NSW President Lyn Connolly had been agitating for well over 30 years for all children (albeit the trial is currently only focussed on children in the year before school).

Meaningful opportunities therefore emerge for the benefit for all children (not just those in their year before school) at existing and new ECEC services using specific and/or aggregated health and development data at the local health district level:

- advice and assistance to parents for particular children or cohort of children in the particular local health district(s) can be deployed;
- additional support can be deployed in a more timely manner to particular children or cohort of children in the particular local health district(s); and
- more effective service deliveries at ECEC services can achieve greater alignment between Quality Ratings and the eventual AEDC data.

³⁶ Brighter Beginnings announced in the [NSW Budget 2022-2023](#) (21 June 2022)



The evolution and expansion of NSW's health and development checks are necessary to significantly achieve the promises of early childhood education and care investments as articulated by Professor James J Heckman³⁷ (estimation of an 8.6x multiplier) as well as NSW Health³⁸ (estimation of a 13x multiplier).

The Brighter Beginnings initiative also included:

- \$70.9m - expanding Sustaining NSW Families; and
- \$57.2m - developing the Digital Baby Book (ie an electronic version to the hardcopy NSW Blue Book)

It would therefore benefit NSW children and their parents greatly when the (expanded) data generated through health and development checks can be directly shared with parents and their support network (eg their General Practitioners). Such aggregated data kept by parents for their children can then be better synchronised with the resourcing of every NSW local health district so that health and development of children are harmonised with the promises of early childhood education and care.

RECOMMENDATION A.4-01: MAXIMISING CHILDREN'S HEALTH & DEVELOPMENT CHECKS

- That the NSW Government plan to extend the current health and development checks of children to include all children from birth to 5 years old as soon as possible, and that such expansion be harmonised with existing health infrastructure for children and families.
- That the NSW Government should examine if the current children's health and development checks are in harmony with services' children's outcomes resulting from their *Quality Ratings 2 – Children's Health and Safety*, even though both have different objectives yet potentially common children's outcomes.
- That the NSW Government develop a data enabling infrastructure (including the expansion of the electronic version of the NSW Blue Book) for the benefit of children, parents, health services and early childhood education and care services.

³⁷ "[The Economics of Early Childhood Investments](#)" by Nobel Prize winner Professor James J Heckman (January 2015)

³⁸ "[Acting early: The economic case for early intervention](#)", by NSW Health (April 2021)

A.6 Are NSW's Quality Ratings reliable?

The Quality Ratings³⁹ of every early childhood education and care (ECEC) services was originally designed:

- to oblige every ECEC service to comply with or exceed the National Quality Standards (NQS)⁴⁰; and
- to ensure every ECEC service is assessed in a timely fashion so as to convey the level of quality to parents.

The overwhelming majority of early childhood education and care services have been rated by their local Regulatory Authorities (eg the NSW Department of Education) as Meeting the National Quality Standards or higher for many years now. In fact, 91%⁴¹ of services are now rated Meeting or higher. (NOTE: The percentage for NSW is 87% for the corresponding period.)

However, for the last 7 years, more services previously rated as Exceeding the NQS have instead been re-rated as Meeting the NQS. Such recalibration has been more obvious since the National Quality Framework was updated in 2018.

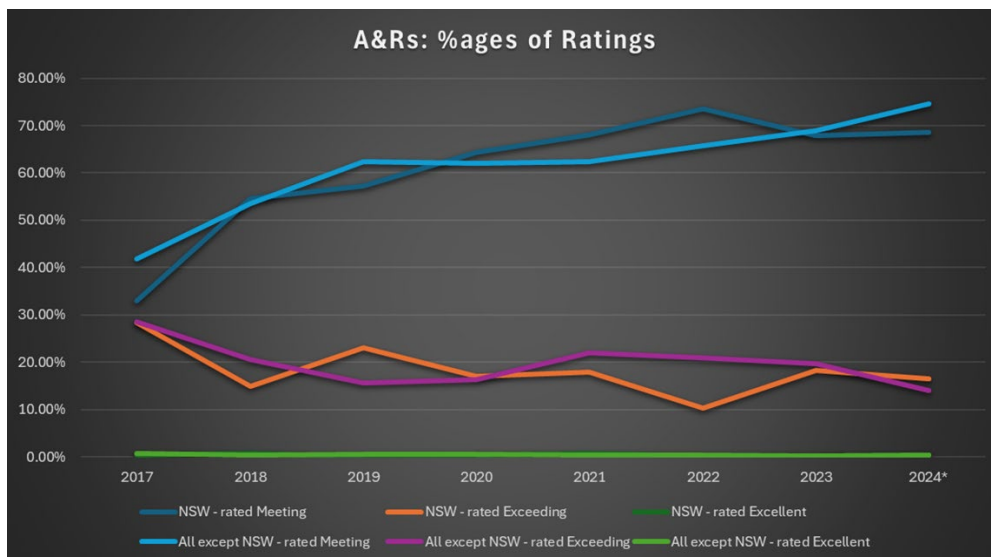


Figure A6.1(a) – SOURCE: Australian Children's Education and Quality Authority's National Registers⁴²

³⁹ About [Quality Ratings](#), by the Australian Children's Education and Quality Authority (ACECQA)

⁴⁰ About the [National Quality Standards](#), by ACECQA

⁴¹ [NQF Snapshot Q3 2024](#), by ACECQA (November 2024)

⁴² [National Registers](#) of ACECQA

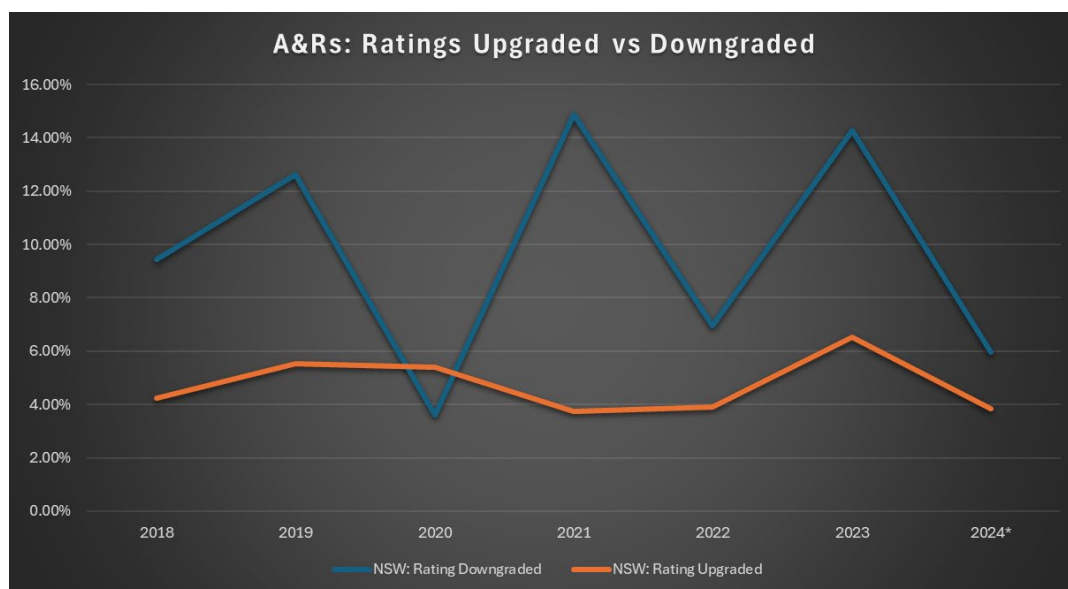


Figure A6.1(b) – SOURCE: Australian Children’s Education and Quality Authority’s National Registers⁴¹

Total Number of Services	2017	2018	2019	2020	2021	2022	2023	2024
NSW	5,361	5,444	5,492	5,600	5,722	5,854	5,948	5,946
NSW - rated Meeting	2,222	2,399	2,571	2,964	3,359	3,650	3,907	4,096
NSW - rated Exceeding	1,538	1,455	1,309	1,405	1,286	1,261	1,143	1,114
NSW - rated Excellent	13	16	14	16	15	16	12	10
% of services based on their Quality Ratings	2017	2018	2019	2020	2021	2022	2023	2024
NSW - rated Meeting	41.45%	44.07%	46.81%	52.93%	58.70%	62.35%	65.69%	68.89%
NSW - rated Exceeding	28.69%	26.73%	23.83%	25.09%	22.47%	21.54%	19.22%	18.74%
NSW - rated Excellent	0.24%	0.29%	0.25%	0.29%	0.26%	0.27%	0.20%	0.17%
% of services Meeting the NQS or higher	70.38%	71.09%	70.90%	78.30%	81.44%	84.16%	85.10%	87.79%
ACECQA NQF SNAPSHOTS (NATIONALLY)	2017	2018	2019	2020	2021	2022	2023	2024
% of services Meeting the NQS or higher	77%	79%	80%	84%	87%	89%	90%	Not Yet Published

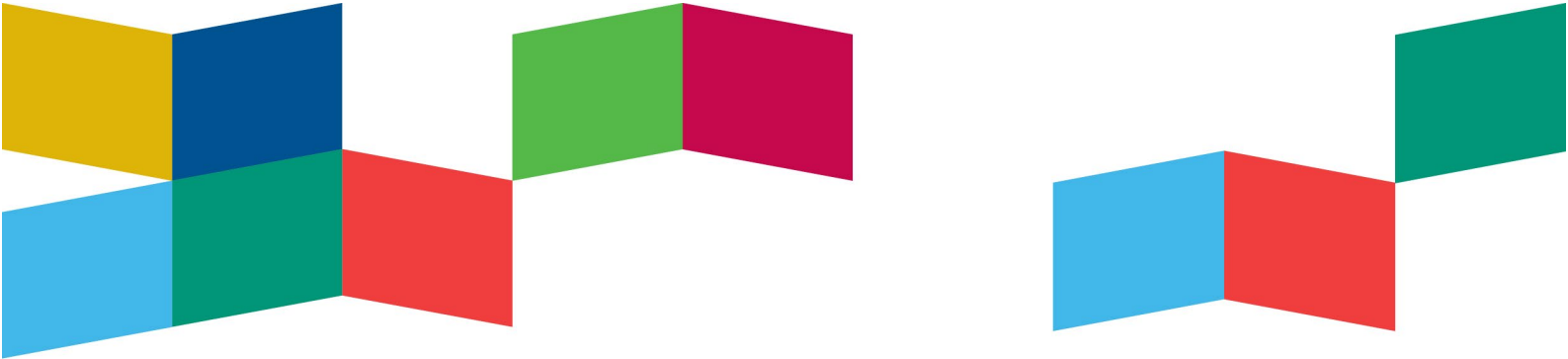
Table A6.1(c) – SOURCE: Australian Children’s Education and Quality Authority’s National Registers⁴¹

Please note that NSW also consistently underperforms compared to the nation as a whole (as illustrated by the comparison of services Meeting the NQS or higher as published by ACECQA’s NQF Snapshots⁴³.

And it is worth noting also that ACECQA announced in its NQF Snapshot Q3 2024 that “91% of services meet or exceed the National Quality Standard for the first time⁴⁴”. If calculated without NSW, that percentage would be higher than NSW.

⁴³ [NQF Snapshots](#), by the Australian Children’s Education and Care Quality Authority (ACECQA)

⁴⁴ [NQF Snapshot Q3 2024](#), by ACECQA



Interestingly, since the National Quality Framework was “streamlined” beginning in 2018, there appears to be a structural skew towards downgrading of NSW services’ Quality Ratings⁴⁵ when they are already Meeting the National Quality Standards or higher:

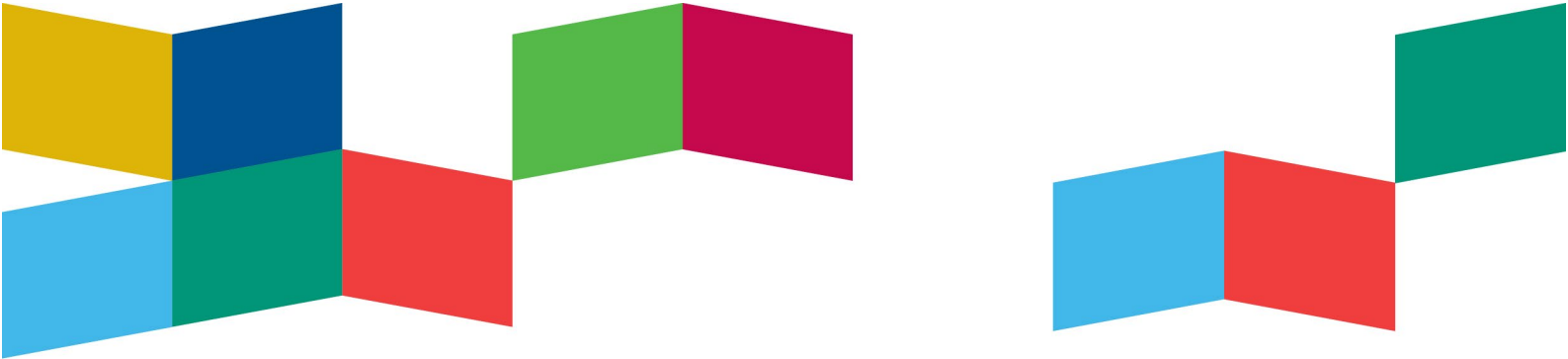
- for long daycare services (NSW):
 - downgraded to a lower quality rating = **17.75%**
 - upgraded to a higher quality rating = **5.11%**
- for family daycare services (NSW):
 - downgraded to a lower quality rating = **15.47%**
 - upgraded to a higher quality rating = **4.66%**
- for independent preschools (ie not at schools) (NSW):
 - downgraded to a lower quality rating = **15.66%**
 - upgraded to a higher quality rating = **9.57%**
- for preschools at schools (NSW):
 - downgraded to a lower quality rating = **18.09%**
 - upgraded to a higher quality rating = **10.79%**
- for out-of-school-hours-care services (NSW):
 - downgraded to a lower quality rating = **13.87%**
 - upgraded to a higher quality rating = **1.88%**

Such effectively downgrading of more services Quality Ratings and convergence towards Meeting the NQS have consequently been giving the false impression to parents and the public that the quality of those services have declined.

Worse, it is a contributing factor in terms of the loss of morale and vocational faith by early childhood educators and teachers. This consequently stokes a persisting loss of confidence and incentive to strive for continuous improvement, instead to just do the bare minimum to comply. It also is a major contributor towards higher attrition of early childhood educators and teachers.

As presented in Parts A.1 and A.2 in this submission, the Australian Early Development Census conducted every three years, ACECQA’s the quarterly NQF Snapshots as well as the absence of analyses from the NSW Education Standards Authority or from the NSW Centre for Education Statistics and Evaluation, such cumulative disharmony presents a Quality Rating system that has become less reliable as a true measure of quality of NSW-based ECEC services.

⁴⁵ [Assessment and Rating results during 2018-2024](#), based on ACECQA’s National Registers



Even the recent Technical Report⁴⁶ published in June 2024 by the Australian Education Research Organisation (AERO) while promoting⁴⁷ the value of Exceeding the National Quality Standards (NQS) has projected a false sense of confidence and thus self-undermined by its own admission that their data pre-dated 2018 when the assessment and rating to achieve Meeting the NQS and Exceeding the NQS shifted significantly since 2018.

As highlighted in Part A.1 in this submission, since all governments have become committed to defining and introducing preschool outcomes and measures⁴⁸, despite the National Quality Framework's existence since 2012, it is in the NSW Government's own interests to empirically define and implement children's expected outcomes for every stage of their development from birth to 5 years of age so that such children's outcomes can be further maximised from their 6 to 18 years of age.

Moreover, while there will continue to be a small proportion of children from birth to 5 years of age who will not have any early childhood education and care, it is also worthwhile to track those children's outcomes for comparison with those who have had early childhood education and care.

By having and publishing a comprehensive and trusted methodology of monitoring as well as demonstrating the benefits of early childhood education and care, the public will have greater incentive to invest if not invest further, and the sector will be even more invested into its own profession.

Finally, as NSW is one of the most multicultural communities in the world, there is an understandable practice of comparing our children with others in the world. And as the world continues to be proverbially smaller over time, our children are more exposed to greater global competition. As such, it is incumbent upon the NSW Government to maximise the promises of early childhood education and care as well as school education in order to ensure our children are not disadvantaged in their future on the world stage.

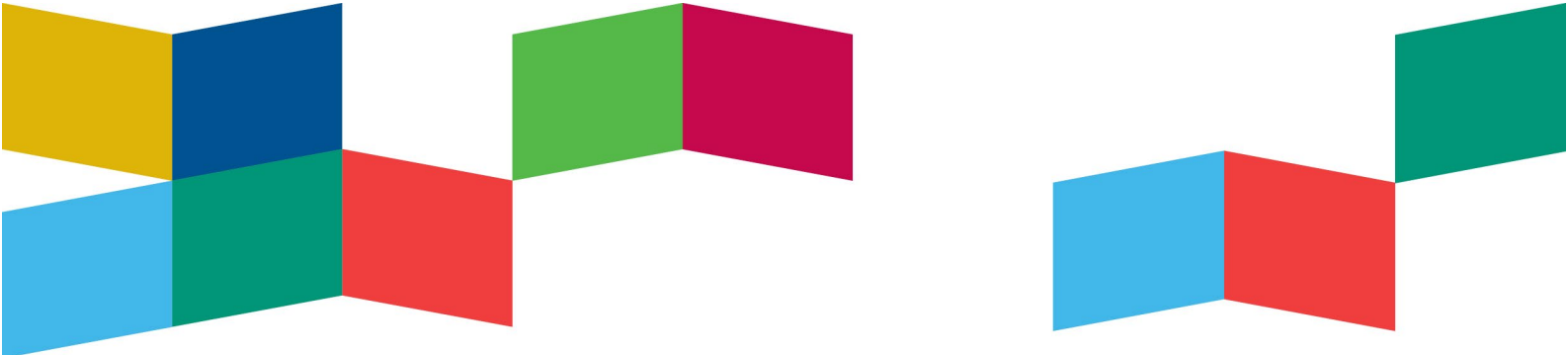
RECOMMENDATION A.6-01: MAKING QUALITY RATINGS TRUSTED FOR NSW

- That the NSW Government review the NSW Department of Education's assessment and ratings processes to ensure proper alignment between the National Quality Framework, National Laws and National Regulations with empirically defined regulatory requirements and children's outcomes.
- That the NSW Government invest in research into early childhood education and care to produce reliable data showing the quality of children's outcomes and their correlation to benefits for children from birth to 18 years of age.

⁴⁶ ["Linking Quality and Child Development in Early Childhood Education and Care" Technical Report](#), by the Australian Education Research Organisation (AERO) (June 2024)

⁴⁷ ["The NQF Works! Implication of AERO's study linking quality and child development"](#), by The Front Project (21 November 2024)

⁴⁸ [Preschool Outcomes Measures](#), Federal Department of Education

- 
- That the NSW Government invest in research to inform the harmonisation and effectiveness of early childhood education and care as well as school education so that NSW children's outcomes are comparable, if not superior, to other children in the corresponding cohorts across Australia and the world.

A.7 Are NSW's Regulatory Practices working?

William Howard Taft once said: *"We are all imperfect. We can not expect perfect government."* But imperfection unchanged often transforms into unfairness.

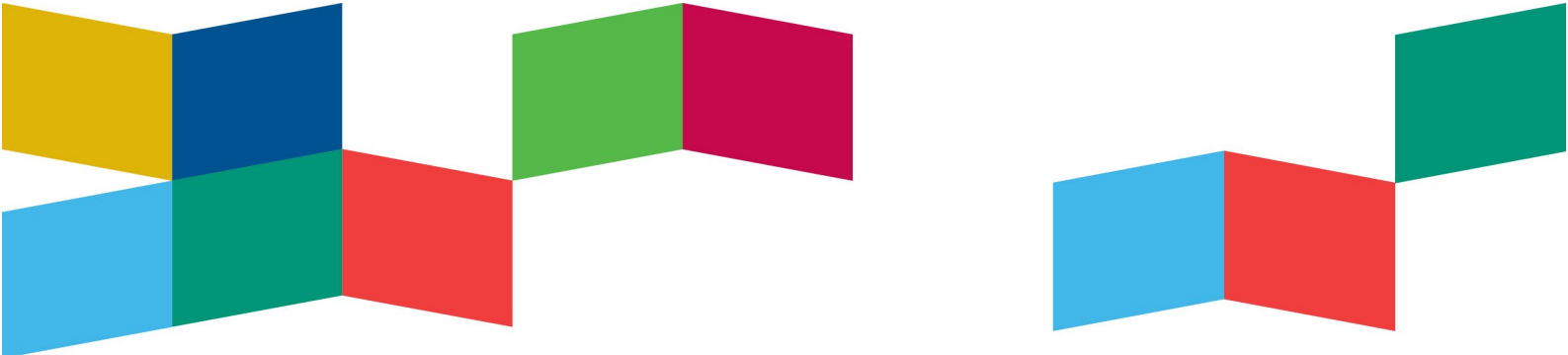
Year	CONFIRMED BREACHES AT NQF APPROVED ECEC SERVICES		
	NSW	NSW (% of Australia)	Rest of Australia
2016/2017	3,797	24.95%	11,424
2017/2018	7,865	39.71%	11,943
2018/2019	7,773	35.85%	13,909
2019/2020	13,673	54.39%	11,468
2020/2021	17,616	65.26%	9,376
2021/2022	15,943	57.87%	11,608
2022/2023	17,884	53.60%	15,482
2023/2024	19,515	54.90%	16,031
2024/2025	Not yet published	Not yet published	Not yet published

Figure A7.1(a) – Numbers and Percentages of Confirmed Breaches by NSW-based ECEC services compared to the rest of Australia⁴⁹

According to the Productivity Commission, since FY2019/2020, there has been an unbelievable increase in the number of breaches at apparently occurred at NSW-based early childhood education and care (ECEC) services. The Productivity Commission also reported that this meant:

- 325.3% (up from 303%) probability per NSW early childhood education and care service
- 202.9% (up from 138%) probability per TAS early childhood education and care service
- 187.9% (up from 107.5%) probability per NT early childhood education and care service
- 174.6% (down from 183.3%) probability per QLD early childhood education and care service
- 147.7% (up from 50.4%) probability per ACT early childhood education and care service
- 146.4% (down from 183.1%) probability per WA early childhood education and care service
- 118.4% (up from 107.2%) probability per VIC early childhood education and care service
- 77.7% (down from 99.5%) probability per SA early childhood education and care service

⁴⁹ Annual [Report on Government Services](#), by the Productivity Commission



Year	Published Enforcements and Decision Actions	
	NSW	% of Breaches
2016/2017	2	0.05%
2017/2018	10	0.13%
2018/2019	0	0.00%
2019/2020	20	0.15%
2020/2021	36	0.20%
2021/2022	11	0.07%
2022/2023	2	0.01%
2023/2024	13	0.07%
2024/2025	6 (2024Q3)	Not yet published

SOURCE: NSW Department of Education's Published Enforcement and Decision Actions

Figure A7.1(b) – Published Enforcements and Decision Actions by the NSW Department of Education⁵⁰

ACA NSW has regularly raised this and sought to resolve this with the NSW Department of Education with the view of reaching a mutually acceptable landing on how to balance the NSW Regulatory Authority's regulatory obligations while still ensuring services produce quality and safe outcomes for children.

