

## **Local Planning Policy 10 – Family Day Care and Child Care Premises (LPP10)**

Management Procedure

Relevant Delegation

### **Purpose**

#### **1. Background and Introduction**

The provision of family day care and childcare premises is necessary for the residents of the City of Kalamunda. These centres are to be established in appropriate locations and not unduly impact upon the amenity of the area.

This policy is to provide guidance relating to the development and location for both family day care and childcare premises within zones that permit those uses.

#### **2. Application of Policy**

This policy applies throughout the City of Kalamunda.

#### **3. Statutory Authority / Legal Status**

This Policy has been prepared under and in accordance with Schedule 2 of the Planning and Development (Local Planning Scheme) Regulations 2015 (The Regulations) and Part 7 of the Residential Design Codes of Western Australia (R-Codes).

##### **a) Relationship to Local Planning Scheme No.3**

This policy is a planning policy prepared, advertised and adopted pursuant to Part 2 of Local Planning Scheme No.3. (The Scheme) The policy augments and is to be read in conjunction with the provisions of the Scheme relating to development.

If there is a conflict between this local planning policy and the Scheme, then the Scheme shall prevail.

This policy has due regard to, and should be read in conjunction with state planning policies. Of particular relevance to this policy are:

- i. State Planning Policy 1 – State Planning Framework.
- ii. State Planning Policy 3.1 – Residential Design Codes.

- iii. State Planning Policy 3.7 – Planning in Bushfire Prone Areas
- iv. State Planning Policy - Liveable Neighbourhoods
- v. State Planning Policy 2.2 – Residential Subdivision
- vi. Planning Bulletin 72/2009 – Child Care Centres

#### **b) Relationship to other Local Planning Policies**

This policy has due regard to and should be read in conjunction with other City of Kalamunda local planning policies. Of particular relevance to this policy are:

- i. Local Planning Policy P Dev 14, Earthworks.
- ii. Local Planning Policy P Dev 45, Public notification of planning proposals.
- iii. Local Planning Policy P Dev 28, Reflective material in cladding or roofing, guidelines for assessment.

**Please note:** That all Child Care and Family Day Care Centres are required to obtain all the necessary permits and licenses from the Child Care Services Board as required under the Child Care Services act 2007, Child Care Services (Child Care) Regulations 2006 and the Education and Care services National Regulations 2012 and associated National Law. All centres will be required to operate within the standards of the above regulations.

#### **4. Application of Policy**

The primary objective of this policy are to:

- a) Specify local provisions which supplement the requirements of Local Planning Scheme No.3.
- b) Provide for the establishment of Family Day Cares and Childcare Premises in appropriate locations;
- c) Endure that the operation of Family Day Cares and Childcare Premises do not impact on the amenity of the local area; and
- d) Provide policy guidelines in terms of development standards suitable for the City of Kalamunda for all Family Day care and Child Care Premises development within the Local Government boundaries.

#### **5. Application of Policy**

- a) The operative Local Planning Scheme provides for the assessment of applications for development or use within the City.
- b) The use classification 'Child Care Premises' is a land use that is generally an 'P', 'A', or 'D' land use within some of the City's zones. 'Family Day Care' is a use that is generally a 'P' or 'D' land use within the majority of the City's zones. Land uses within 'P' categories are permitted land uses, while those within 'D' or 'A' categories are not permitted unless the Local Government has exercised discretion by granting approval. 'A' land uses are required to be the subject of public consultation.
- c) Clause 4.5 of the Scheme provides the ability for landowners to apply for additional uses. 'Child Care Premises' is an 'X' land use within Rural and Industrial zoned land

and land zoned Private Clubs and Institutions, which means that it is prohibited within that zone. 'Family Day Care' is an 'X' use within Industrial and Service Station zones.

- d) Additional use:
- i. The Scheme provides an ability for an applicant to apply for a Local Planning Scheme Amendment for an Additional Use which then provides the City with the ability to assess that particular use on its own merits.
  - ii. An additional use is a land use that is permitted on a specific portion of land in addition to the uses already permissible in that zone that applies to the land.
- e) Incidental Use:
- i. The Scheme provides an ability for an applicant to apply for a land use as an incidental use to a use that is already operating on a site or will commence operation. It is defined as follows under the Scheme:
  - ii. "Incidental Use" means a use of premise which is ancillary and subordinate to the predominate use or primary use.
  - iii. Some examples of when a childcare premise may be considered an appropriate incidental use are:
    - As an attachment to a place of worship and operating only during periods of activity;
    - As an extension of a large commercial development, operating only when the commercial development is open (e.g. childcare within an IKEA); and
    - As a crèche within a gym or other fitness centre.
- d) Some examples of when a childcare premise would not be considered as an appropriate incidental use are:
- i. On an operating industrial site or in tandem with a building on that site;
  - ii. As an attachment to a place of worship and operating at all times; and
  - iii. As an additional development on residential zoned land where a pre-existing residential development already exists (i.e. construction of a secondary structure in addition to the dwelling. Family day cares would be expected to operate within the existing dwelling).

## Policy Statement

### 1. Location Criteria

The following criteria will be assessed in relation to the appropriate locations for family day care centres and childcare centres:

- a) Accessibility to Public Transport.
- b) Avoidance of location on Arterial Roads and suitability from a traffic engineering point of view.
- c) Avoidance of clustering with other non-residential land uses, unless abutting a commercial zone.

- d) Distribution between existing centres.
- e) Walking distance to appropriate commercial, recreation or community nodes and education facilities.
- f) Sufficient size and dimension to accommodate the development without affecting the amenity of the area.