Instead, the NSW Department of Education provided a written response on 28 March 2024 as follows:

“Jurisdiction comparisons are not advised due to different approaches.

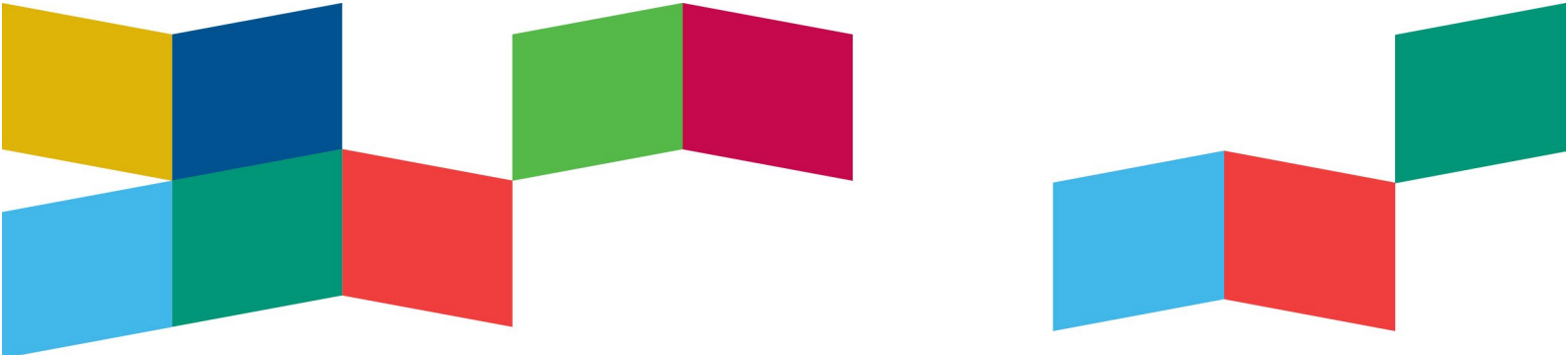
NSW’s approach is to record all areas of non-compliance. This is to enable better data capture to monitor risk trends and patterns and inform our proactive regulatory efforts such as campaigns and communications in order to optimise safety and quality.

A high number of breaches may not necessarily indicate a lower quality of services but may indicate more intensive regulatory practice (for example, more frequent regulatory visits or a higher propensity to investigate complaints). The NSW approach is based on our commitment to safety and quality.

There are also technical reasons as to why breach data is variable and caution should be exercised when comparing across jurisdictions:

- 1. When a breach is added to the [NOA ITS](#) system (at time of breach or at a later stage)*
- 2. Where a breach is recorded (direct to [NOA ITS](#) or into an external application)*
- 3. Issuance of guided advice alongside a breach notice or not (approaches are highly variable across jurisdictions)”*

⁵⁰ [Published Enforcements and Decision Actions](#), originally published by the NSW Department of Education



The NSW Department of Education also provided another written response to ACA NSW on 8 November 2024 that:

"Where services are not following their own documented policies and procedures, a breach is recorded."

In other words, if any NSW-based early childhood education and care service were to include in their own policies/procedures that exceed the relevant requirements of the National Quality Framework, National Law, National Regulations and/or any other legal requirement, and did not fulfill them (even though the NSW service was in complete compliance with the NQF, legal and/or regulatory requirement), the NSW service is likely (if not certainly) to have a breach(es) recorded.

Once after contrasting such volumes and percentages of breaches against the number of actual enforcements and decision actions (coupled by the increasing number of ECEC services gravitating towards Meeting the National Quality Standards as referred to in Part A.6), there exists the three unanswered question:

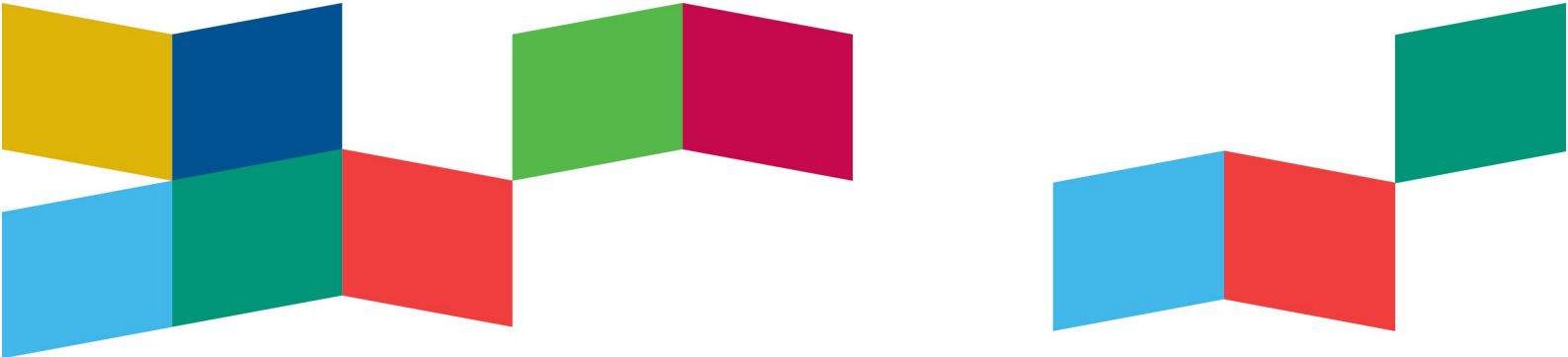
1. Has the level of regulatory compliance and the recording of non-compliances generated any correspondingly significant benefits for children notwithstanding the increased workload by early childhood educators, teachers and services?
2. How much of the increased workload has contributed toward operational costs, fee increases to parents and ultimately higher attrition of early childhood educators and teachers?
3. Most importantly, has the regulatory approach been successful in ensuring child safe environments and consistent quality services?

The ability to properly assess early childhood education and care services, educators and teachers is primarily reliant on the Authorised Officers. Hence, it is important to consider the significantly different levels of training given to Authorised Officers (at least 3 weeks) when compared to early childhood educators and teachers (at least 7 months to 4 years full-time respectively).

As such, it may be in the NSW Parliamentary Inquiry's interest to request the reports of the annual Drift Tests conducted by the Australian Children's Education & Care Quality Authority (ACECQA) to compare the performances of Authorised Officers.

	FY2016/17	FY2017/18	FY2018/19	FY2019/20	FY2020/21	FY2021/22	FY2022/23	FY2023/24
Drift Tests administered ⁵¹	1,300	900	614	438	430	430	478	528

⁵¹ Drift Tests as reported in ACECQA's [Annual Reports](#)



It is therefore curious that according to the NSW Department of Education⁵², they do not receive the Drift Test reports produced by ACECQA.

Following the ABC Four Corners' episode, "[Betrayal of Trust](#)" aired on 17 March 2025, it became obvious that Approved Providers do not have complete visibility of their full set of breaches/non-compliances as recorded against their service(s).

Without full transparency, Approved Providers may be unaware of existing and potential risks and thus unlikely to address or prioritise them. Likewise, limited transparency can facilitate excessive breaches/non-compliances to be registered by Authorised Officers without natural checks-and-balances.

It is not in the interest of the NSW Government for NSW-based ECEC services to continue generating the unbelievable numbers of breaches such that it is more than the rest of Australia's combined number of breaches.

Instead, it should be that the NSW Government wants to ensure that:

- breaches by NSW-based ECEC services are confined to clearly defined and unambiguous requirements;
- NSW-based ECEC services avoid unnecessary workload originally associated with breaches to subjectively defined and/or non-measurable requirements; and
- it actively and consistently assists NSW-based ECEC services to become compliant with those clearly defined, unambiguous and measurable requirements.

There is a well-known saying, "*If you always do what you've always done, you'll always get what you've always got*".

Since January 2012, regulatory implementation and practices have been the responsibility of the NSW Department of Education. And to achieve better outcomes, it may be worthwhile to trial alternative approaches to regulatory making and implementation (for example the [Communications Alliance Ltd](#) where the Federal Government regulators and telecommunications providers leverage each other's abilities and resources to work together to produce regulatory and non-regulatory outcomes). And greater collaboration between the regulator and the sector can also generate greater mutual investment into agreed superior outcomes.

⁵² [Notice of Invalid FOI Application](#), issued by the NSW Department of Education (26 October 2017)



RECOMMENDATION A.7-01: ACHIEVING EFFICIENT REGULATORY IMPACT AND EFFECTIVE OPERATIONAL OUTCOMES

- That the NSW Government commission an independent body to review the existing regulatory framework and the NSW Department of Education's practices and interactions with ECEC services such that efficient and effective workflows and measurable outcomes can be established, implemented and achieved.
- That the NSW Government ensure all recorded breaches/non-compliances (including the underlying evidences) are made available and transparent to their respective Approved Providers.
- That the NSW Government expand its digital strategy such that regulatory compliance data can be received by the NSW Department of Education (as the NSW Regulatory Authority) through approved Application Programming Interfaces (APIs) with accredited third-party software that assists ECEC services to achieve regulatory compliance.

RECOMMENDATION A.7-02: RECORDING BREACHES TO ONLY NON-COMPLIANCES OF LEGISLATION AND REGULATIONS

- That the NSW Department of Education limit their Authorised Officers to only record breaches by ECEC educators, teachers and services only when there is/are non-compliances with legislation or regulations.

RECOMMENDATION A.7-03: PROVIDE TRANSPARENCY OF THE PERFORMANCES OF NSW AUTHORISED OFFICERS COMPARED TO OTHER JURISDICTIONS' AUTHORISED OFFICERS

- That the NSW Department of Education produce an appropriate publication showing the performances of NSW Authorised Officers by NSW state and NSW regions (ie hubs) compared to other jurisdictions' Authorised Officers.

RECOMMENDATION A.7-04: SMALL SCALE TRIAL OF CO-REGULATORY APPROACH

- That the NSW Government consider emulating the co-regulatory model in the Communications Alliance Ltd⁵³ in developing agreed unambiguous standards and operational codes to achieve effective and efficient regulatory objectives and measurable outcomes that are comprehensively supported.

⁵³ [Communications Alliance Ltd](#), the telecommunications sector's co-regulatory entity with the Federal Government's Australian Communications and Media Authority (since 1997)

B.1 Are our children safe and protected?

The announcement⁵⁴ by the Australian Federal Police, the NSW Police and QLD Police alleging a former childcare worker was charged with 1,623 child sexual abuses against 91 children across the two states and overseas between 2007 and 2022.

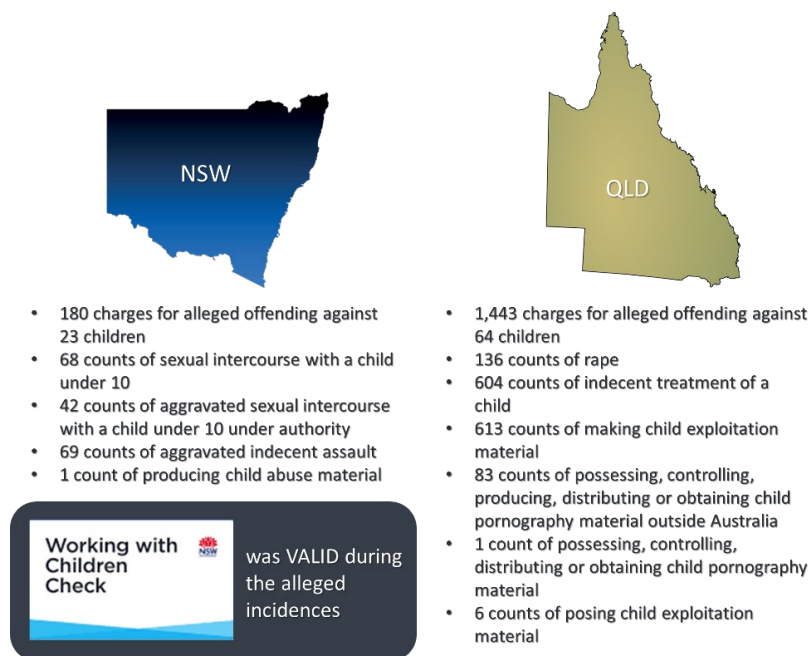


Figure B.1(a) – SOURCE: The Australian Federal Police⁴⁹

Yet, since August 2023 (ie 21 months ago), out of 1,443 charges, only 307 convictions⁵⁵ have been recorded against the perpetrator in Queensland. In NSW, extradition for the perpetrator to stand trial is yet unknown, let alone the number of successful convictions from the 180 charges.

Since then, ACECQA published its 16 recommendations following its *Review of Child Safety Arrangements*⁵⁶, of interest are:

- the practice of smartphone devices with cameras by early childhood educators/teachers;
- the role of Closed-Circuit Television (CCTVs) or equivalents;

⁵⁴ “[Man charged with rape and sexual assaults at childcare centres](#)”, Australian Federal Police (1 August 2023)

⁵⁵ “[One of Australia’s worst paedophiles pleads guilty to 307 offences while working at childcare centres](#)”, The Guardian (2 September 2024)

⁵⁶ “[Review of Child Safety Arrangements under the National Quality Framework](#)”, by ACECQA (December 2023)

- the Working with Children Check's systems; and
- early childhood teachers' and educators' accreditation and registration systems across Australia.

Given the said abuses occurred without apparent detection or consequences during the first 10 years of the National Quality Framework, the National Law and National Regulations, and the low number of convictions compared to the number of allegations when announced, there may be inherent systemic weaknesses that are yet to be identified, let alone addressed.

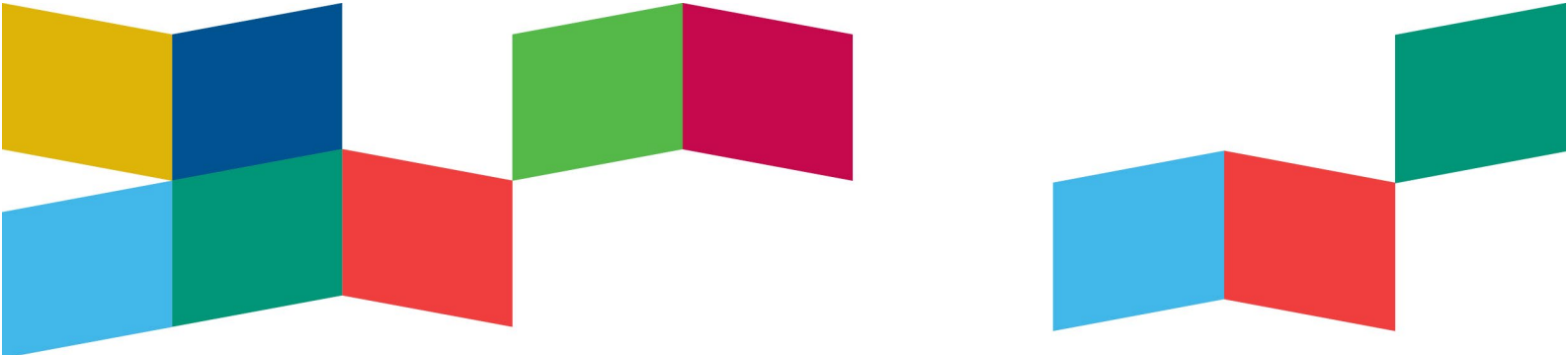
This is particularly of concern when considering no relevant Approved Providers or officials have been criminally charged for obstruction and/or negligence. Concerns also extend to a particular early childhood educator who may not have had sufficient whistleblower protections, but instead was charged with computer hacking and had lost her own employment.

With respect to the particular NSW-based service where that perpetrator worked at for a time, it is worth noting that service's quality ratings before, during and after that perpetrator's employment as follows:

Year	Overall Quality Rating	Quality Area 2 – Children's Health & Safety Rating
2014	<i>NOT RATED AS SERVICE WAS APPROVED ON 23 APRIL 2014</i>	
2015	Exceeding the National Quality Standards	Exceeding the National Quality Standard
2016	Exceeding the National Quality Standards	Exceeding the National Quality Standard
2017	Exceeding the National Quality Standards	Exceeding the National Quality Standard
2018	Exceeding the National Quality Standards	Exceeding the National Quality Standards
2019	Exceeding the National Quality Standards	Exceeding the National Quality Standards
2020	Exceeding the National Quality Standards	Meeting the National Quality Standards
2021	Exceeding the National Quality Standards	Meeting the National Quality Standards
2022	Exceeding the National Quality Standards	Meeting the National Quality Standards
2023	Exceeding the National Quality Standards	Meeting the National Quality Standards
2024	Exceeding the National Quality Standards	Meeting the National Quality Standards

Figure B.1(b) – Quality Ratings of NSW service relating to Operation Tenterfield (extracted from ACECQA's NQS Time Series Data)⁵⁷

⁵⁷ [National Quality Standards Time Series Data, published by ACECQA](#)



It may be of interest that the NSW Police Force refused⁵⁸ ACA NSW's application under the *Government Information (Public Access) Act* to know the number of visits by NSW Police officers to that service before, during and after the alleged child safety incidents.

And while there remains a relative opaqueness and lack of understanding of how the 1,623 child sexual abuses were possible, and why there has only been 307 convictions to date, NSW's early childhood education and care services are concerned that existing systemic weaknesses may remain even though there is since much greater vigilance.

Given the apparent and starkly low number of enforcement and decision actions⁵⁹, it will be worth examining the NSW Regulatory Authority's use of the following existing powers that can prevent child safety incidences:

1. [National Law: Section 23\(1\)](#) – Amendment of provider approval by Regulatory Authority (ie the Regulatory Authority can amend provider approval at any time)
2. [National Law: Section 25\(b\)](#) – Grounds for suspension of provider approval (ie the Regulatory Authority can suspend a service for failure to comply with a condition of the provider approval)
3. [National Law: Section 55\(1\)](#) – Amendment of service approval by Regulatory Authority (ie the Regulatory Authority can amend a service approval at any time)
4. [National Law: Section 70\(b\) and 70\(f\)](#) – Grounds for suspension of service approval
5. [National Law: Section 73](#) – Suspension of service approval without show cause
6. [National Law: Section 77\(a\)](#) – Grounds for cancellation of service approval (ie if it constitutes an unacceptable risk to the safety, health or wellbeing of any child or class of children ...)
7. [National Law: Section 80\(1\)](#) – Cancellation of service approval to the extent that it relates to associated children's service
8. [National Law: Section 75](#) – Suspension of service approval to the extent that it relates to associated children's service respects
9. [National Law: Section 70\(d\)](#) – Suspending a service's service approval for not meeting the National Quality Standards and there has not been any improvements.

There are also concerns that the process of submitting complaints about child safety incidences can be unnecessarily onerous to multiple agencies (ie the NSW Department of Education and the NSW Children's Guardian).

⁵⁸ [NSW Police Force's refusal to provide information sought under GIPA \(dated 29 April 2025\)](#)

⁵⁹ [Published Enforcements and Decision Actions](#), by the NSW Department of Education



RECOMMENDATION B.1-01: ENSURING OUR CHILDREN ARE PROTECTED

- That the NSW Government independently review the use (and/or non-use) of existing laws in relation Operation Tenterfield that could have identified and/or prevented the 180 assaults against the 23 NSW children.
- That the NSW Government urgently develop additional integrity and assurance mechanisms that would complement Working With Children Checks such that Approved Providers are assisted in identifying and removing potential risks to children in a more timely manner.
- That the NSW Government reviews and tests its existing whistleblower protections and child safety complaints channels to ensure all have universal confidence and effectiveness.
- That the NSW Government streamlines the process for complaints about child safety incidences to one primary channel.
- That the NSW Government expands its education campaign to ensure that all complaints about child safety incidences can also be received through other channels if the primary channel does not respond to the satisfaction of the complainant.
- That the NSW Government also reviews the existing legislative and regulatory framework that Approved Providers must comply with such that they do not bear negative consequences from their compliance and best efforts despite any child safety incidences occurring, unless legally proved to be criminally obstructive and/or negligent.
- That the NSW Government expands its primary training of Approved Providers and early childhood educators and teachers about child safety by learning about all profiles and behaviours of past and potential child predators for their active vigilance.
- That the NSW Department of Education capitalise on its seismically greater numbers of breaches/non-compliances in NSW (as outlined in Part A.6) to proactively identify potential risks of and weaknesses toward child safety.

B.3 Does NSW have a sustainable supply of skilled labour?

As outlined in Part A.5, the national authority for early childhood education and care (the Australian Children's Education and Quality Authority (ACECQA)) had confirmed our sector's severe labour shortage prior to the COVID pandemic. It was then estimated that 39,000⁶⁰ more early childhood educators and teachers were needed by December 2023. Such severe labour shortages have continued to persist as the following observations suggest:

- the Australian Competition & Consumer Commission (ACCC)'s Childcare Inquiry Interim Report (September 2023)⁶¹ stated, *"Current educator shortages are having a material impact on the supply and cost of childcare"*;
- the Jobs and Skills Australia's The Future of the Early Childhood Education Profession Report stated, *"More than 20,000 extra early childhood educators urgently needed in Australia to keep up with current demands"*⁶²; and
- ACECQA's Shaping Our Future (2022-2031)⁶³ stated: *"In the context of declining enrolments in approved educator and teacher qualifications, increasing demand for early childhood teachers and a growing shortage of primary school teachers, the children's education and care sector continues to face significant and increasingly urgent workforce challenges"*.

Interstate competition for qualified early childhood education and care have also emerged:



Up to \$25,000 grants for educators and teachers to relocate to regional and remote Western Australia



Up to \$20,000 for ECTs to relocate to regional and remote South Australia



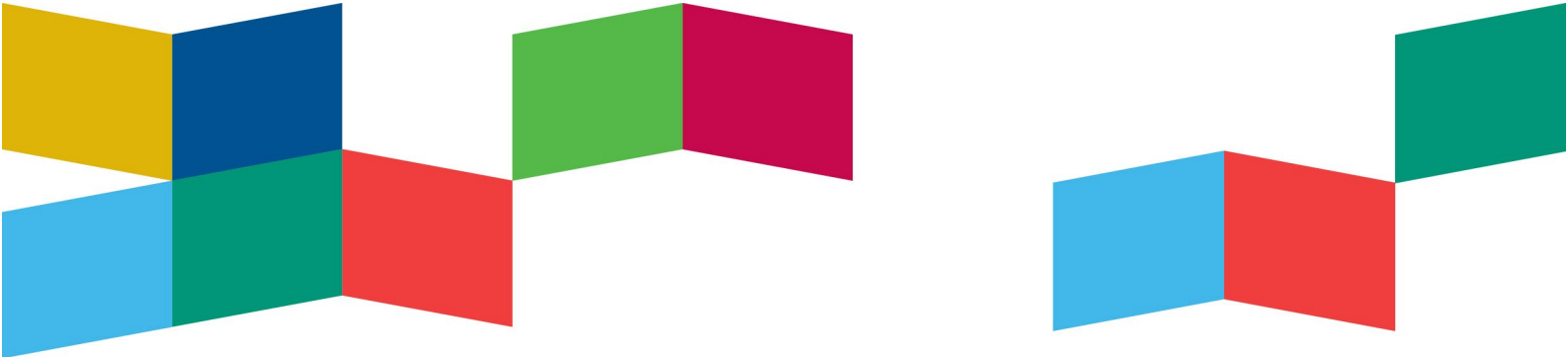
Up to \$9,000 and up to \$50,000 to relocate to Victoria

⁶⁰ [Workforce Report](#), ACECQA (November 2019)

⁶¹ [Childcare Inquiry Interim Report](#), ACCC (September 2023)

⁶² [The Future of the Early Childhood Education Profession Report](#), by Jobs and Skills Australia (September 2024)

⁶³ [Shaping Our Future \(2022-2031\)](#), ACECQA (September 2021)



And when considering the cost-of-living challenges, the Victorian⁶⁴, the South Australian⁶⁵ and Western Australian⁶⁶ incentives can be have become attractive to many early childhood educators and teachers at arguably the expense of NSW and other jurisdictions.

In the NSW Budget 2023 of the incumbent NSW Government, it was announced that:

- there would be \$22m over 5 years to recruit and retain essential early childhood workers; and
- an allocation of a \$20m boost to the Innovative Teacher Training Fund to attract the best teachers.

However, in the NSW Budget 2022 (before the NSW State Election), there was a \$281.6m allocation⁶⁷ over four years, with a forecast expenditure of \$53.1m in FY2022/2023 *“to ensure quality, retention and supply of early childhood educators to address serious shortages and build for future demand”*.

RECOMMENDATION B.3-01: INCREASING AND EXPANDING FUNDING TO RECRUIT AND RETAIN EARLY CHILDHOOD EDUCATORS AND TEACHERS FOR NSW ECEC SERVICES

- That the NSW Government allocate appropriate annual funding for at least 4 years to assist NSW ECEC services to recruit and retain early childhood educators and teachers.
- That the NSW Government introduces competitively attractive financial incentives to assist early childhood educators and teachers to relocate from other jurisdictions to NSW.
- That the NSW Government publishes annual forecasts on the number of trainees and qualified early childhood educators and teachers per year and over the next four years, as well as the number of trainees and qualified early childhood educators and teachers successfully recruited by NSW ECEC services each year.

Given the rigidity of early childhood educator:children and teacher:children ratios as imposed by Regulation 123⁶⁸ and Regulation 272⁶⁹ respectively on the basis of suitable qualifications, there are also those long-term educators who have relevant experience but not necessarily the higher qualifications.

Recognition of Prior Learning (RPL) processes do exist. However, the creation and/or assembly of documentation appears to be too onerous to make RPL as an efficient channel for achieving (higher) qualified early childhood educators and teachers.

⁶⁴ [Relocation to teach in Regional Victoria](#) (September 2024)

⁶⁵ [“South Australia offers \\$20,000 incentives to ECTs to take up regional positions”](#), The Sector (22 January 2022)

⁶⁶ [Grants to attract childcare educators to regional WA](#), WA Government (22 January 2024)

⁶⁷ [NSW Budget Paper No 2](#), NSW Budget 2022 (June 2022)

⁶⁸ [Educator to child ratios – centre-based services](#), National Regulations

⁶⁹ [Early childhood teachers – children preschool age or under](#), National Regulations

RECOMMENDATION B.3-02: STREAMLINING RECOGNITION OF PRIOR LEARNING

- That the NSW Government engages with the Jobs and Skills Council and existing training organisations (including TAFE and appropriate Registered Training Organisations (RTOs) to streamline the necessary set, creation and/or assembly of documentation needed in order to achieve the greatest efficiency possible in the Recognition of Prior Learning process.
- That the NSW Government emulate the NSW Department of Education's online portal⁷⁰ listing of all training providers and their courses so that the new portal shows all the training organisations that offer Recognition of Prior Learning, as well as appropriate indices for each training organisation showing its efficiency, and student and employer satisfaction.

And with significant NSW Government funding to subsidise training⁷¹, and with the seismically increasing numbers of confirmed breaches by NSW-based ECEC services (as outlined in Part A.7), there arises questions of training effectiveness and harmony with the compliance requirements (including child safety) and children's outcomes expectations of the NSW Department of Education (as the NSW Regulatory Authority for all ECEC services).

According to Skills NSW⁷², there are 36 providers offering Certificate III in Early Childhood Education and Care courses across a total of 578 NSW locations.

Although a proxy of the potential of job readiness, Skills NSW shows that graduates of NSW TAFE achieved 70% of their students gained an employment benefit from undertaking training. Skills NSW also shows that of the 36 training providers:

NSW TAFE has a Job Ready rating of 70%.

41.67% had
no Job Ready rating

5.56% had a Job Ready rating
below NSW TAFE's

50.00% had a Job Ready rating
above NSW TAFE's

⁷⁰ [Course providers listings](#), by Skills NSW

⁷¹ [Smart and Skilled](#), NSW Department of Education



RECOMMENDATION B.3-03: EFFECTIVE VS NON-EFFECTIVE-ENOUGH TRAINING PROVIDERS

- That the NSW Government provide funding to Skills NSW to update its online portal⁷² listing of all training providers and their courses such that search results are prioritised by Job Readiness of students.
- That the NSW Government ensure all registered training organisations have a Job Ready rating of at least equal to or higher than NSW TAFE's rating.
- That Skills NSW also expand its online portal⁶⁷ so as to enable the NSW Department of Education to identify the disconnections between training and their requirements for regulatory compliance.

Most schools already have career advisers⁷³. However, it is unclear as to the effectiveness of their and training providers' collaborations. While observing fairness and transparency, there would be benefits from training providers and career advisers to optimally collaborate so as to maximise assistance and benefits for career advisers of the benefits of vocational training, including early childhood.

RECOMMENDATION B.3-04: COLLABORATING WITH SCHOOLS' CAREER ADVISERS

- That the NSW Government consider suitable initiatives that enable schools' career advisers to collaborate with all training providers so that full career opportunities are offered to future school graduates and school leavers.
- That the NSW Government review, introduce and/or facilitate the automated and information tools available to career advisers that help them assist future school graduates and school leavers to consider all possible career opportunities.

⁷² [Course providers listings](#), by Skills NSW

⁷³ [Career Advisers](#), by NSW Department of Education



B.4 Is NSW's ECEC Requirements fit-for-purpose?

This submission should provide an insight as to how (un)fit-for-purpose the NSW implementation can be of the National Quality Framework, the National Law and National Regulations, especially after 13 years.

The NSW Productivity Commission published his report⁷⁴ declaring that “... *the cost of NSW maintaining requirements above the national standards equates to around \$3,000 a year for each child attending ECEC.*”

By way of one example, teachers accredited by the NSW Education Standards Authority (NESA)⁷⁵ tend to have a vocational expectation that teaching generally would be between the hours of 9 am and 3 pm on weekdays.

However, degree-qualified early childhood teachers are also accredited by NESA before they can teach in centre-based early childhood education and care services and satisfy Regulation 272⁷⁶.

Since 13 December 2011, NSW-based long daycare services must comply with Regulation 272, whether it is for 2, 3 or 4 degree qualified early childhood teachers required for 30 to 80 or more preschool children, Regulation 272(2)-(5) states:

*“...early childhood teacher(s) must be in attendance **at all times** that a centre-based service is educating and caring for ...xx to xx children preschool age or under”⁷².*

NSW-based long daycare services typically operate 10.5 hours from 7.30 am to 6.00 pm or 11.5 hours from 6.30 am to 6.00 pm every weekday. This makes the recruitment, rostering and retention of such or more early childhood teachers challenging to near impossible. (NOTE: For every full-time degree qualified early childhood teacher, another or more degree qualified early childhood teacher(s) must be employed to cover the service's complete hours of operation as well as cater for breaks as required by industrial law.)

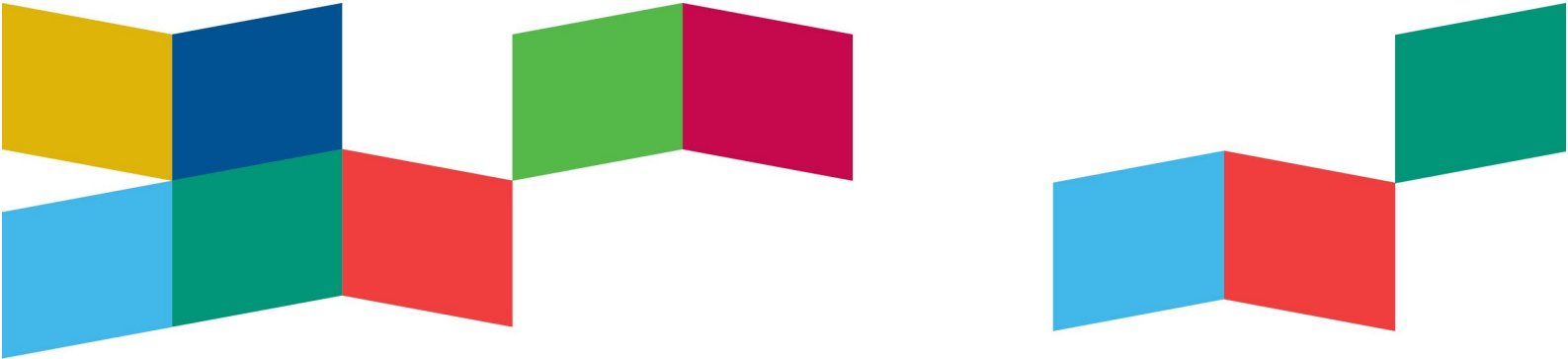
It must also be noted that there are currently:

- 14 NSW long daycare services that operate 24 hours a day;
- 2,182 NSW long daycare services that open between 5 am and before 7.30 am;
- 477 NSW long daycare services that close between after 6.01 pm and 11.30 pm; and
- up to 62 NSW long daycare services that operate on Saturdays and Sundays.

⁷⁴ [Evaluation of NSW-specific early childcare regulations](#), published by the NSW Productivity Commission (7 December 2022)

⁷⁵ [Teacher Accreditation Scheme](#), NSW Education Standards Authority

⁷⁶ [Early childhood teachers – children preschool age or under](#), Regulation 272



Regulation 272's "at all times" requirement creates a structural disincentive for degree qualified early childhood teachers to work in long daycare services. There is also the question about whether such long hours (beyond typically 9 am and 3 pm) is the most effective use of degree trained teachers for children from birth to 5 years old.

Hence, there exists a real challenge for NSW's long daycare ECEC services to comply with Regulation 272(2)-(5) to have the legally required number of ECTs at all times for:

- up to 52.5 hours per week (for services open from 7.30 am to 6.00 pm); or
- up to 57.5 hours per week (for services open from 6.30 am to 6.00 pm); or
- up to 168 hours per week (for services open 24 hours per day and 7 days per week).

It is worth noting that ACA NSW sought evidence of the benefits of such a requirement. Under NSW's *Government Information (Public Access) Act*, the NSW Department of Education confirmed that they:

*"... do not hold documents which both relate to regulation 272 that describe the benefits to children and/or improved children's outcomes from birth to preschool age when early childhood teachers are in attendance at times specified by your application (i.e. at all times, from 7:30am to 6pm, midnight to midnight and during weekends)."*⁷⁷

Given the worsening labour shortages (as outlined in Part B.3) and the current unreliability of supply of undergraduates and graduates with early childhood teaching qualifications, recruiting such early childhood teachers has been, and in the foreseeable future will be, fraught with difficulty.

The experienced consequences of the lack of early childhood teachers is the reduction of the number of places offered to children and their families. And such is already being demonstrated by up to 71.9%⁷⁸ of services in NSW (which is higher than the national average of 66%).

Please note that all other Australian states' requirements have a vastly different requirements for their degree-qualified early childhood teachers, as shown in their Regulations 132-134⁷⁹.

RECOMMENDATION B.4-01: RESTORING THE VOCATION OF NSW'S EARLY CHILDHOOD TEACHERS

- That the NSW Government reviews and revises Regulation 272 so that it better aligns with their vocational expectations of teaching, while taking comfort that the number of educators and teachers required through Regulation 123 and Regulation 272 will remain unchanged.

⁷⁷ [GIPA Decision Notice \(25-0210\)](#), released by the NSW Department of Education (dated 5 May 2025)

⁷⁸ [Survey results of NSW-based long daycare services reducing places for children due to labour shortages](#), ACA (14 June 2023)

⁷⁹ [Requirement for early childhood teacher – centre-based services – 25-59, 60-80, more than 80 children](#), National Regulations

- That the NSW Government also invest in achieving far superior results in children's outcomes as well as Quality Ratings from NSW's early childhood teachers (ECTs) compared to those in all other states given that NSW requires up to 4 ECTs whereas all other states require up to 1.6 ECTs.

Another example is the level of English proficiency required of ECTs for children from birth to 5 years old.

All degree-qualified early childhood teachers (ECTs) must be accredited by NESA⁸⁰ before they can work in NSW ECEC services. But in the context of early childhood education and care for children from birth to 5 years old, the same accreditation requires a disproportionately high English proficiency requirement⁸¹ for internationally trained ECTs unless they are from deemed English-speaking countries (ie the United Kingdom, Ireland, USA, Canada and New Zealand).

These English proficiency requirements for internationally trained ECTs to teach children from birth to 5 years old are so high that the required International English Language Testing System (IELTS)'s own Test Statistics⁸² show that only up to 24.9% of native English speakers can achieve such results.

More importantly, ACECQA recently lowered its requirements⁸³ for overseas early childhood educators to IELTS general level of scores of fives (5) (ie not academic level of scores of sevens (7) and eights (8)).

On 15 December 2023, the Australian Institute for Teaching and School Leadership (AITSL) responded⁸⁴ that "*Under the National Teacher Workforce Action Plan, AITSL has been commissioned to provide advice to Ministers under Action 5 – Prioritise conditional or provisional registration to increase the supply of teachers ...*".

Furthermore, ACA NSW sought evidence of children's superior outcomes during birth to preschool and beyond as a result of such high English proficiency requirements. Under NSW's Government (Public Access) Act, the NSW Department of Education confirmed⁸⁵ that they do not hold any evidence of such benefits for children.

Hence, while the severe labour shortages continue, should the calibration of English proficiency be set so high as to be able to teach Shakespeare or Chaucer to children from birth to 5 years old?

⁸⁰ [Teacher Accreditation](#), NSW Educational Standards Authority

⁸¹ [Internationally trained teachers](#), NSW Government

⁸² [Test Statistics](#), International English Language Testing System

⁸³ [English language proficiency for Individual Applicants](#), ACECQA (November 2024)

⁸⁴ [Letter from AITSL to ACA NSW on English proficiency requirement for early childhood teachers](#) (15 December 2023)

⁸⁵ [GIPA Decision Notice \(25-0209\)](#), released by the NSW Department of Education (dated 21 March 2025)



RECOMMENDATION B.4-02: A REASONABLE ENGLISH PROFICIENCY REQUIREMENT

- That the NSW Government, through NESA, recalibrate the English proficiency requirement for ECTs to be appropriate for children from birth to 5 years old.
- Alternatively, that the NSW Government produce evidence of superior English outcomes of children from birth to 5 years old as well as structurally superior NAPLAN literary results at Year 3 as a direct consequence of retaining the current English proficiency requirements for ECTs (especially when NSW requires up to 4 ECTs compared to other Australian states requiring up to 1.6 ECTs).

Due to the National Law and National Regulations implemented by the NSW Parliament have largely been unchanged since January 2012, using the above as two examples, it may be opportune for the NSW Government to have an independent expert body that can assist Ministers and their Departments with their legislative and regulatory developments.

RECOMMENDATION B.4-03: ACHIEVING REGULATORY EFFECTIVENESS & EFFICIENCIES

- That the NSW Government establishes an independent expert body that can assist NSW Ministers, the NSW Legislative Review Committee and the NSW Regulation Committee to revise existing legislation and regulations in order to achieve regulatory efficiencies and effective outcomes.
- That this expert body consult government and non-government stakeholders whenever existing legislation and regulations are demonstrated to no longer be fit-for-purpose.
- That this expert body provide assistance to Ministers when their Departments are developing new legislation, new regulations as well as regulatory impact statements.



C.1 Does NSW have effective planning for ECEC?

The *NSW State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*⁸⁶ was superseded by the current *NSW State Environmental Planning Policy (Transport and Infrastructure) 2021*⁸⁷ (the SEPP).

The SEPP effectively overrides all NSW local governments' Local Environmental Plans (LEPs) and Development Control Plans (DCPs) in relation to development applications for early childhood education and care services.

In 2020, the NSW Department of Planning published a recommendation⁸⁸ to introduce a minimum separation between the proposed and existing childcare centres in Low Density Residential zone (R2) of 200 metres. This recommendation was a recognition that there was an absence of planning, at least for the purposes of addressing the impact of traffic.

Unfortunately, the then NSW Minister for Planning did not accept that particular recommendation.

As shown in Part A.3, the absence of planning effectively perpetuates a problem confirmed by the ACCC⁸⁹ that oversupply of ECEC services tends to increase the average fees to parents by up to 40% or more.

The NSW Independent Planning and Regulatory Tribunal (IPART) Report⁹⁰ to the NSW Treasurer and the NSW Minister for Education and Early Learning showed an alternative approach to prioritisation of new ECEC services to address undersupply.

Given the negative effects of oversupply to parents in terms of fee increases, the NSW Government should introduce a planning system that balances the needs of parents in terms of achieving sufficient supply of ECEC services, and the avoidance of negative impact on fee increases.

RECOMMENDATION C.1-01: A PLANNING SYSTEM FOR ECEC SERVICES

- That the NSW Government should introduce a harmonised planning system for new ECEC services.

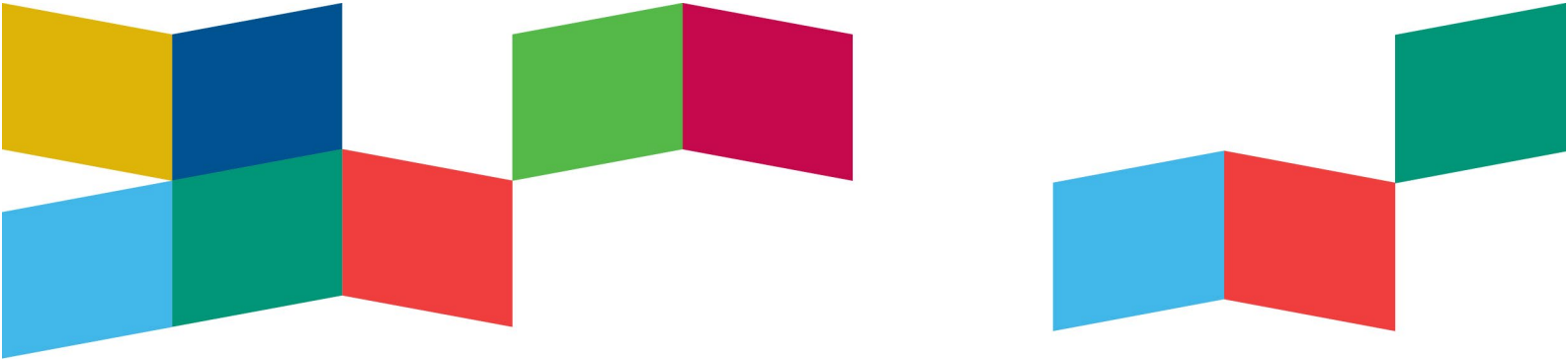
⁸⁶ [NSW State Environmental Planning Policy \(Educational Establishments and Child Care Facilities\) 2017](#) (Repealed in 2021)

⁸⁷ [NSW State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#) (effective December 2021)

⁸⁸ [Review of State Environmental Planning Policy \(Educational Establishments and Child Care Facilities\) 2017 – Explanation of Intended Effects](#), NSW Department of Planning (November 2020)

⁸⁹ [Childcare Inquiry Interim Report](#), ACCC (June 2023)

⁹⁰ [Independent Market Monitoring Review, Report to the Minister](#), NSW IPART (December 2023)



Liveability indices⁹¹ already exist. However, residents, let alone young families, tend not to be familiar with them or use them.

However, official liveability indices can encourage local governments to ensure that they have sufficient social infrastructure (including ECEC services) for their residents. In turn, using such indices can also facilitate new ECEC services to be created because those local government have properly identified such needs.

RECOMMENDATION C.1-02: INTRODUCING A LIVEABILITY INDEX ON ECEC FOR YOUNG FAMILIES

- That the NSW Government engage with local governments and the ECEC sector to develop and publish an appropriate ECEC-specific Liveability Index.

⁹¹ [Urban Liveability Index](#), Australian Urban Observatory



C.2 Are NSW's ECEC services ready for the digital risks and challenges?

In May 2024, Victoria's largest early childhood education and care (ECEC) provider was the victim of a targeted cyberattack⁹², with thousands of children and families affected.

As cyberattacks are ever-increasing, such risks to ECEC services are magnified because of the significantly higher amounts of personal documents of millions of children and their parents. Such volumes of records can be at much higher risk to cyberattacks due to legal requirements⁹³ for a range of documents to be recorded, made available upon regulatory request, and kept until each child is aged 25 years old.

Furthermore, in accordance with the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse, ECEC services are now being asked to hold relevant records for at least 45 years (even though this is not a legal requirement⁹⁴).

ECEC services tend not to be experts in information technology, let alone information security. And these regulatory obligations not only contribute to operational costs that directly impact on fees to parents, possibly ineffective expenditure due to an absence of consistent and robust set of data protection standards can lead to unnecessary exposure to successful cyberattacks and their consequences.

Faced with technology advancements that ECEC services cannot keep pace with, ECEC services should not be required to be the primary (if not sole) custodian of children's and parents' personal information. Instead, the NSW Government should urgently instigate (with or without other Australian governments) the assembly and implementation of appropriate and unified tools and standards so that as little-to-no personal information are kept with ECEC services, educators and teachers.

The NSW Government should consider collaborating with the Federal Government's initiative to create and interface with digital trust exchange platforms⁹⁵ and work with the ECEC sector to produce information solutions to achieve the regulatory outcomes while protecting the personal information of children and their parents.

⁹² [Victoria's largest childcare provider targeted in cyber attack](#), 9 News (30 May 2024)

⁹³ Legal requirements for storing documents – [Section 175](#), [Regulation 177](#) and [Regulation 183](#)

⁹⁴ [Records do not need to be kept for at least 45 years](#), clarified by the Federal Minister for Early Learning (September 2024)

⁹⁵ [Trust Exchange \(TEx\) drives secure digital services](#), Federal Government (August 2024)



RECOMMENDATION C.2-01: IMPLEMENTING A TRUSTED EXCHANGE FRAMEWORK FOR ECEC

- That the NSW Government should examine and implement a trusted exchange framework⁹⁶ with other governments for the protection of children's and parents' information used by ECEC services.

The NSW Government should also introduce a digital strategy that complements the distribution of funding for efficient reconciliation and easier administration for both the government as well as the recipient of such public funds.

Most ECEC services (and other ECEC services who rely on third party accounting services) already use modern software (for example MYOB or Xero) which have application programming interface (API) capability to connect with other digital systems.

Hence, in the 21st century, when implementing the distribution of Start Strong⁹⁷ funding to NSW long daycare services and preschools, approved APIs can ensure that:

- ECEC services will correctly apply the funding to the correct children and avoid any duplications;
- ECEC services can rely on their software to automatically produce the correct reports for reconciliation;
- the such funding will be fair and avoid double/multiple-dipping by some parents; and
- the NSW Department of Education can minimise/avoid administrative costs.

RECOMMENDATION C.2-03: USING TECHNOLOGY TO ENSURE PROPER DISTRIBUTION OF START STRONG FUNDING AS WELL AS BENEFIT ECEC SERVICES AND THE NSW DEPARTMENT OF EDUCATION

- That the NSW Government should provide additional resources and require the NSW Department of Education to create complementary APIs to interface with ECEC services' existing software and the anticipated Digital Hub⁹⁸ equivalent for community preschools for the purpose of ensuring proper distribution of Start Strong funding and the reduction of operational and administrative burden.

⁹⁶ [Trust Exchange \(TEEx\) drives secure digital services](#), Federal Government (August 2024)

⁹⁷ [Start Strong Funding](#), NSW Department of Education

⁹⁸ [The Digital Hub](#) (for community preschools), NSW Department of Education ()



C.3 Are NSW Payroll Taxes fair on NSW tax-paying ECEC services?

For FY2024/2025, the NSW Government⁹⁹ impose a 5.45% payroll tax on all businesses whenever their payroll exceeds \$1,200,000 for that financial year. Ironically, such a cost is equivalent to at least one early childhood educator.

Conservatively, there are at least 17% of the entire ECEC sector in NSW that are currently paying NSW Payroll Taxes. This should be contrasted against at least 13% of the entire ECEC sector that are guaranteed never to pay NSW Payroll Taxes because they are deemed not-for-profit.

And despite the difference in tax treatment on these two groups of ECEC services, fees to parents of such ECEC services tend to be similar, and at times more expensive than the tax-paying services.

Since the introduction of the Commonwealth's \$3.6 billion Worker Retention Payments¹⁰⁰ to increase the remuneration of early childhood educators and teachers by up to 15% from 2 December 2024 for two years, with fees to be capped to 4.4% and 4.2% for the first and second year. Hence, the NSW Government is now receiving additional NSW Payroll Taxes due to the Worker Retention Payments.

RECOMMENDATION C.3-01: FAIRER AND LOWER NSW PAYROLL TAXES FOR ECEC

- That the NSW Government introduce full rebates of commensurate NSW Payroll Taxes that are directly related to the effect of the Commonwealth Government's Worker Retention Payments.
- That the NSW Government also introduce grants to ECEC services who pay NSW Payroll Taxes so as to achieve greater fee affordability for parents as well as fairness when competing with ECEC services who do not pay NSW Payroll Taxes.
- That the NSW Government also introduce discounted NSW Payroll Taxes for regional ECEC services (similar to Victoria¹⁰¹) so as to achieve greater fee affordability for parents and provide incentives for such social infrastructure investment in regional and rural NSW.

⁹⁹ [NSW Payroll Tax](#) Thresholds and Rates

¹⁰⁰ [Worker Retention Payments](#), Federal Department of Education (December 2024)

¹⁰¹ [Payroll tax and regional employers](#), Victorian State Revenue Office (November 2024)



Glossary

- **ACA** means Australian Childcare Alliance
- **ACCC** means Australian Competition and Consumer Commission
- **ACECQA** means the Australian Children’s Education and Care Quality Authority
- **ADG** means Apartment Design Guide
- **AEDC** means Australian Early Development Census
- **AERO** means Australian Education Research Organisation
- **AITSL** means the Australian Institute for Teaching and School Leadership
- **API** means Application Programming Interface
- **A&R** means Assessment and Ratings
- **CCS** means Child Care Subsidy
- **DCP** means Development Control Plan
- **ECEC** means early childhood education and care
- **ECT** means early childhood teacher
- **GST** means Goods and Services Tax
- **HSC** means Higher School Certificate
- **IELTS** means International English Language Testing System
- **IPART** means Independent Pricing and Regulatory Tribunal
- **LEP** means Local Environmental Plan
- **NAPLAN** means National Assessment Program – Literacy and Numeracy
- **NESA** means NSW Education Standards Authority
- **NQF** means National Quality Framework
- **NQS** means National Quality Standards
- **PISA** means Program for International Student Assessment
- **RPL** means Recognition of Prior Learning
- **RTO** means Registered Training Organisations
- **SEPP** means State Environmental Planning Policy
- **TAFE** means Technical and Further Education
- **WWCC** means Working With Children Checks



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NSW Budget 2025 Submission

#BestStartInLife



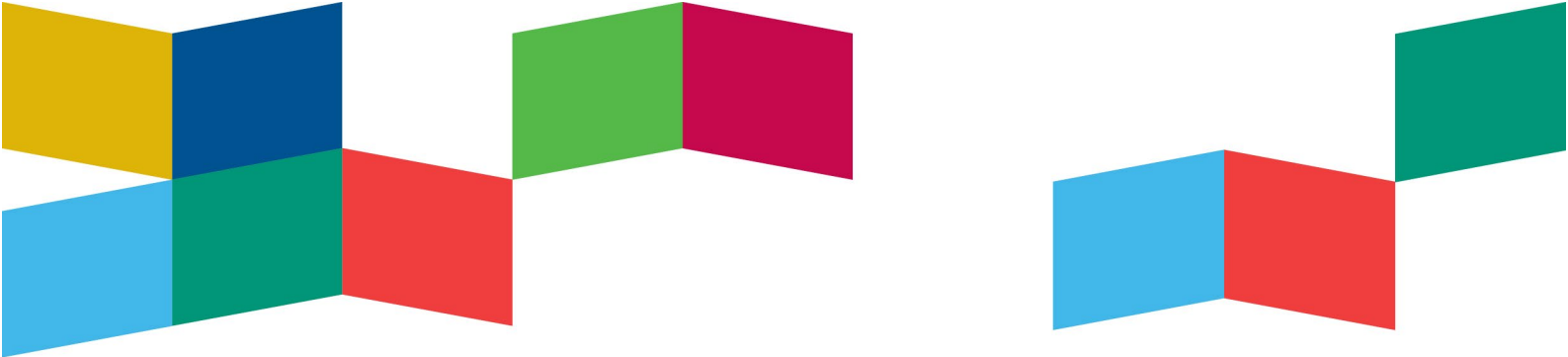
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Foreword

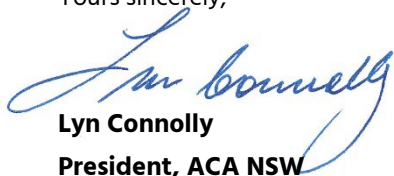
For over 50 years, the Australian Childcare Alliance (ACA) NSW is the largest not-for-profit industry association representing over 1,600 privately-owned early childhood education and care services that educate and care for about 55% of all enrolled children in New South Wales.

While acknowledging that the major funding for early childhood education and care services is through the Federal Government's Child Care Subsidies¹, the implementation of the National Quality Framework², the National Law³ and National Regulations⁴ in NSW since January 2012 and other funding arrangements remain the primary responsibilities of the NSW Government.

Notwithstanding now 13 years of the existing regulatory and financial framework, the NSW early childhood education and care sector has not been able to overtly illustrate the profession's benefits of "*roughly \$8.60 for every \$1 spent*"⁵ nor even the Australian estimates of "*approximately \$2 of benefits for every \$1 spent*"⁶ and "*\$13 for every \$1*"⁷. Hence, to ensure the continuation of the public's trust, public investments and actions of the NSW Government must ultimately and overtly demonstrate dividends through children's outcomes alongside workforce participation and sector sustainability.

ACA NSW has never wavered from the promises of the potential of early childhood education and care. And we continue to be committed to ensuring that **every child in New South Wales** has access to high quality, affordable, sustainable and effective early learning services, and therefore the **best start in life**. This NSW Budget 2025 submission highlights a range of challenges as well as solutions for the NSW Government's consideration.

Yours sincerely,


Lyn Connolly
President, ACA NSW



¹ [Child Care Subsidies](#) were introduced by the Federal Government in July 2018.

² Australia's [National Quality Framework](#) is administered by the National Authority, the Australian Children's Education & Care Authority (ACECQA).

³ The National Law achieves legislative effect via the NSW Parliament's [Children \(Education and Care Services\) National Law Act 2010](#)

⁴ The National Regulations is the subordinate legislative instrument of the National Law via the NSW Parliament's [Education and Care National Regulations 2011](#).

⁵ "[The Economics of Early Childhood Investments](#)" by Nobel Prize winner Professor James J Heckman (January 2015)

⁶ "[A Smart Investment for a Smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia](#)" by The Front Project (June 2019)

⁷ "[Acting early: The economic case for early intervention](#)", by NSW Health (April 2021)





About ACA NSW's Submission

Our submission for the NSW Budget 2025 has been assembled as follows:

■ Part A: Strategic Solutions

- Fulfilling the promises of early childhood education and care
- Future of NSW's First Steps Strategy for Aboriginal Children
- Future of 100+50 new preschools on school grounds
- Building on NSW's Health and Development Checks
- Essential Housing for Essential Early Childhood Educators and Teachers
- Repairing NSW's Quality Ratings
- Rethinking NSW Regulatory Practices

■ Part B: Immediate Solutions

- Ensuring our children are protected
- Extending NSWeduChat for ECEC
- Sustainable Supply of Skilled ECEC
- Fit-for-Purpose Legal Requirements

■ Part C: Complementary Solutions for Early Childhood Education and Care

- Planning for ECEC
- Digital Strategy for ECEC
- Fairer & Lower Payroll Taxes for ECEC





A.1 Fulfilling the promises of early childhood education and care

Throughout time, the benefits of early childhood education and care have been instinctively valued by all parents and families. And since January 2012, all Australian governments professionalised early childhood education and care through the implementation of the National Quality Framework, the National Law and National Regulations.

It is worth highlighting two universally accepted measures of the potential dividends of early childhood education and care in economic terms that encompass children's outcomes and workplace participation:

- United States' Nobel Prize winner Professor James J Heckman (published January 2015):

*"In total, the existing research suggests expanding early learning initiatives would provide benefits to society of roughly \$8.60 for every \$1 spent, about half of which comes from increased earnings for children when they grow up."*⁸

- Australia's The Front Project (with assistance from PriceWaterhouseCoopers) (published June 2019):

*"Overall, the study has identified approximately \$2 of benefits for every \$1 spent on early childhood education."*⁹

It is worth noting that NSW Government published a far more encouraging return on early childhood investment of "\$13 for every \$1"¹⁰ as part of its *Brighter Beginnings: The First 2000 Days of Life* initiative.

Yet, after 13 years, no Australian government can consistently measure nor present its public investments against such yardsticks.

An illustration of this is the noticeable observation that early childhood education and care is generally siloed and not harmonised with schools and their measures of success and/or outcomes, let alone with other aspects of successful development of human beings.

⁸ ["The Economics of Early Childhood Investments"](#) by Nobel Prize winner Professor James J Heckman (January 2015)

⁹ ["A Smart Investment for a Smarter Australia: Economic analysis of universal early childhood education in the year before school in Australia"](#) by The Front Project (June 2019)

¹⁰ ["Acting early: The economic case for early intervention"](#), by NSW Health (April 2021)



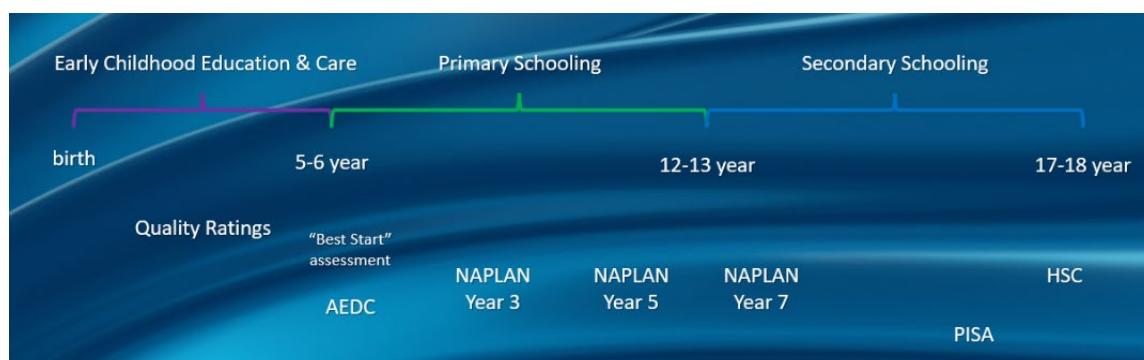


Figure A.1(a) – Departments of Education’s measures of success and/or outcomes from birth to 18 years old

An example of such disconnections was when, after then 10 years of the National Quality Framework, the National Law and National Regulations, the following unintentional remarks were made:

- The NSW Department of Education (on 12 September 2022):

“2 out of 5 children are not developmentally on track upon starting school”¹¹

- The Federal Minister for Education, the Hon Jason Clare MP (6 October 2022):

“Last year, 55 percent of four and five year olds were assessed as developmentally ready to start school.”¹²

It was explained that such statements were based on the Australian Early Development Census (AEDC)¹³ which is not harmonised with the National Quality Framework, the National Law nor the National Regulations.

Yet, such public statements sit uncomfortably with the national authority (the Australian Children’s Education & Care Authority (ACECQA)) who published:

- their NQF Snapshot (Q4 2022):

“89% of services with a quality rating of Meeting National Quality Standards or above”¹⁴

- their NQF Snapshot (Q4 2021):

“87% of services with a quality rating of Meeting National Quality Standards or above”¹⁵

¹¹ A [Slide from a public presentation](#) by the NSW Department of Education (12 September 2022)

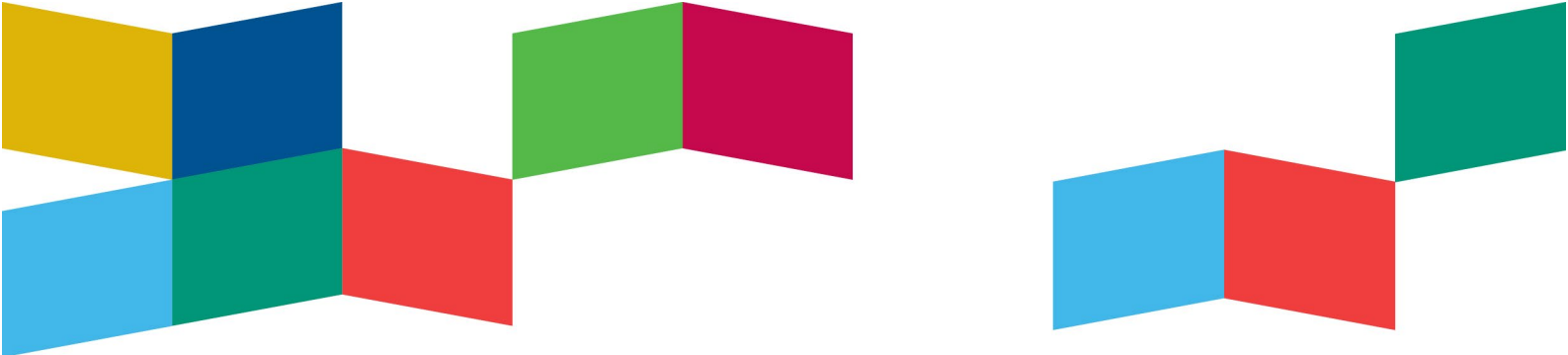
¹² [Speech](#) by the Federal Minister for Education, the Hon Jason Clare MP, at the Early Childhood Australia National Conference (6 October 2022)

¹³ Reference to the [Australian Early Development Census \(AEDC\)](#) (circa 2021)

¹⁴ ACECQA’s [NQF Snapshot Q4 2022](#) (February 2023)

¹⁵ ACECQA’s [NQF Snapshot Q4 2021](#) (February 2022)





As such, early childhood education and care persists to be broadly deemed as predominantly childcare and a public policy to address workplace participation for parents.

Such views can contribute risks toward the generation of adequate supply and professional effectiveness of skilled early childhood educators and teachers, as well as achieving the maximum possible outcomes as originally promised by the early childhood education and care profession.

Notwithstanding, it is encouraging that the Federal Government established a preschool Expert Advisory Group¹⁶ in 2021 with a report due by 2022. All Australian governments have since agreed to design a set of preschool outcomes measures¹⁷ to be trialled across all jurisdictions during 2025.

Similarly, the NSW Government implemented its \$376.5m Brighter Beginnings initiative over four years as announced in its NSW Budget 2022. This initiative included two aspects that should be harmonised with the early childhood education and care sector's focus on children's outcomes:

- \$111.2m - introducing health and developmental checks (for children in their year before school)
- \$57.2m - developing the Digital Baby Book (ie an electronic version to the hardcopy NSW Blue Book)

RECOMMENDATION A.1-01: NEW TASKFORCE TO ESTABLISH PUBLIC DASHBOARD AND DATA PORTAL OF NSW CHILDREN'S OUTCOMES FROM BIRTH TO 18 YEARS OLD

- That the NSW Government establishes a taskforce that will develop a NSW set of empirical measures and data availabilities of children's outcomes as they develop from birth to 18 years old.
- That the NSW set of measures of children's outcomes must include health, development, transition to school statements and educational outcomes.
- That such NSW measures be appropriately presented via a public dashboard and data portal for the benefit of parents and use by the full spectrum of NSW's education sector.

RECOMMENDATION A.1-02: NSW CENTRES OF EXCELLENCE OF ECEC

- That the NSW Government annually publishes a set of ECEC services that overtly demonstrates the long-lasting benefits of early childhood education and care (as demonstrated by their respective children in terms of their children's outcomes), so that other ECEC services can learn from and emulate.

¹⁶ "[New Expert Advisory Group to focus preschool outcomes launched](#)", The Sector (September 2021)

¹⁷ [Preschool Outcomes Measure](#), Federal Department of Education





A.2 Future of NSW's First Steps Strategy for Aboriginal Children

The NSW Department of Education's vision is that all Aboriginal children in NSW can access quality early childhood education and care (ECEC) and are supported to embrace their culture and identity for a strong start to lifelong learning. Hence, its *First Steps – the NSW Aboriginal Children's Early Childhood Education Strategy 2021-2025*¹⁸.

Unfortunately, one of its primary objectives of “55% of Aboriginal children will be assessed as developmentally on track in all 5 domains of the Australian Early Development Census by 2031” is unlikely to be fulfilled because:

- in 2021¹⁹, 34.3% of Aboriginal and Torres Strait Islander children commencing school nationally were assessed as being developmentally on track in all five AEDC domains; and
- this is a decrease from 35.2% in 2018.

The next AEDC data will not be released until after 2024.

Despite the promises of the multiplier effect of early childhood education and care by Professor Heckman⁷ and NSW Health⁹, the trajectory of outcomes for Aboriginal children from birth to 5 years old require an immediate review, including if the AEDC measures remain appropriate and how the existing early childhood education and care framework, practices and support may be deficient.

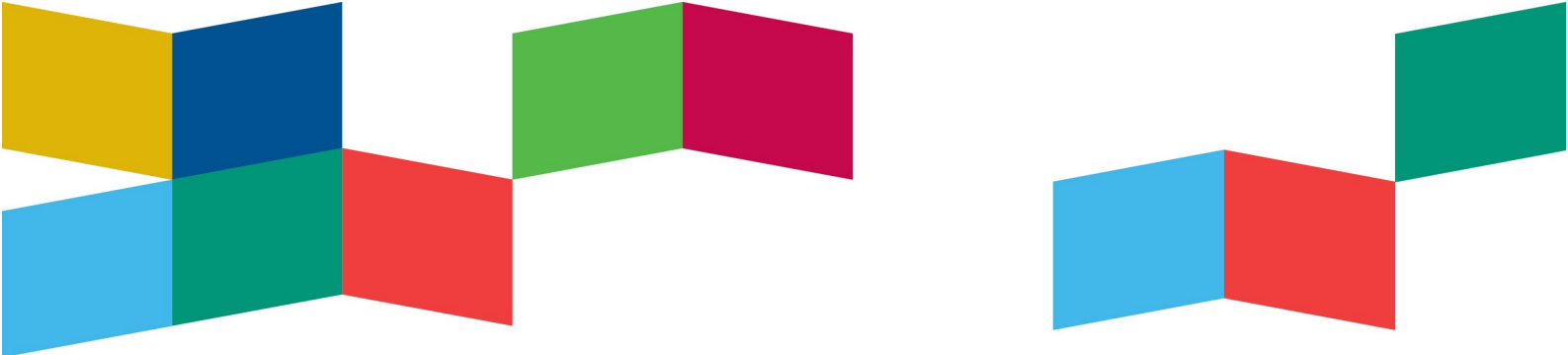
And rather than relying on the AEDC data that is conducted every 3 years, an annual assessment of outcomes for Aboriginal children may be more urgently warranted.

Moreover, all NSW-based ECEC services are obliged to comply with the NQF, the National Law and National Regulations. There therefore is a concern that they are not appropriately harmonised with the objectives of the First Steps Strategy for Aboriginal Children. Without proper alignment, there is a great risk that the full benefits of early childhood education and care may not be realised for Aboriginal children.

¹⁸ “[First Steps – the NSW Aboriginal Children's Early Childhood Education Strategy 2021-2025](#)”, NSW Department of Education

¹⁹ [Closing the Gap](#), information repository, Productivity Commission





RECOMMENDATION A.2-01: BETTER OUTCOMES FOR ABORIGINAL CHILDREN

- That the NSW Government conducts a multi-agency (including the NSW Department of Education, NSW Health, NSW Department of Communities and Justice) review to assess the effectiveness of the *First Steps Strategy for Aboriginal Children* in response to the AEDC data as well as the National Quality Framework, the National Law and National Regulations for the benefit of Aboriginal children.



A.3 Future of 100+50 new preschools on school grounds

Prior to the NSW State Election on 25 March 2023, the then NSW Labor Opposition announced that it would build 100 new preschools on school grounds by 2027 (valued at \$769.3m).

Clarification²⁰ was also received in June 2022 from then NSW Shadow Minister for Education and Early Childhood Learning (now the NSW Deputy Premier the Hon Prue Car MP), that stated:

“Recognising oversupply currently exists in a number of areas, co-located preschool under this plan will be targeted to areas with identified genuine need of additional preschool places.”

Such reassurance to avoid oversupply was also provided via a video discussion²¹ with then NSW Shadow Minister Prue Car MP on 9 March 2023.

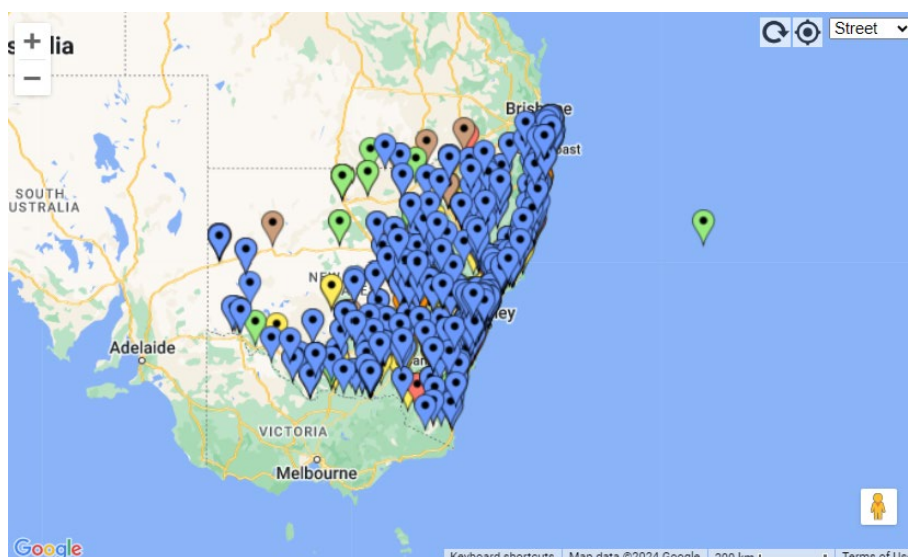


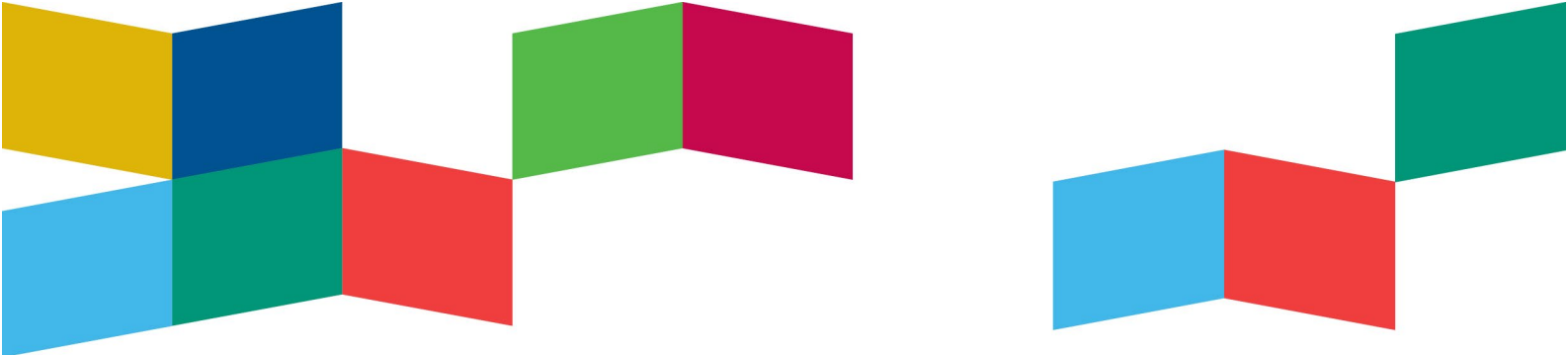
Figure A3.1(a) – Map²² of sites of proposed 100 preschools alongside existing preschool and long daycare services with preschool programs, as well as proposed new non-government preschools and long daycare services with preschool programs

²⁰ [Clarification of preschool availability in NSW](#), Prue Car MP (24 June 2022)

²¹ [Video discussion with NSW Shadow Minister Prue Car](#) (9 March 2023)

²² [Interactive map](#) available as published by ACA NSW (20 February 2024)

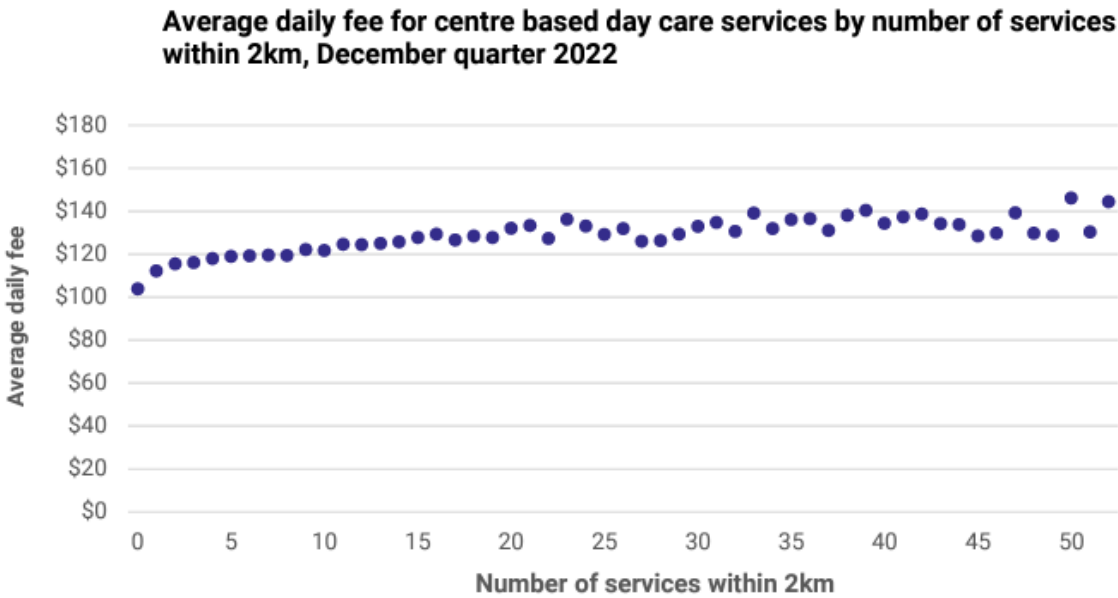




Excessive and unnecessary competition and oversupply have been the subject of significant concerns since 2017. The negative consequences of such are experienced as:

- increases in fees to parents; and
- loss of places (especially for children birth to 2 years old) offered due to loss of early childhood educators²³ and teachers²⁴ due to their respective rigid educator:children and teacher:children ratios.

It should be noted that in 2023, the ACCC confirmed that oversupply of services tends to increase the average fees to parents by up to 40% or more.



Source: ACCC analysis of Department of Education administrative data.

Figure A3.1(b) – [ACCC Childcare Inquiry Interim Report](#) (June 2023)

²³ [Regulation 123 Educator to child ratios – centre-based services](#), NSW Regulations

²⁴ [Regulation 272 Early childhood teachers – children preschool age or under](#), NSW Regulations



Moreover, the Assessment Panel Decision Making Framework²⁵ used to determine the sites of the proposed 100 preschools appears to be structured such that existing and planned supply can have a structurally skewed and maximum weighting of 9.375% of the full criteria.

Criteria	Weighting	Sub-Criteria	Weighting
Educational Needs	62.5%	Socio-economic Disadvantage (30% of 62.5%)	18.75%
		Developmental Vulnerability (30% of 62.5%)	18.75%
		Access (40% of 62.5%)	25.00%
Community Impact	37.5%	Existing/planned supply (25% of 37.5%)	9.375%
		Existing/planned funded services (25% of 37.5%)	9.375%
		Existing/planned co-located preschools (25% of 37.5%)	9.375%
		Existing/planned Aboriginal/Torres Strait services (25% of 37.5%)	9.375%
TOTAL	100%		100%

Figure A3.1(c) – Summary of weightings within the Assessment Panel Decision Making Framework (NSW Department of Education)

It is also important to contrast the NSW Department of Education's 100 chosen sites for new/upgraded preschools with the NSW Independent Pricing and Regulatory Tribunal (IPART)'s recommendations²⁶ for sites for new early childhood education and care services to address undersupply.




Table 5.3 Most undersupplied areas in Greater Sydney, for population aged 0-5, by SA2 – lower demand estimate

Nr	SA2 Name	Remoteness	CALD	Indig	Disab	SEIFA	Places ^a
1	Warwick Farm	Major Cities	43%	2%	8%	1	47
2	Regents Park	Major Cities	63%	0%	5%	3	77
3	Lakemba	Major Cities	51%	1%	5%	1	364
4	Berala	Major Cities	63%	0%	5%	3	89
5	Liverpool - West	Major Cities	43%	2%	8%	1	608
6	Prospect Reservoir	Major Cities	32%	9%	9%	-	199
7	Wiley Park	Major Cities	51%	1%	5%	2	174
8	Chullora	Major Cities	47%	1%	6%	8	63
9	Bidwill - Hebersham - Emerton	Major Cities	32%	9%	9%	1	260
10	Lurnea - Cartwright	Major Cities	43%	2%	8%	1	296
11	Edensor Park	Major Cities	56%	1%	7%	3	195
12	Fairfield - West	Major Cities	56%	1%	7%	1	215
13	Fairfield - East	Major Cities	48%	1%	7%	1	335
14	Auburn - South	Major Cities	63%	0%	5%	3	354
15	Merrylands - Holroyd	Major Cities	48%	1%	7%	3	930

a. This is the current number of ECEC places for 0-5-year-olds in the SA2 at July 2023, based on NSW Department of Education QARS data. Note: 'CALD' refers to children from culturally and linguistically diverse backgrounds, 'Indig' refers to Aboriginal and Torres Strait Islander children and 'Disab' refers to children with disability/additional needs.

Source: Cth Department of Education CCS data, 2022 Community Preschool and NSW Government preschool censuses, NSW Department of Education QARS, July 2023, NSW Department of Planning and Environment Population Projections, ABS Census 2021, ABS, Disability, Ageing and Carers, Australia: Summary of Findings, 2018, and IPART analysis.

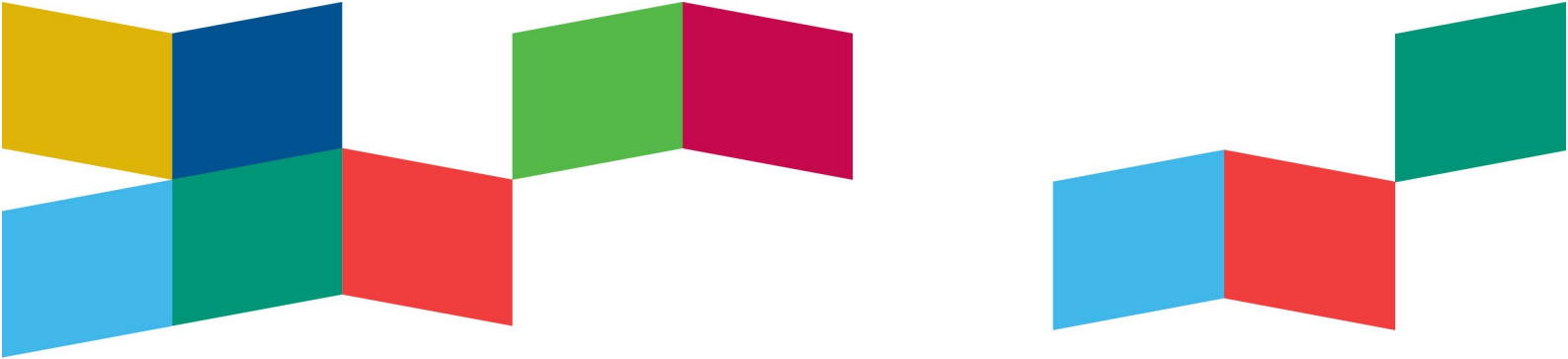
Figure A3.1(d) – IPART Report to the NSW Minister on sites for ECEC services to address undersupply

Although recognising that both may not bear the exact same objectives, it is worth contrasting the two sets of site selections on the basis that the 100 sites for new/upgraded preschools were selected without an adequate assessment component to measure educational deficit through existing services as part of the overall criteria (in addition to

²⁵ [Assessment Panel Decision Making Framework](#), NSW Department of Education (2023/2024)

²⁶ [NSW IPART Report to the Minister](#) (December 2023)





appropriate weighting on existing services). In other words, the IPART's approach may be more effective with addressing undersupply than the decisions made in relation to the 100 sites for preschools on school grounds.

Furthermore, due to the NSW Government's obligations to enrol non-Australian citizens into NSW public schools²⁷, it therefore makes sense to extend public preschools to non-Australian citizens as well. Such needs from children of non-Australian citizens would be deemed as real as most Commonwealth support would be focussed on Australian citizens.

Similarly, as articulated by the Productivity Commission's *Final Report of the Review into Early Childhood Education and Care's Inclusion Support Program*²⁸, there is consensus that there is not sufficient capacity nor consistent distribution of capacity to support appropriate inclusion and special needs.

Hence, it is the NSW Government's self-interest to capitalise on its public commitments to create new supply of early childhood education and care services towards those children where existing social infrastructure may not be supporting adequately.

RECOMMENDATION A.3-01: URGENT NEED TO CLARIFY NSW GOVERNMENT'S STRATEGY TO ADDRESS TRUE UNDERSUPPLY OF EARLY CHILDHOOD EDUCATION AND CARE SERVICES

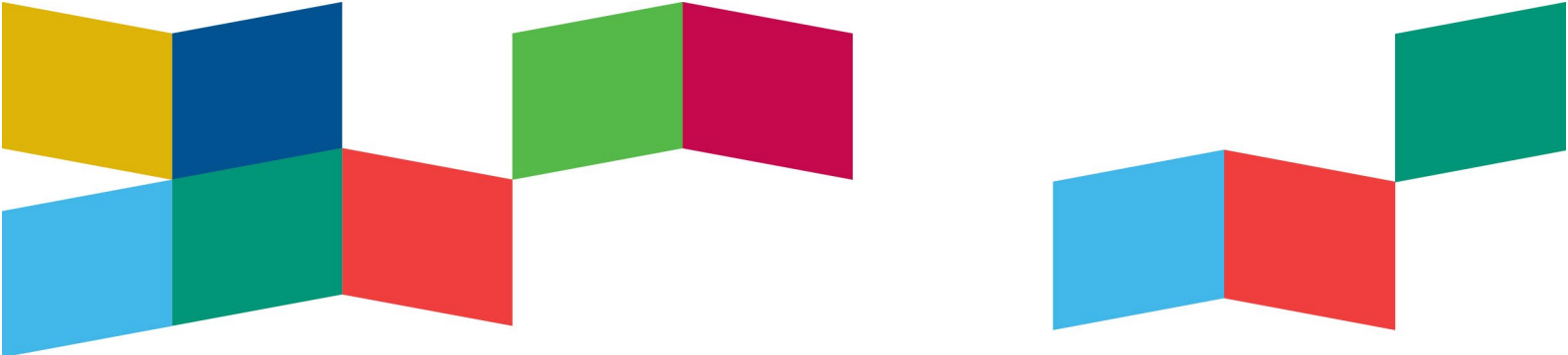
- That the NSW Government overtly articulates how ECEC services are to be measured to demonstrate if existing services are successfully producing the children's educational and developmental outcomes the NSW Government will accept instead of intervening to address undersupply of quality and effective services.
- That, in maximising government interventions to address undersupply, the NSW Government prioritises a group(s) of children who tend not to be adequately supported otherwise (including vulnerable children, children at risk, children with developmental needs, and non-Australian citizens (for example children of refugees)).
- That in anticipation of the use of taxpayer funds to exercise government intervention to address undersupply, the NSW Government expands its assessment criteria on the consideration of service settings (ie creating new centre-based infrastructure versus leveraging existing family daycare infrastructure).
- That the NSW Government abandons the NSW Department of Education's Assessment Panel Decision Making Framework, and task the NSW IPART to develop a new model for identifying and prioritising new preschools on school grounds based on demonstrable need, while avoiding oversupply.

Please note that Recommendation A.3-01 should also be considered in conjunction with Part C.1 Planning for ECEC.

²⁷ [Enrolment of non-Australian Citizens Process and Eligibility](#), NSW Department of Education

²⁸ [Final Report of the Review into Early Childhood Education and Care's Inclusion Support Program](#), Productivity Commission ()





A.4 Building on NSW's Health and Development Checks

First announced on 21 June 2022, the NSW Government introduced its \$376.5m Brighter Beginnings²⁹ initiative beginning 1 July 2023. This initiative includes \$111.2m for a trial of free health and developmental checks for children in the year before school.

Conducted on the premises of early childhood education and care services, health professionals across all 15 NSW local health districts will check children's health and development such as:

- their listening and talking skills;
- their social skills and behaviour;
- their gross and fine motor skills;
- their learning, thinking and problem-solving skills; and
- how their bodies are growing, such as their height, weight, and teeth.

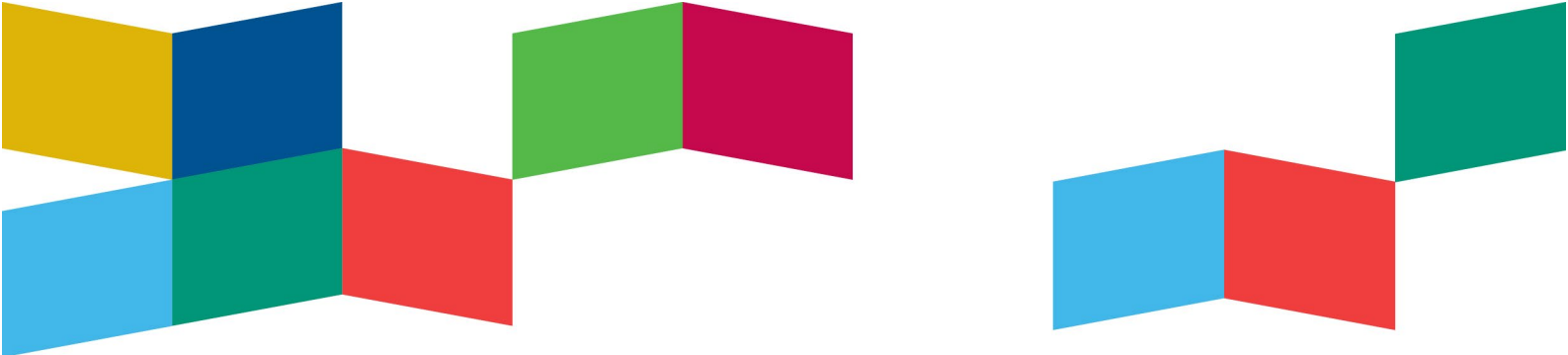
This is an initiative that ACA NSW wholeheartedly supports as NSW President Lyn Connolly had been agitating for well over 30 years for all children (albeit the trial is currently only focussed on children in the year before school).

Meaningful opportunities therefore emerge for the benefit for all children (not just those in their year before school) at existing and new ECEC services using specific and/or aggregated health and development data at the local health district level:

- advice and assistance to parents for particular children or cohort of children in the particular local health district(s) can be deployed;
- additional support can be deployed in a more timely manner to particular children or cohort of children in the particular local health district(s); and
- more effective service deliveries at ECEC services can achieve greater alignment between Quality Ratings and the eventual AEDC data.

²⁹ Brighter Beginnings announced in the [NSW Budget 2022-2023](#) (21 June 2022)





The evolution and expansion of NSW's health and development checks are necessary to significantly achieve the promises of early childhood education and care investments as articulated by Professor James J Heckman³⁰ (estimation of an 8.6x multiplier) as well as NSW Health³¹ (estimation of a 13x multiplier).

The Brighter Beginnings initiative also included:

- \$70.9m - expanding Sustaining NSW Families; and
- \$57.2m - developing the Digital Baby Book (ie an electronic version to the hardcopy NSW Blue Book)

It would therefore benefit NSW children and their parents greatly when the (expanded) data generated through health and development checks can be directly shared with parents and their support network (eg their General Practitioners). Such aggregated data kept by parents for their children can then be better synchronised with the resourcing of every NSW local health district so that health and development of children are harmonised with the promises of early childhood education and care.

RECOMMENDATION A.4-01: EXPANDING CHILDREN'S HEALTH & DEVELOPMENT CHECKS

- That the NSW Government plan to extend the current health and development checks of children to include all children from birth to 5 years old as soon as possible, and that such expansion be harmonised with existing health infrastructure for children and families.
- That the NSW Government develop a data enabling infrastructure (including the expansion of the electronic version of the NSW Blue Book) for the benefit of children, parents, health services and early childhood education and care services.

³⁰ "[The Economics of Early Childhood Investments](#)" by Nobel Prize winner Professor James J Heckman (January 2015)

³¹ "[Acting early: The economic case for early intervention](#)", by NSW Health (April 2021)





A.5 Essential Housing for Essential Early Childhood Educators and Teachers

“Housing is one of our most basic needs and perhaps our biggest blindspot,” said Professor Esther Sullivan.

The affordability of housing has become a most significant obstacle for far too many Australians. Unfortunately, it is more negatively magnified on essential workers, including early childhood educators and teachers, on two fronts:

- the cost of housing; and
- their financial ability to compete for housing.

It is self-evident that there is an inequitable and ever-widening disadvantage of essential workers’ financial ability to secure their homes within a reasonable amount of time. Yet, community expectations for essential workers’ services and outcomes are currently without sufficient community and government responses to recognise, support and preserve their professional choice to be essential workers.

ACA NSW must emphasise that affordable housing is not just an intra-Sydney issue, but also a significant regional and rural concern as well. Due to internal migration, essential workers are also disadvantaged when competing with higher numbers of domestically migrating and better resourced individuals, couples and families for the finite local housing supply.

During the COVID pandemic, both the NSW Government and the Federal Government recognised early childhood educators, teachers and supporting personnel (alongside a specific group of professions and industry sectors) as Essential/Critical/Authorised Workers³².

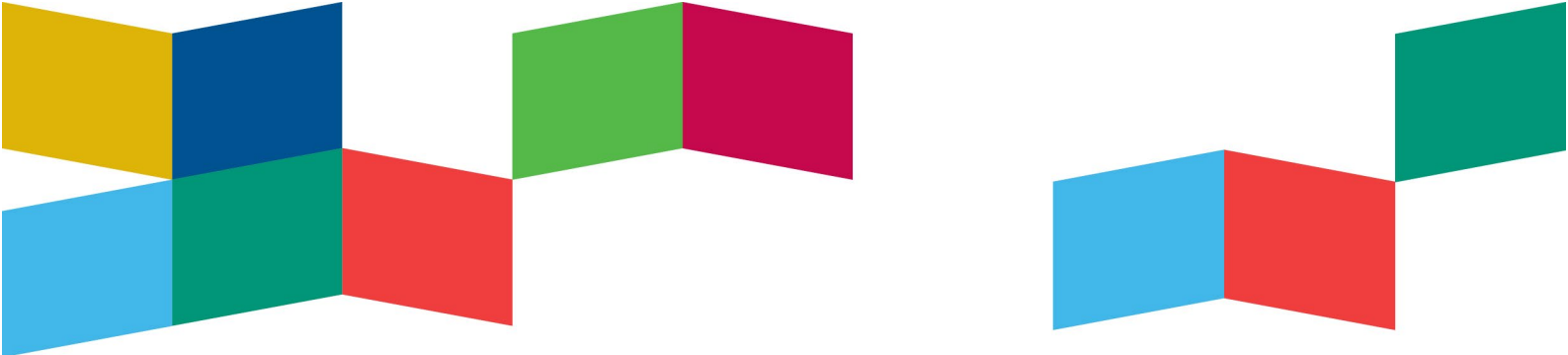
Achieved through the relevant NSW Public Health Orders³¹, such people were unquestioningly accepted as important and necessary to ensure the critical functioning of our society, our state and our nation.

Such unambiguous and unchallenged recognition and appreciation not only by governments but also by all Australians therefore articulate the significant social and economic importance and value of Essential Workers.

Hence, it is timely to revisit not only what governments and our communities ought to implement to not only legally define but even more importantly ensure the necessary sustainable supply and retention of all Essential Workers.

³² [NSW Public Health \(COVID-19 Additional Restrictions for Delta Outbreak\) Order \(No 2\) 2021](#), NSW Health (10 September 2021)





The national authority for early childhood education and care (the Australian Children’s Education and Quality Authority (ACECQA)) had confirmed our sector’s severe labour shortage prior to the COVID pandemic. It was then estimated that 39,000³³ more early childhood educators and teachers were needed by December 2023. Such severe labour shortages have continued to persist as the following observations suggest:

- the Australian Competition & Consumer Commission (ACCC)’s Childcare Inquiry Interim Report (September 2023)³⁴ stated, *“Current educator shortages are having a material impact on the supply and cost of childcare”*;
- the Jobs and Skills Australia’s The Future of the Early Childhood Education Profession Report (September 2024) stated, *“More than 20,000 extra early childhood educators urgently needed in Australia to keep up with current demands”*³⁵; and
- ACECQA’s Shaping Our Future (2022-2031)³⁶ stated: *“In the context of declining enrolments in approved educator and teacher qualifications, increasing demand for early childhood teachers and a growing shortage of primary school teachers, the children’s education and care sector continues to face significant and increasingly urgent workforce challenges”*.

Hence, housing for current as well as future early childhood educators and teachers, as Essential Workers, is a substantial and on-going consideration for individuals wishing to enter and continue into the early childhood education and care profession.

RECOMMENDATION A.5-01: ESSENTIAL HOUSING FOR ESSENTIAL ECEC EDUCATORS & TEACHERS

- That the NSW Parliament introduce appropriate NSW legislation such that the term “Essential Workers” and a defined list is articulated and managed.
- That the NSW Minister for Planning revise the NSW Apartment Design Guide (ADG) such that the necessary quantum of affordable housing supply can be achieved and potentially reserved for Essential Workers. (NOTE: There may be a necessity to consider the impact of local governments’ Development Control Plans (DCPs) as such planning instruments can override the ADG.)
- That the NSW Parliament introduce appropriate obligations on NSW local governments such that they must annually fulfil the requisite amount of new housing stock for Essential Workers, report the number of Essential Workers each local government area needs each year, and publish the number of Essential Workers housed and are awaiting to be housed in their local government areas.

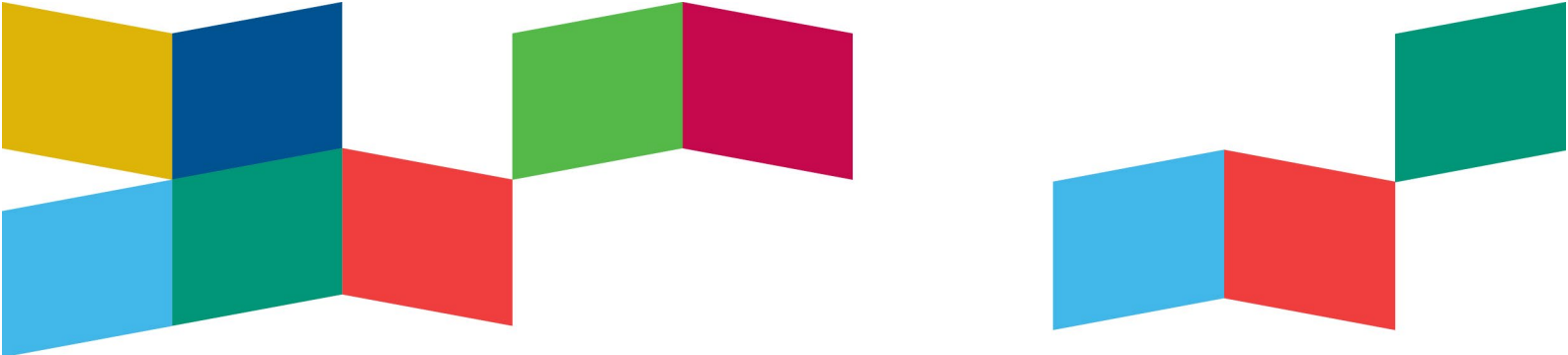
³³ [Workforce Report](#), ACECQA (November 2019)

³⁴ [Childcare Inquiry Interim Report](#), ACCC (September 2023)

³⁵ [The Future of the Early Childhood Education Profession Report](#), by Jobs and Skills Australia (September 2024)

³⁶ [Shaping Our Future \(2022-2031\)](#), ACECQA (September 2021)



- 
- That the NSW Government exempt Essential Workers from stamp duties when purchasing their principal residence and create a mechanism to provide rebates of the proportionate value of the government charges imposed on developers for their new principal residence.
 - That the NSW Government introduce an Essential Workers' Liveability Index (in terms of supply and availability) for every local government that is relevant for Essential Workers.

It is worth noting that the current initiatives of the NSW Government to increase affordable housing supply may not have adequately considered social infrastructure like early childhood education and care.

RECOMMENDATION A.5-02: EXPANDING NSW HOUSING STRATEGY TO INCLUDE ECEC

- That the NSW Government invite the Housing Development Authority³⁷ and the Housing Taskforce³⁸ to ensure that future housing supply includes the planning for ECEC services, especially for young families.

Please note that ACA NSW has made its submission³⁹ to the NSW Parliament's inquiry into Essential Housing for Essential Workers. Greater technical details are provided in that submission.

³⁷ [Housing Delivery Authority](#), NSW Government (December 2024)

³⁸ [Housing Taskforce](#), NSW Government (November 2024)

³⁹ [Submission for the consideration of Essential Housing for early childhood educators and teachers across NSW](#), by ACA NSW (10 October 2024)



A.6 Repairing NSW's Quality Ratings

The Quality Ratings⁴⁰ of every early childhood education and care (ECEC) services was originally designed:

- to oblige every ECEC service to comply with or exceed the National Quality Standards (NQS)⁴¹; and
- to ensure every ECEC service is assessed in a timely fashion so as to convey the level of quality to parents.

The overwhelming majority of early childhood education and care services have been rated by their local Regulatory Authorities (eg the NSW Department of Education) as Meeting the National Quality Standards or higher for many years now. In fact, 91%⁴² of services are now rated Meeting or higher. (NOTE: The percentage for NSW is 87% for the corresponding period.)

However, for the last 7 years, more services previously rated as Exceeding the NQS have instead been re-rated as Meeting the NQS. Such recalibration has been more obvious since the National Quality Framework was updated in 2018.

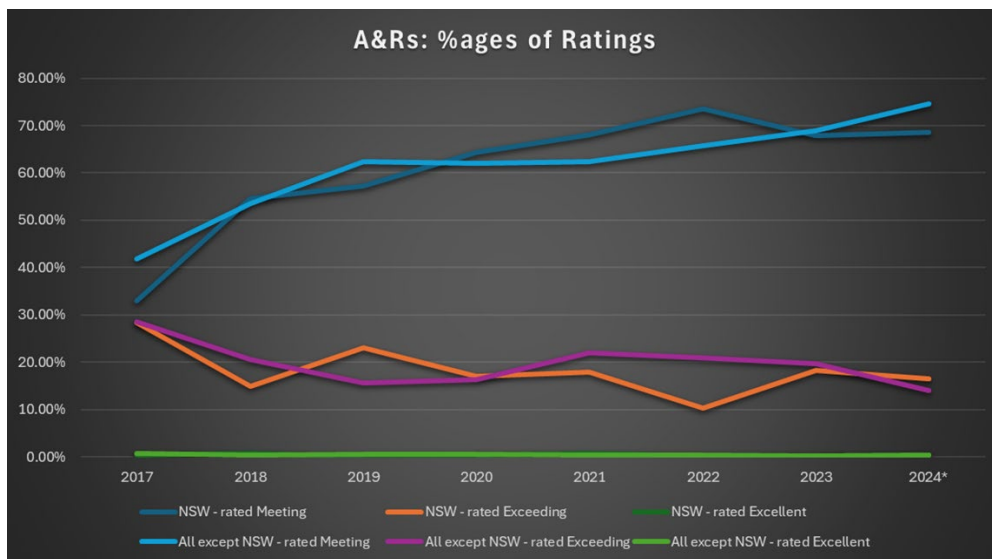


Figure A6.1(a) – SOURCE: Australian Children's Education and Quality Authority's National Registers⁴³

⁴⁰ About [Quality Ratings](#), by the Australian Children's Education and Quality Authority (ACECQA)

⁴¹ About the [National Quality Standards](#), by ACECQA

⁴² [NQF Snapshot Q3 2024](#), by ACECQA (November 2024)

⁴³ [National Registers](#) of ACECQA



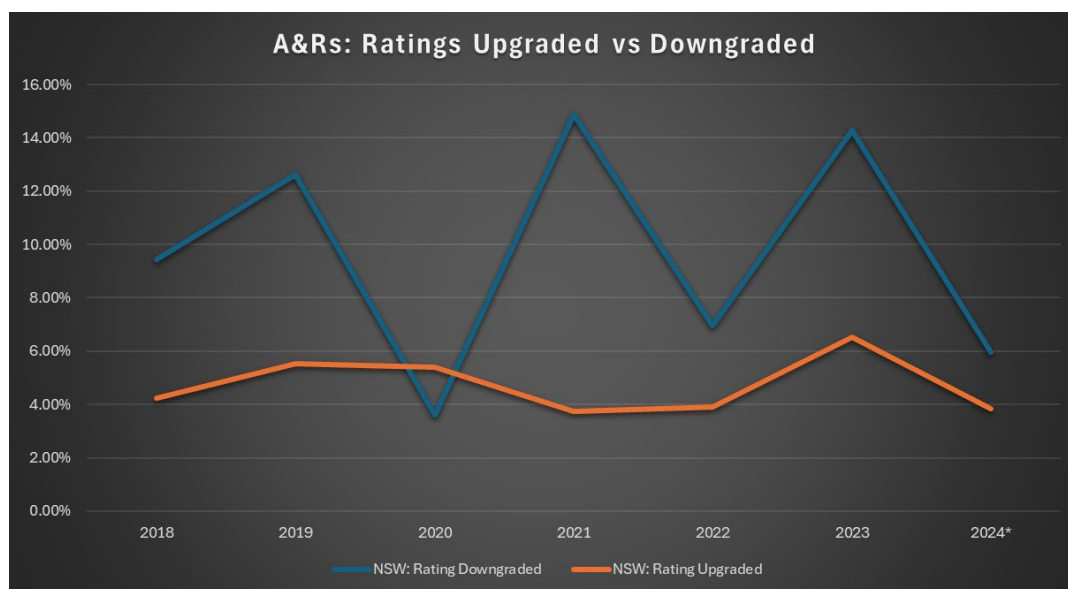


Figure A6.1(b) – SOURCE: Australian Children’s Education and Quality Authority’s National Registers⁴¹

Total Number of Services	2017	2018	2019	2020	2021	2022	2023	2024
NSW	5,361	5,444	5,492	5,600	5,722	5,854	5,948	5,946
NSW - rated Meeting	2,222	2,399	2,571	2,964	3,359	3,650	3,907	4,096
NSW - rated Exceeding	1,538	1,455	1,309	1,405	1,286	1,261	1,143	1,114
NSW - rated Excellent	13	16	14	16	15	16	12	10
% of services based on their Quality Ratings	2017	2018	2019	2020	2021	2022	2023	2024
NSW - rated Meeting	41.45%	44.07%	46.81%	52.93%	58.70%	62.35%	65.69%	68.89%
NSW - rated Exceeding	28.69%	26.73%	23.83%	25.09%	22.47%	21.54%	19.22%	18.74%
NSW - rated Excellent	0.24%	0.29%	0.25%	0.29%	0.26%	0.27%	0.20%	0.17%
% of services Meeting the NQS or higher	70.38%	71.09%	70.90%	78.30%	81.44%	84.16%	85.10%	87.79%
ACECQA NQF SNAPSHOTS (NATIONALLY)	2017	2018	2019	2020	2021	2022	2023	2024
% of services Meeting the NQS or higher	77%	79%	80%	84%	87%	89%	90%	Not Yet Published

Table A6.1(c) – SOURCE: Australian Children’s Education and Quality Authority’s National Registers⁴¹

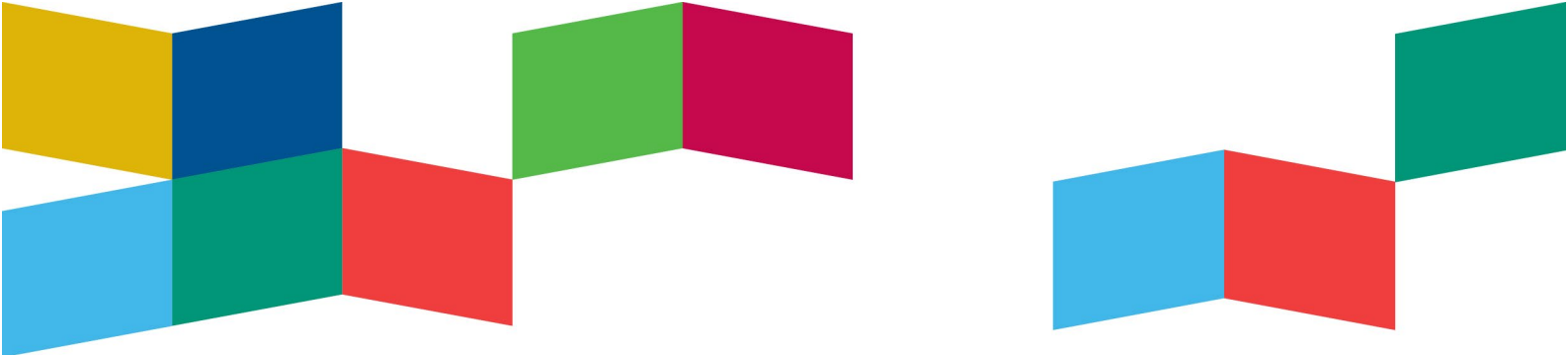
Please note that NSW also consistently underperforms compared to the nation as a whole (as illustrated by the comparison of services Meeting the NQS or higher as published by ACECQA’s NQF Snapshots⁴⁴.

And it is worth noting also that ACECQA announced in its NQF Snapshot Q3 2024 that “91% of services meet or exceed the National Quality Standard for the first time⁴⁵”. If calculated without NSW, that percentage would be higher than NSW.

⁴⁴ [NQF Snapshots](#), by the Australian Children’s Education and Care Quality Authority (ACECQA)

⁴⁵ [NQF Snapshot Q3 2024](#), by ACECQA





Such effectively downgrading of more services (towards Meeting the NQS) have consequently been giving the false impression to parents and the public that the quality of those services have declined. Worse, it is a contributing factor in terms of the loss of morale and vocational faith by early childhood educators and teachers. This consequently stokes a persisting loss of confidence and incentive to strive for continuous improvement, instead to just do the bare minimum to comply. It also is a major contributor towards higher attrition of early childhood educators and teachers.

As presented in Parts A.1 and A.2 in this NSW Budget 2025 submission, the Australian Early Development Census conducted every three years, ACECQA's the quarterly NQF Snapshots as well as the absence of analysis from the NSW Education Standards Authority or from the NSW Centre for Education Statistics and Evaluation, together presents a Quality Rating system that has become less reliable as a true measure of quality of NSW-based ECEC services.

Even the recent Technical Report⁴⁶ published in June 2024 by the Australian Education Research Organisation (AERO) while promoting⁴⁷ the value of Exceeding the National Quality Standards (NQS) was seriously undermined by the Technical Report's own admission that their data pre-dated 2018 when the calibrations for Meeting the NQS and Exceeding the NQS changed significantly since 2018.

As highlighted in Part A.1 in this NSW Budget 2025 submission, since all governments have become committed to defining and introducing preschool outcomes and measures⁴⁸, despite the National Quality Framework's existence since 2012, it is in the NSW Government's own interests to empirically define and implement children's expected outcomes for every stage of their development from birth to 5 years of age so that such children's outcomes can be further maximised from their 6 to 18 years of age.

Moreover, while there will continue to be a small proportion of children from birth to 5 years of age who will not have any early childhood education and care, it is also worthwhile to track those children's outcomes for comparison with those who have had early childhood education and care.

By having and publishing a comprehensive and trusted methodology of monitoring as well as demonstrating the benefits of early childhood education and care, the public will have greater incentive to invest if not invest further, and the sector will be even more invested into its own profession.

Finally, as NSW is one of the most multicultural communities in the world, there is an understandable practice of comparing our children with others in the world. And as the world continues to be proverbially smaller over time, our children are more exposed to greater global competition. As such, it is incumbent upon the NSW Government to maximise the promises of early childhood education and care as well as school education in order to ensure our children are not disadvantaged in their future on the world stage.

⁴⁶ ["Linking Quality and Child Development in Early Childhood Education and Care" Technical Report](#), by the Australian Education Research Organisation (AERO) (June 2024)

⁴⁷ ["The NQF Works! Implication of AERO's study linking quality and child development"](#), by The Front Project (21 November 2024)

⁴⁸ [Preschool Outcomes Measures](#), Federal Department of Education





RECOMMENDATION A.6-01: MAKING QUALITY RATINGS WORK FOR NSW

- That the NSW Government review the NSW Department of Education's assessment and ratings processes to ensure proper alignment between the National Quality Framework, National Laws and National Regulations with empirically defined regulatory requirements and children's outcomes.
- That the NSW Government invest in research into early childhood education and care to produce reliable data showing the quality of children's outcomes and their correlation to benefits for children from birth to 18 years of age.
- That the NSW Government invest in research to inform the harmonisation and effectiveness of early childhood education and care as well as school education so that NSW children's outcomes are comparable, if not superior, to other children in the corresponding cohorts across Australia and the world.



A.7 Rethinking NSW Regulatory Practices

William Howard Taft once said: “*We are all imperfect. We can not expect perfect government.*” But imperfection unchanged often transforms into unfairness.

Year	CONFIRMED BREACHES AT NQF APPROVED ECEC SERVICES		
	NSW	NSW (% of Australia)	Rest of Australia
2016/2017	3,797	24.95%	11,424
2017/2018	7,865	39.71%	11,943
2018/2019	7,773	35.85%	13,909
2019/2020	13,673	54.39%	11,468
2020/2021	17,616	65.26%	9,376
2021/2022	15,943	57.87%	11,608
2022/2023	17,884	53.60%	15,482
2023/2024	Not yet published	Not yet published	Not yet published

SOURCE: Table 3A.32 of the Commonwealth Productivity Commissioner's Report on Government Services (RoGS)

Figure A7.1(a) – Numbers and Percentages of Confirmed Breaches by NSW-based ECEC services compared to the rest of Australia⁴⁹

According to the Productivity Commission, since FY2019/2020, there has been an unbelievable increase in the number of breaches at apparently occurred at NSW-based early childhood education and care (ECEC) services. The Productivity Commission also reported that this meant:

- a 303% (up from 273%) probability of a breach per NSW ECEC service
- a 183% (up from 168%) probability of a breach per WA ECEC service
- a 183% (up from 142%) probability of a breach per QLD ECEC service
- a 138% (up from 61%) probability of a breach per TAS ECEC service
- a 107% (up from 105%) probability of a breach per NT ECEC service
- a 107% (up from 83%) probability of a breach per VIC ECEC service
- a 99.5% (up from 39%) probability of a breach per SA ECEC service
- a 50.4% (up from 46%) probability of a breach per ACT ECEC service

⁴⁹ Annual [Report on Government Services](#), by the Productivity Commission





Year	Published Enforcements and Decision Actions	
	NSW	% of Breaches
2016/2017	2	0.05%
2017/2018	10	0.13%
2018/2019	0	0.00%
2019/2020	20	0.15%
2020/2021	36	0.20%
2021/2022	11	0.07%
2022/2023	Not yet published	Not yet published

SOURCE: NSW Department of Education's Published Enforcement and Decision Actions

Figure A7.1(b) – Published Enforcements and Decision Actions by the NSW Department of Education⁵⁰

After contrasting such volumes and percentages of breaches against the number of actual enforcements and decision actions (coupled by the declining number of ECEC services gravitating towards Meeting the National Quality Standards as referred to in Part A.6), there exists the unanswered question of whether the level of regulatory compliance and the recording of non-compliances have generated more workload without any correspondingly significant benefit for children. Moreover, such increases in workload contributes toward operational costs, fee increases to parents and ultimately higher attrition of early childhood educators and teachers.

It is not in the interest of the NSW Government for NSW-based ECEC services to continue generating the unbelievable numbers of breaches such that it is more than the rest of Australia's combined number of breaches.

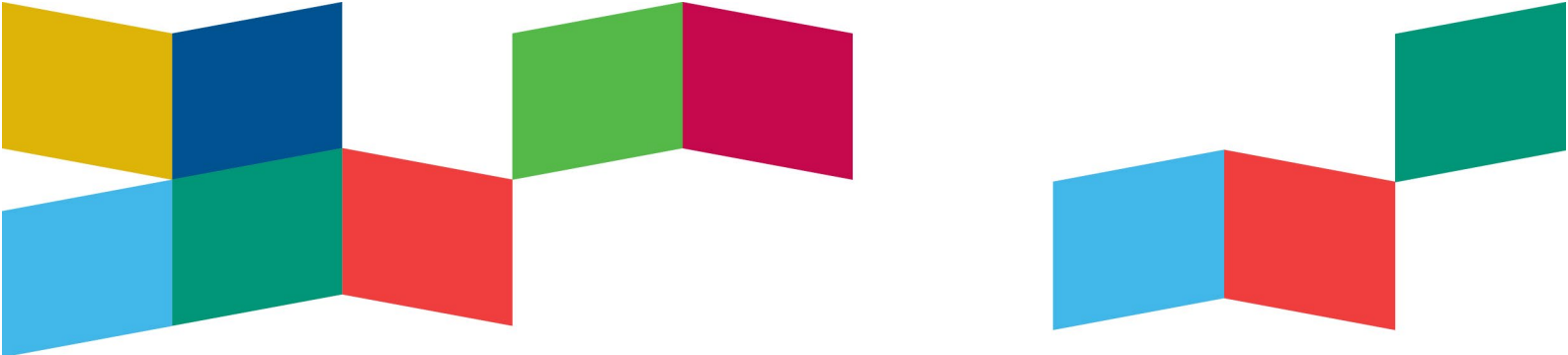
Instead, it is more likely that the NSW Government wants to ensure that:

- breaches by NSW-based ECEC services are confined to clearly defined and unambiguous requirements;
- NSW-based ECEC services avoid unnecessary workload originally associated with breaches to subjectively defined and/or non-measurable requirements; and
- it actively and consistently assists NSW-based ECEC services to become compliant with those clearly defined, unambiguous and measurable requirements.

Since January 2012, regulatory implementation and practices have been the responsibility of the NSW Department of Education. Hence, the saying *"If you always do what you've always done, you'll always get what you've always got"* may be very applicable.

⁵⁰ [Published Enforcements and Decision Actions](#), originally published by the NSW Department of Education





To achieve better outcomes, it may be worthwhile to trial alternative approaches to regulatory making and implementation (for example the Communications Alliance Ltd where the Federal Government regulators and telecommunications providers work together to produce regulatory and non-regulatory outcomes). And greater collaboration between the regulator and the sector can also generate greater mutual investment into agreed outcomes.

RECOMMENDATION A.7-01: ACHIEVING EFFICIENT REGULATORY IMPACT AND EFFECTIVE OPERATIONAL OUTCOMES

- That the NSW Government commission an independent body to review the existing regulatory framework and the NSW Department of Education's practices and interactions with ECEC services such that efficient and effective workflows and measurable outcomes can be established, implemented and achieved.
- That the NSW Government expand its digital strategy such that regulatory compliance data can be received by the NSW Department of Education (as the NSW Regulatory Authority) through approved Application Programming Interfaces (APIs) with accredited third-party software that assists ECEC services to achieve regulatory compliance.

RECOMMENDATION A.7-02: SMALL SCALE TRIAL OF CO-REGULATORY APPROACH

- That the NSW Government consider emulating the co-regulatory model in the Communications Alliance Ltd⁵¹ in developing agreed unambiguous standards and operational codes to achieve effective and efficient regulatory objectives and measurable outcomes that are comprehensively supported.

⁵¹ [Communications Alliance Ltd](#), the telecommunications sector's co-regulatory entity (since 1997)



B.1 Ensuring our children are protected

The announcement⁵² by the Australian Federal Police, the NSW Police and QLD Police alleging a former childcare worker was charged with 1,623 child sexual abuses against 91 children across the two states and overseas between 2007 and 2022.

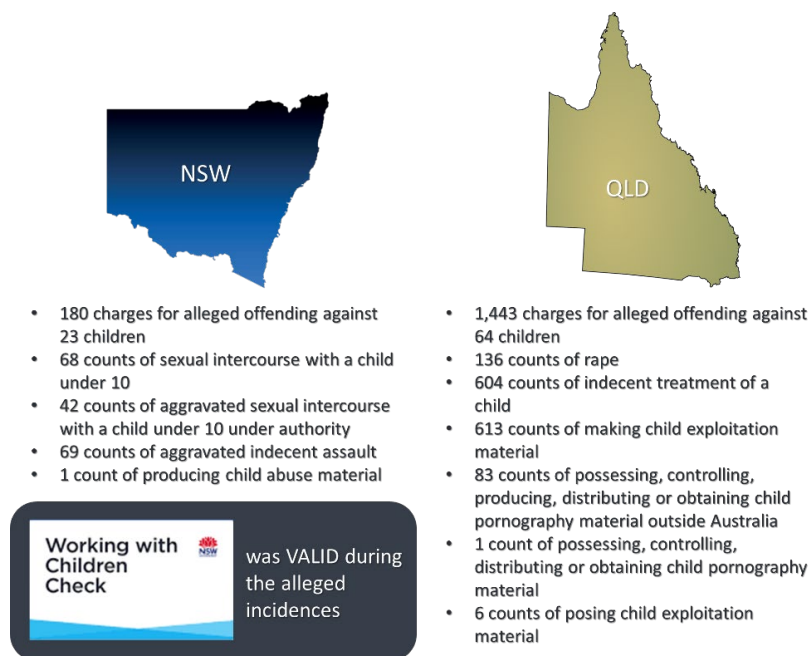


Figure B7.1(a) – SOURCE: The Australian Federal Police⁴⁹

Yet, as of September 2024, only 307 convictions⁵³ have been recorded against the perpetrator.

During those 13 months, ACECQA published its 16 recommendations following its *Review of Child Safety Arrangements*⁵⁴, of interest are:

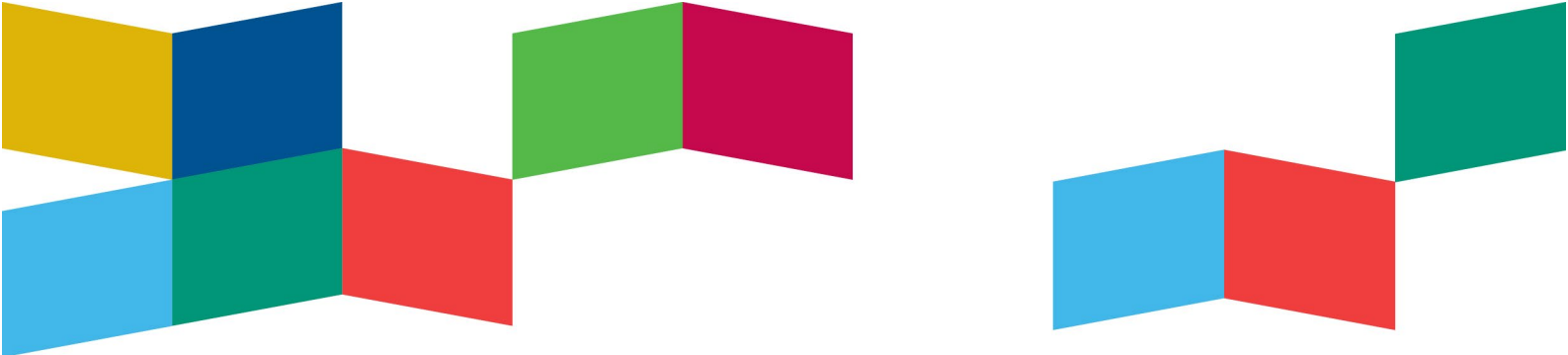
- the practice of smartphone devices with cameras by early childhood educators/teachers;
- the role of Closed-Circuit Television (CCTVs) or equivalents;
- the Working with Children Check's systems; and
- early childhood teachers' and educators' accreditation and registration systems across Australia.

⁵² "Man charged with rape and sexual assaults at childcare centres", Australian Federal Police (1 August 2023)

⁵³ "One of Australia's worst paedophiles pleads guilty to 307 offences while working at childcare centres", The Guardian (2 September 2024)

⁵⁴ "Review of Child Safety Arrangements under the National Quality Framework", by ACECQA (December 2023)





Given the said abuses occurred without apparent detection or consequences during the first 10 years of the National Quality Framework, the National Law and National Regulations, and the low number of convictions compared to the number of allegations when announced, there may be inherent systemic weaknesses that are yet to be identified, let alone addressed.

This is particularly of concern when considering no relevant Approved Providers or officials have been criminally charged for obstruction and/or negligence. Concerns also extend to a particular early childhood educator who may not have had sufficient whistleblower protections, but instead was charged with computer hacking and had lost her own employment.

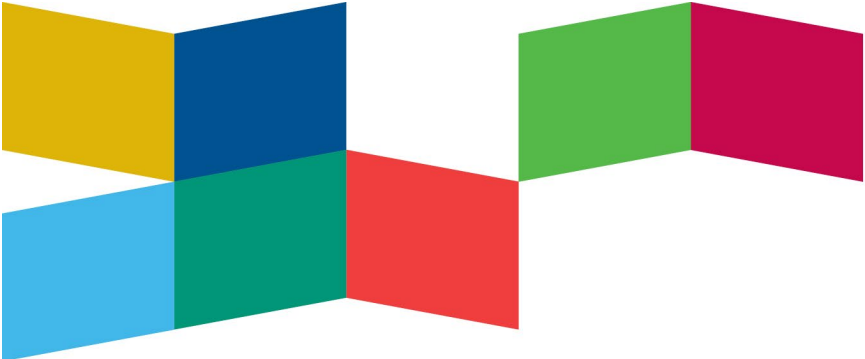
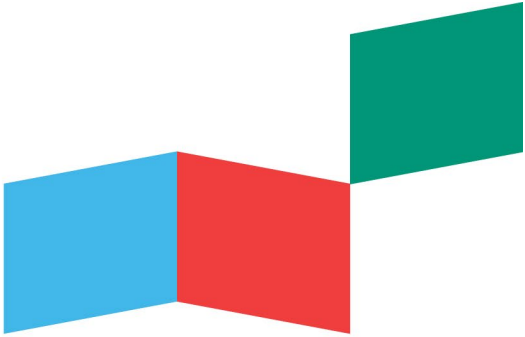
While there remains a relative opaqueness and lack of understanding of how the 1,623 child sexual abuses were possible, and why there has only been 307 convictions to date, NSW's early childhood education and care services are concerned that existing systemic weaknesses may remain even though there is since much greater vigilance.

There are also concerns that the process of submitting complaints about child safety incidences can be unnecessarily onerous to multiple agencies (ie the NSW Department of Education and the NSW Children's Guardian).

RECOMMENDATION B.1-01: ENSURING OUR CHILDREN ARE PROTECTED

- That the NSW Government urgently develop additional integrity and assurance mechanisms that would complement Working With Children Checks such that Approved Providers are assisted in identifying and removing potential risks to children in a more timely manner.
- That the NSW Government reviews and tests its existing whistleblower protections and child safety complaints channels to ensure all have universal confidence and effectiveness.
- That the NSW Government streamlines the process for complaints about child safety incidences to one primary channel.
- That the NSW Government expands its education campaign to ensure that all complaints about child safety incidences can also be received through other channels if the primary channel does not respond to the satisfaction of the complainant.
- That the NSW Government also reviews the existing legislative and regulatory framework that Approved Providers must comply with such that they do not bear negative consequences from their compliance and best efforts despite any child safety incidences occurring, unless legally proved to be criminally obstructive and/or negligent.
- That the NSW Government expands its primary training of Approved Providers and early childhood educators and teachers about child safety by learning about all profiles and behaviours of past and potential child predators for their active vigilance.



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- 
- That the NSW Department of Education capitalise on its seismically greater numbers of breaches/non-compliances in NSW (as outlined in Part A.7) to proactively identify potential risks of and weaknesses toward child safety.





B.2 Extending NSW EduChat for ECEC

During Term 1 of 2024, the NSW Department of Education began trialling its own generative artificial intelligence tool, NSW EduChat⁵⁵, in 16 schools and expanding to more than 50 schools in subsequent school terms.

Its key safeguards include:

- its use of best-practice privacy and data-sharing methods to minimise the risk of data breaches;
- the content is restricted, monitored, and filtered to ensure compliance with Department standards; and
- content that are aligned with the Department's policies and resources.

Based on public reports⁵⁶, the NSW EduChat appears to be assisting school teachers with their documentation, risk management and possibly regulatory compliance. NSW EduChat assists school teachers to alleviate their workloads wherever possible, thus maximising school teachers' effectiveness with students.

Fortuitously, ACA NSW had already received regulatory clarification⁵⁷ from the NSW Department of Education, providing guidance on how artificial intelligence should be used in early childhood education and care (ECEC).

And given the seismically large numbers of confirmed breaches (as outlined in Part A.7) with an extremely low number of enforcements and decision actions by the NSW Department of Education, leveraging NSW EduChat for ECEC may greatly assist both NSW-based ECEC services with the expectations from the NSW Department of Education to achieve regulatory compliance and outcomes, particularly in the production of documentations, a reduction in the number of apparent breaches/non-compliances, and also a reduction on workload for ECEC educators and teachers.

RECOMMENDATION B.2-01: EXTENDING NSWEDUCHAT TO ECEC

- That the NSW Government commissions appropriate resources in order to extend NSW EduChat to be trialled with all settings and sizes of ECEC services so as to achieve positive regulatory compliance and outcomes.

⁵⁵ [NSW EduChat](#), the NSW Department of Education's generative artificial intelligence tool

⁵⁶ ["AI chat tool to be rolled out across NSW public schools to ease pressure on teachers"](#), The Guardian (16 September 2024)

⁵⁷ ["Regulatory clarification on the use of artificial intelligence in early learning"](#), published by ACA NSW (27 March 2024)



B.3 Sustainable Supply of Skilled Labour

As outlined in Part A.5, the national authority for early childhood education and care (the Australian Children's Education and Quality Authority (ACECQA)) had confirmed our sector's severe labour shortage prior to the COVID pandemic. It was then estimated that 39,000⁵⁸ more early childhood educators and teachers were needed by December 2023. Such severe labour shortages have continued to persist as the following observations suggest:

- the Australian Competition & Consumer Commission (ACCC)'s Childcare Inquiry Interim Report (September 2023)⁵⁹ stated, *"Current educator shortages are having a material impact on the supply and cost of childcare"*;
- the Jobs and Skills Australia's The Future of the Early Childhood Education Profession Report stated, *"More than 20,000 extra early childhood educators urgently needed in Australia to keep up with current demands"*⁶⁰; and
- ACECQA's Shaping Our Future (2022-2031)⁶¹ stated: *"In the context of declining enrolments in approved educator and teacher qualifications, increasing demand for early childhood teachers and a growing shortage of primary school teachers, the children's education and care sector continues to face significant and increasingly urgent workforce challenges"*.

Interstate competition for qualified early childhood education and care have also emerged:



Up to \$25,000 grants for educators and teachers to relocate to regional and remote Western Australia



Up to \$20,000 for ECTs to relocate to regional and remote South Australia



Up to \$9,000 and up to \$50,000 to relocate to Victoria

And when considering the cost-of-living challenges, the Victorian⁶², the South Australian⁶³ and Western Australian⁶⁴ incentives have become attractive to many early childhood educators and teachers at arguably the expense of NSW and other jurisdictions.

⁵⁸ [Workforce Report](#), ACECQA (November 2019)

⁵⁹ [Childcare Inquiry Interim Report](#), ACCC (September 2023)

⁶⁰ [The Future of the Early Childhood Education Profession Report](#), by Jobs and Skills Australia (September 2024)

⁶¹ [Shaping Our Future \(2022-2031\)](#), ACECQA (September 2021)

⁶² [Relocation to teach in Regional Victoria](#) (September 2024)

⁶³ ["South Australia offers \\$20,000 incentives to ECTs to take up regional positions"](#), The Sector (22 January 2022)

⁶⁴ [Grants to attract childcare educators to regional WA](#), WA Government (22 January 2024)





In the NSW Budget 2023 of the incumbent NSW Government, it was announced that:

- there would be \$22m over 5 years to recruit and retain essential early childhood workers; and
- an allocation of a \$20m boost to the Innovative Teacher Training Fund to attract the best teachers.

However, in the NSW Budget 2022 (before the NSW State Election), there was a \$281.6m allocation⁶⁵ over four years, with a forecast expenditure of \$53.1m in FY2022/2023 *“to ensure quality, retention and supply of early childhood educators to address serious shortages and build for future demand”*.

RECOMMENDATION B.3-01: INCREASING AND EXPANDING FUNDING TO RECRUIT AND RETAIN EARLY CHILDHOOD EDUCATORS AND TEACHERS FOR NSW ECEC SERVICES

- That the NSW Government allocate appropriate annual funding for at least 4 years to assist NSW ECEC services to recruit and retain early childhood educators and teachers.
- That the NSW Government introduces competitively attractive financial incentives to assist early childhood educators and teachers to relocate from other jurisdictions to NSW.
- That the NSW Government publishes annual forecasts on the number of trainees and qualified early childhood educators and teachers per year and over the next four years, as well as the number of trainees and qualified early childhood educators and teachers successfully recruited by NSW ECEC services each year.

Given the rigidity of early childhood educator:children and teacher:children ratios as imposed by Regulation 123⁶⁶ and Regulation 272⁶⁷ respectively on the basis of suitable qualifications, there are also those long-term educators who have the experience but not necessarily the higher qualifications.

Recognition of Prior Learning (RPL) processes do exist. However, the creation and/or assembly of documentation appears to be too onerous to make RPL as an efficient channel for achieving (higher) qualified early childhood educators and teachers.

RECOMMENDATION B.3-02: STREAMLINING RECOGNITION OF PRIOR LEARNING

- That the NSW Government engages with the Jobs and Skills Council and existing training organisations (including TAFE and appropriate Registered Training Organisations (RTOs) to streamline the necessary set, creation and/or assembly of documentation needed in order to achieve the greatest efficiency possible in the Recognition of Prior Learning process.

⁶⁵ [NSW Budget Paper No 2](#), NSW Budget 2022 (June 2022)

⁶⁶ [Educator to child ratios – centre-based services](#), National Regulations

⁶⁷ [Early childhood teachers – children preschool age or under](#), National Regulations



- That the NSW Government emulate the NSW Department of Education’s online portal⁶⁸ listing of all training providers and their courses so that the new portal shows all the training organisations that offer Recognition of Prior Learning, as well as appropriate indices for each training organisation showing its efficiency, and student and employer satisfaction.

And with significant NSW Government funding to subsidise training⁶⁹, and with the seismically increasing numbers of confirmed breaches by NSW-based ECEC services (as outlined in Part A.7), there arises questions of training effectiveness and harmony with the compliance requirements of NSW Department of Education (as the NSW Regulatory Authority for all ECEC services).

RECOMMENDATION B.3-03: EFFECTIVE VS NON-EFFECTIVE-ENOUGH TRAINING PROVIDERS

- That the NSW Government provide funding to Skills NSW to update its online portal⁷⁰ listing of all training providers and their courses such that search results are prioritised by Job Readiness of students.
- That Skills NSW also expand its online portal⁶⁷ so as to enable the NSW Department of Education to identify the disconnections between training and their requirements for regulatory compliance.

Most schools already have career advisers⁷¹. However, it is unclear as to the effectiveness of their and training providers’ collaborations. While observing fairness and transparency, there would be benefits from training providers and career advisers to optimally collaborate so as to maximise assistance and benefits for career advisers of the benefits of vocational training, including early childhood.

RECOMMENDATION B.3-04: COLLABORATING WITH SCHOOLS’ CAREER ADVISERS

- That the NSW Government consider suitable initiatives that enable schools’ career advisers to collaborate with all training providers so that full career opportunities are offered to future school graduates and school leavers.
- That the NSW Government review, introduce and/or facilitate the automated and information tools available to career advisers that help them assist future school graduates and school leavers to consider all possible career opportunities.

⁶⁸ [Course providers listings](#), by Skills NSW

⁶⁹ [Smart and Skilled](#), NSW Department of Education

⁷⁰ [Course providers listings](#), by Skills NSW

⁷¹ [Career Advisers](#), by NSW Department of Education





B.4 Fit-for-Purpose Legal Requirements

This NSW Budget 2025 submission should provide an insight as to how (un)fit-for-purpose the NSW implementation can be of the National Quality Framework, the National Law and National Regulations, especially after 13 years.

The NSW Productivity Commission published his report⁷² declaring that “... *the cost of NSW maintaining requirements above the national standards equates to around \$3,000 a year for each child attending ECEC.*”

By way of one example, teachers accredited by the NSW Education Standards Authority (NESA)⁷³ tend to have a vocational expectation that teaching generally would be between the hours of 9 am and 3 pm on weekdays.

However, degree-qualified early childhood teachers are also accredited by NESA before they can teach in centre-based early childhood education and care services and satisfy Regulation 272⁷⁴.

Since 13 December 2011, NSW-based long daycare services must comply with Regulation 272, whether it is for 2, 3 or 4 degree qualified early childhood teachers required for 30 to 80 or more preschool children, Regulation 272(2)-(5) states:

*“...early childhood teacher(s) must be in attendance **at all times** that a centre-based service is educating and caring for ...xx to xx children preschool age or under”⁷².*

NSW-based long daycare services typically operate 10.5 hours from 7.30 am to 6.00 pm or 11.5 hours from 6.30 am to 6.00 pm every weekday. This makes the recruitment, rostering and retention of such or more early childhood teachers challenging to near impossible. (NOTE: For every full-time degree qualified early childhood teacher, another or more degree qualified early childhood teacher(s) must be employed to cover the service’s complete hours of operation as well as cater for breaks as required by industrial law.)

It must also be noted that there are currently up to 70 NSW long daycare services that operate outside of those typical hours (including 24 hours), and up to another 57 NSW long daycare services that operate on weekends. All of these would also be obliged to comply with Regulation 272 for their ECTs to work during such hours well outside 9 am to 3 pm.

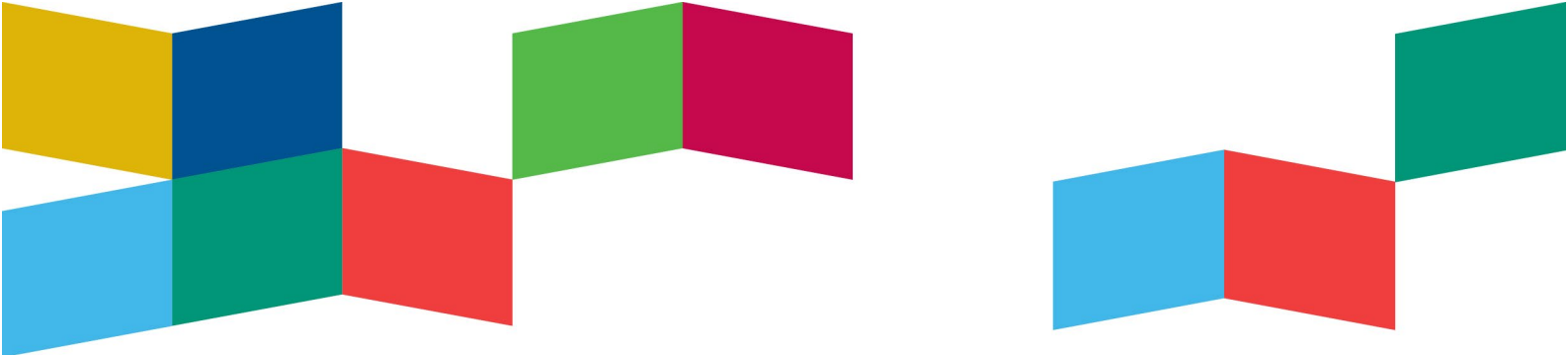
This creates a structural disincentive for degree qualified early childhood teachers to work in long daycare services. There is also the question about whether such long hours (beyond typically 9 am and 3 pm) is the most effective use of degree trained teachers for children from birth to 5 years old.

⁷² [Evaluation of NSW-specific early childcare regulations](#), published by the NSW Productivity Commission (7 December 2022)

⁷³ [Teacher Accreditation Scheme](#), NSW Education Standards Authority

⁷⁴ [Early childhood teachers – children preschool age or under](#), Regulation 272





Hence, there exists a real challenge for NSW's long daycare ECEC services to comply with Regulation 272(2)-(5) to have the legally required number of ECTs at all times for:

- up to 52.5 hours per week (for services open from 7.30 am to 6.00 pm); or
- up to 57.5 hours per week (for services open from 6.30 am to 6.00 pm); or
- up to 168 hours per week (for services open 24 hours per day and 7 days per week).

Moreover, given the worsening labour shortages (as outlined in Part B.3) and the current unreliability of supply of undergraduates and graduates with early childhood teaching qualifications, recruiting such early childhood teachers has been, and in the foreseeable future will be, fraught with difficulty.

The experienced consequences of the lack of early childhood teachers is the reduction of the number of places offered to children and their families. And such is already being demonstrated by up to 71.9%⁷⁵ of services in NSW (which is higher than the national average of 66%).

Please note that all other Australian states' requirements have a vastly different requirements for their degree-qualified early childhood teachers, as shown in their Regulations 132-134⁷⁶.

RECOMMENDATION B.4-01: RESTORING THE VOCATION OF NSW'S EARLY CHILDHOOD TEACHERS

- That the NSW Government reviews and revises Regulation 272 so that it better aligns with their vocational expectations of teaching, while taking comfort that the number of educators and teachers required through Regulation 123 and Regulation 272 will remain unchanged.
- That the NSW Government also invest in achieving far superior results in children's outcomes as well as Quality Ratings from NSW's early childhood teachers (ECTs) compared to those in all other states given that NSW requires up to 4 ECTs whereas all other states require up to 1.6 ECTs.

Another example is the level of English proficiency required of ECTs for children from birth to 5 years old.

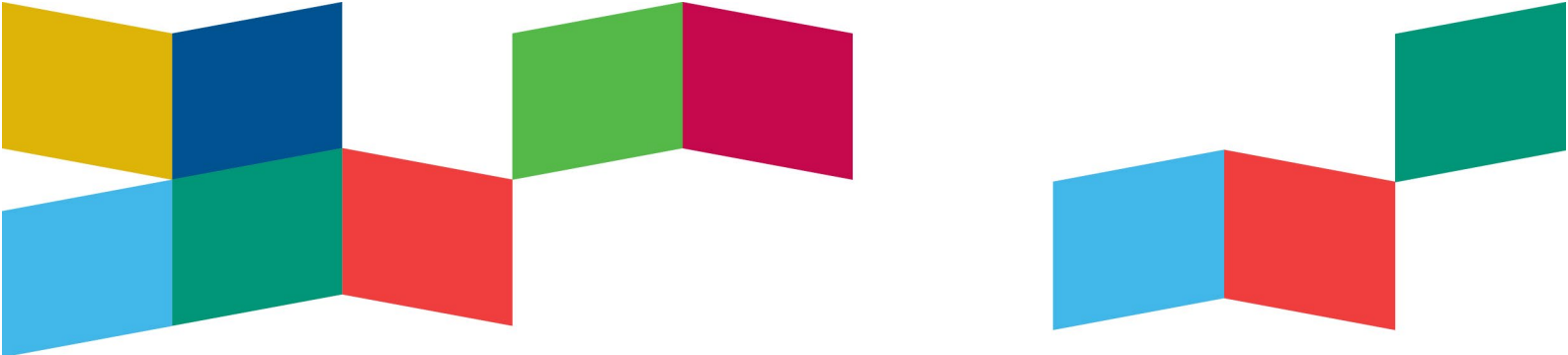
All degree-qualified early childhood teachers (ECTs) must be accredited by NESA⁷⁷ before they can work in NSW ECEC services. But in the context of early childhood education and care for children from birth to 5 years old, the same

⁷⁵ [Survey results of NSW-based long daycare services reducing places for children due to labour shortages](#), ACA (14 June 2023)

⁷⁶ [Requirement for early childhood teacher – centre-based services – 25-59, 60-80, more than 80 children](#), National Regulations

⁷⁷ [Teacher Accreditation](#), NSW Educational Standards Authority





accreditation requires a disproportionately high English proficiency requirement⁷⁸ for internationally trained ECTs unless they are from deemed English-speaking countries (ie the United Kingdom, Ireland, USA, Canada and New Zealand).

These English proficiency requirements for internationally trained ECTs to teach children from birth to 5 years old are so high that the required International English Language Testing System (IELTS)'s own Test Statistics⁷⁹ show that only up to 24.9% of native English speakers can achieve such results.

More importantly, ACECQA recently lowered its requirements⁸⁰ for overseas early childhood educators to IELTS general level of scores of fives (5) (ie not academic level of scores of sevens (7) and eights (8)).

On 15 December 2023, the Australian Institute for Teaching and School Leadership (AITSL) responded⁸¹ that “*Under the National Teacher Workforce Action Plan, AITSL has been commissioned to provide advice to Ministers under Action 5 – Prioritise conditional or provisional registration to increase the supply of teachers ...*”.

Hence, while the severe labour shortages continue, should the calibration of English proficiency be set so high as to be able to teach Shakespeare or Chaucer to children from birth to 5 years old?

RECOMMENDATION B.4-02: A REASONABLE ENGLISH PROFICIENCY REQUIREMENT

- That the NSW Government, through NESA, recalibrate the English proficiency requirement for ECTs to be appropriate for children from birth to 5 years old.
- Alternatively, that the NSW Government produce evidence of superior English outcomes of children from birth to 5 years old as well as structurally superior NAPLAN literary results at Year 3 as a direct consequence of retaining the current English proficiency requirements for ECTs (especially when NSW requires up to 4 ECTs compared to other Australian states requiring up to 1.6 ECTs).

Due to the National Law and National Regulations implemented by the NSW Parliament have largely been unchanged since January 2012, using the above as two examples, it may be opportune for the NSW Government to have an independent expert body that can assist Ministers and their Departments with their legislative and regulatory developments.

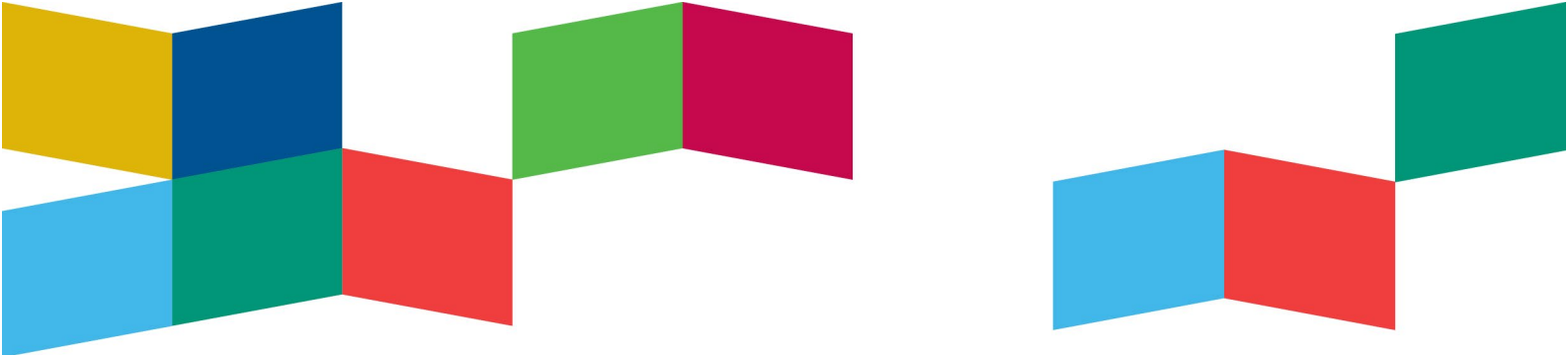
⁷⁸ [Internationally trained teachers](#), NSW Government

⁷⁹ [Test Statistics](#), International English Language Testing System

⁸⁰ [English language proficiency for Individual Applicants](#), ACECQA (November 2024)

⁸¹ [Letter from AITSL to ACA NSW on English proficiency requirement for early childhood teachers](#) (15 December 2023)





RECOMMENDATION B.4-03: ACHIEVING REGULATORY EFFECTIVENESS & EFFICIENCIES

- That the NSW Government establishes an independent expert body that can assist NSW Ministers, the NSW Legislative Review Committee and the NSW Regulation Committee to revise existing legislation and regulations in order to achieve regulatory efficiencies and effective outcomes.
- That this expert body consult government and non-government stakeholders whenever existing legislation and regulations are demonstrated to no longer be fit-for-purpose.
- That this expert body provide assistance to Ministers when their Departments are developing new legislation, new regulations as well as regulatory impact statements.





C.1 Planning for ECEC

The *NSW State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017*⁸² was superseded by the current *NSW State Environmental Planning Policy (Transport and Infrastructure) 2021*⁸³ (the SEPP).

The SEPP effectively overrides all NSW local governments' Local Environmental Plans (LEPs) and Development Control Plans (DCPs) in relation to development applications for early childhood education and care services.

In 2020, the NSW Department of Planning published a recommendation⁸⁴ to introduce a minimum separation between the proposed and existing childcare centres in Low Density Residential zone (R2) of 200 metres. This recommendation was a recognition that there was an absence of planning, at least for the purposes of addressing the impact of traffic.

Unfortunately, the then NSW Minister for Planning did not accept that particular recommendation.

As shown in Part A.3, the absence of planning effectively perpetuates a problem confirmed by the ACCC⁸⁵ that oversupply of ECEC services tends to increase the average fees to parents by up to 40% or more.

The NSW Independent Planning and Regulatory Tribunal (IPART) Report⁸⁶ to the NSW Treasurer and the NSW Minister for Education and Early Learning showed an alternative approach to prioritisation of new ECEC services to address undersupply.

Given the negative effects of oversupply to parents in terms of fee increases, the NSW Government should introduce a planning system that balances the needs of parents in terms of achieving sufficient supply of ECEC services, and the avoidance of negative impact on fee increases.

RECOMMENDATION C.1-01: A PLANNING SYSTEM FOR ECEC SERVICES

- That the NSW Government should introduce a harmonised planning system for new ECEC services.

⁸² [NSW State Environmental Planning Policy \(Educational Establishments and Child Care Facilities\) 2017](#) (Repealed in 2021)

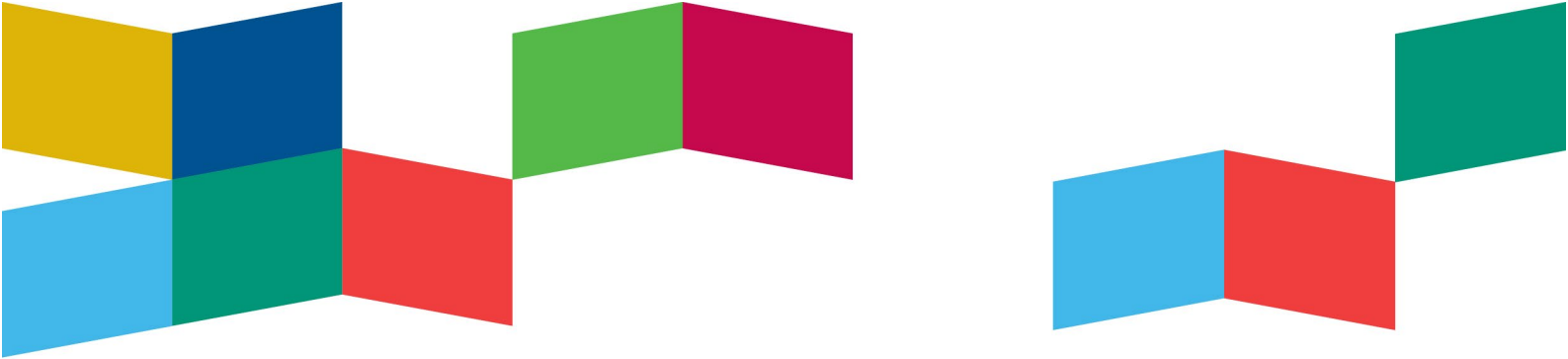
⁸³ [NSW State Environmental Planning Policy \(Transport and Infrastructure\) 2021](#) (effective December 2021)

⁸⁴ [Review of State Environmental Planning Policy \(Educational Establishments and Child Care Facilities\) 2017 – Explanation of Intended Effects](#), NSW Department of Planning (November 2020)

⁸⁵ [Childcare Inquiry Interim Report](#), ACCC (June 2023)

⁸⁶ [Independent Market Monitoring Review, Report to the Minister](#), NSW IPART (December 2023)





Liveability indices⁸⁷ already exist. However, residents, let alone young families, tend not to be familiar with them or use them.

However, official liveability indices can encourage local governments to ensure that they have sufficient social infrastructure (including ECEC services) for their residents. In turn, using such indices can also facilitate new ECEC services to be created because those local government have properly identified such needs.

RECOMMENDATION C.1-02: INTRODUCING A LIVEABILITY INDEX ON ECEC FOR YOUNG FAMILIES

- That the NSW Government engage with local governments and the ECEC sector to develop and publish an appropriate ECEC-specific Liveability Index.

⁸⁷ [Urban Liveability Index](#), Australian Urban Observatory





C.2 Digital Strategy for ECEC

In May 2024, Victoria's largest early childhood education and care (ECEC) provider was the victim of a targeted cyberattack⁸⁸, with thousands of children and families affected.

As cyberattacks are ever-increasing, such risks to ECEC services are magnified because of the significantly higher amounts of personal documents of millions of children and their parents. Such volumes of records can be at much higher risk to cyberattacks due to legal requirements⁸⁹ for a range of documents to be recorded, made available upon regulatory request, and kept until each child is aged 25 years old.

Furthermore, in accordance with the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse, ECEC services are now being asked to hold relevant records for at least 45 years (even though this is not a legal requirement⁹⁰).

ECEC services tend not to be experts in information technology, let alone information security. And these regulatory obligations not only contribute to operational costs that directly impact on fees to parents, possibly ineffective expenditure due to an absence of consistent and robust set of data protection standards can lead to unnecessary exposure to successful cyberattacks and their consequences.

Faced with technology advancements that ECEC services cannot keep pace with, ECEC services should not be required to be the primary (if not sole) custodian of children's and parents' personal information. Instead, the NSW Government should urgently instigate (with or without other Australian governments) the assembly and implementation of appropriate and unified tools and standards so that as little-to-no personal information are kept with ECEC services, educators and teachers.

The NSW Government should consider collaborating with the Federal Government's initiative to create and interface with digital trust exchange platforms⁹¹ and work with the ECEC sector to produce information solutions to achieve the regulatory outcomes while protecting the personal information of children and their parents.

⁸⁸ [Victoria's largest childcare provider targeted in cyber attack](#), 9 News (30 May 2024)

⁸⁹ Legal requirements for storing documents – [Section 175](#), [Regulation 177](#) and [Regulation 183](#)

⁹⁰ [Records do not need to be kept for at least 45 years](#), clarified by the Federal Minister for Early Learning (September 2024)

⁹¹ [Trust Exchange \(TEx\) drives secure digital services](#), Federal Government (August 2024)





RECOMMENDATION C.2-01: IMPLEMENTING A TRUSTED EXCHANGE FRAMEWORK FOR ECEC

- That the NSW Government should examine and implement a trusted exchange framework⁹² with other governments for the protection of children's and parents' information used by ECEC services.

The NSW Government should also introduce a digital strategy that complements the distribution of funding for efficient reconciliation and easier administration for both the government as well as the recipient of such public funds.

Most ECEC services (and other ECEC services who rely on third party accounting services) already use modern software (for example MYOB or Xero) which have application programming interface (API) capability to connect with other digital systems.

Hence, in the 21st century, when implementing the distribution of Start Strong⁹³ funding to NSW long daycare services and preschools, approved APIs can ensure that:

- ECEC services will correctly apply the funding to the correct children and avoid any duplications;
- ECEC services can rely on their software to automatically produce the correct reports for reconciliation;
- the such funding will be fair and avoid double/multiple-dipping by some parents; and
- the NSW Department of Education can minimise/avoid administrative costs.

RECOMMENDATION C.2-03: USING TECHNOLOGY TO ENSURE PROPER DISTRIBUTION OF START STRONG FUNDING AS WELL AS BENEFIT ECEC SERVICES AND THE NSW DEPARTMENT OF EDUCATION

- That the NSW Government should provide additional resources and require the NSW Department of Education to create complementary APIs to interface with ECEC services' existing software and the anticipated Digital Hub⁹⁴ equivalent for community preschools for the purpose of ensuring proper distribution of Start Strong funding and the reduction of operational and administrative burden.

⁹² [Trust Exchange \(TEEx\) drives secure digital services](#), Federal Government (August 2024)

⁹³ [Start Strong Funding](#), NSW Department of Education

⁹⁴ [The Digital Hub](#) (for community preschools), NSW Department of Education ()





C.3 Fairer & Lower Payroll Taxes for ECEC

For FY2024/2025, the NSW Government⁹⁵ impose a 5.45% payroll tax on all businesses whenever their payroll exceeds \$1,200,000 for that financial year. Ironically, such a cost is equivalent to at least one early childhood educator.

Conservatively, there are at least 17% of the entire ECEC sector in NSW that are currently paying NSW Payroll Taxes. This should be contrasted against at least 13% of the entire ECEC sector that are guaranteed never to pay NSW Payroll Taxes because they are deemed not-for-profit.

And despite the difference in tax treatment on these two particular groups of ECEC services, fees to parents of such ECEC services tend to be similar.

It should also be noted that ECEC services, as educational institutions, do not have to attract GST nor NSW Land Taxes.

Since the introduction of the Commonwealth's \$3.6 billion Worker Retention Payments⁹⁶ to increase the remuneration of early childhood educators and teachers by up to 15% from 2 December 2024 for two years, such funding has also included on-costs (for example payroll taxes). Hence, the NSW Government is now receiving additional NSW Payroll Taxes due to the Worker Retention Payments.

RECOMMENDATION C.3-01: FAIRER AND LOWER NSW PAYROLL TAXES FOR ECEC

- That the NSW Government introduce full rebates of commensurate NSW Payroll Taxes that are directly related to the effect of the Commonwealth Government's Worker Retention Payments.
- That the NSW Government also introduce grants to ECEC services who pay NSW Payroll Taxes so as to achieve greater fee affordability for parents as well as fairness when competing with ECEC services who do not pay NSW Payroll Taxes.
- That the NSW Government also introduce discounted NSW Payroll Taxes for regional ECEC services (similar to Victoria⁹⁷) so as to achieve greater fee affordability for parents and provide incentives for such social infrastructure investment in regional and rural NSW.

⁹⁵ [NSW Payroll Tax](#) Thresholds and Rates

⁹⁶ [Worker Retention Payments](#), Federal Department of Education (December 2024)

⁹⁷ [Payroll tax and regional employers](#), Victorian State Revenue Office (November 2024)





Glossary

- **ACA** means Australian Childcare Alliance
- **ACCC** means Australian Competition and Consumer Commission
- **ACECQA** means the Australian Children’s Education and Care Quality Authority
- **ADG** means Apartment Design Guide
- **AEDC** means Australian Early Development Census
- **AERO** means Australian Education Research Organisation
- **AITSL** means the Australian Institute for Teaching and School Leadership
- **API** means Application Programming Interface
- **A&R** means Assessment and Ratings
- **CCS** means Child Care Subsidy
- **DCP** means Development Control Plan
- **ECEC** means early childhood education and care
- **ECT** means early childhood teacher
- **GST** means Goods and Services Tax
- **HSC** means Higher School Certificate
- **IELTS** means International English Language Testing System
- **IPART** means Independent Pricing and Regulatory Tribunal
- **LEP** means Local Environmental Plan
- **NAPLAN** means National Assessment Program – Literacy and Numeracy
- **NESA** means NSW Education Standards Authority
- **NQF** means National Quality Framework
- **NQS** means National Quality Standards
- **PISA** means Program for International Student Assessment
- **RPL** means Recognition of Prior Learning
- **RTO** means Registered Training Organisations
- **SEPP** means State Environmental Planning Policy
- **TAFE** means Technical and Further Education
- **WWCC** means Working With Children Checks





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