## 2. Family Day Care

Where an application is seeking approval as a discretionary land use the following shall be considered in determining whether a Family Day Care is an appropriate use:

- a) Family day care is encouraged to locate in close proximity to opportunities for access to public transport, preferably within residential areas, close to schools or educational establishments and with access to public open space within 400m walking distance.

## 3. Child Care Premises

Centres are encouraged to locate near commercial, community, educational establishments, district centre, and public recreational areas, nearby to roads that have the demonstrated capacity to accommodate any potential additional traffic generated by the centre, or within walking distance to public transport routes.

## 4. Siting Criteria

The site area of the subject lot needs to be adequate for the provision of onsite car parking, pedestrian access, setbacks, play areas, and landscaping.

- a) Inappropriate Sites

Although the land use may be permitted Although the land use may be permitted under the provisions of the Local Planning Scheme, Child Care Premises will generally not be supported in the following locations due to potential conflicts with residential amenity, traffic, safety, and parking access:

### *Child Care Premises*

- i. At the end of Cul-de-sacs;
- ii. In Residential zoned land within 300m of another Child Care Premises;
- iii. Within Rural zoned land, within 800m of another Child Care Premises;
- iv. Site with sole vehicular access from a longer or undedicated Right of Way, under-width street or laneway;
- v. Sites located on, or at intersections to, Primary or District distributor Roads;
- vi. Sole access abuts traffic lights, roundabout, or traffic calming device;
- vii. Rear battle-axe and strata sites; and
- viii. Multiple Dwellings.

### *Family Day Care*

- i. Sites with sole vehicular access from a longer or undedicated Right of Way, under-width street or laneway;
- ii. Sites located on, or at intersection to, Primary or District distributor roads;
- iii. Sole access abut traffic lights, roundabout or traffic calming device;
- iv. Sites with swimming pools, unless demonstrated compliance with AS1926; and
- v. Sites adjacent to industrial areas.

## 5. Minimum Lot Size and Site Coverage

In accordance In accordance with 'Planning Bulletin 72/2009 – Child Care Centre's published by the Western Australian Planning Commission (WAPC) child care premises will not be considered on sites in residential areas that are less than 1000sqm. Family day care centres will not be considered on sites that are less than 500sqm in size.

This Provision is established to ensure that appropriate outdoor play spaces can be provided.

A maximum of 50% site coverage of roofed structures on site is permitted on lots which contain either a family day care or child care premises to ensure that appropriate outdoor play spaces can be provided in accordance with the Child Care Services Act 2007 and Education and Care Services National Regulations.

## Design Criteria

### 1. Built Form and Streetscape

In relation to built form and streetscape, all childcare centres should be of a "residential scale", with height, form and setback being sympathetic to the local character of the streetscape. This should take into account adjoining buildings and prevailing existing setbacks, as well as the relevant setbacks as noted in the Residential Design Codes or City of Kalamunda Local Planning Scheme No.3.

Development must be sited to avoid overshadowing, overlooking and buildings built to the boundary.

The design must cater for the existing level of residential amenity and minimize the potential for nuisance in terms of:

- a) Visual impact; and
- b) Noise associated with operation of the child care facility and car park.

Generally, play areas will be located behind the front building setback line and away from noise sensitive areas such as adjacent to neighbouring property bedrooms or primary outdoor living areas.

### 2. Parking and Traffic Assessment

Parking areas should preferably be designed to allow traffic to move easily within the area so that the risk of congestion is minimised. Vehicles will be required to enter and exit the site in forward gear. All parking related to the Family Day Care or Child Care Premises will be contained on the subject site.

Parking bays for child care premises shall be provided in accordance with the requirements as laid out in the Scheme's 'Table 3 – Parking Requirements (Child Care Centre/Day Care)', as follows:

“1 bay per staff member, plus 1 bay for every 10 children allowed under the approval.”

In addition to this, applications for new Child care Premises and those that propose to increase the numbers within existing premises by more than 10 additional children must be accompanied by a Traffic Impact Assessment Study prepared by a suitably qualified traffic engineer. The study must address the following:

- a) Site description including naming of roads and nearest intersections;
- b) Adjoining land uses;
- c) Existing traffic conditions or Structure Plan indications (where applicable);
- d) Traffic flows, daily and peak hour flows, number of heavy vehicles;
- e) Speed as measured at the 85th percentile;
- f) Trip generation
- g) Queuing at intersections and entry/egress to parking facilities;
- h) Road safety for all road users, including pedestrian and cyclists;
- i) Crash history;
- j) Parking provisions and requirements, pick-up and drop-off facilities;
- k) Public transport routes;
- l) Dual use path locations surrounding the site, internal pedestrian pathways, suitable crossing locations for the pedestrians and provisions of pram ramps; and
- m) Other matters considered necessary having regards to the pertinent characteristics of the site.

Proposals will not be supported if the form, function, and safety of the surrounding road network is deemed to be compromised.

Proposals for family day care centres are to include the provision of a drop-off bay located on the subject property and able to allow for forward in, forward out, movement. This bay is to be appropriately constructed to the satisfaction of the City and is not to be located on the verge or public road.

## **Landscaping**

### **1. Verges**

Under no circumstances will approval be granted to fully pave and seal the verge area. In all instances the verge is required to be suitably landscaped and maintained at all times, to the satisfaction of the City. This will serve the dual purpose of preserving the amenity of the area and ensuring that patrons of the site do not park on the verge.

## 2. Child Care Premises within Residential Areas

Within residential areas the primary street frontage and corner truncation, where applicable, shall be appropriately landscaped and reticulated to a distance of three (3) metres into the property to assist in preserving the character of the residential area. Outside of residential areas, landscaping is to be provided in line with the provisions of the Local Planning Scheme No.3.

## 3. Signage

### a) Family Day Care

The day care will display a sign no greater than 0.2sqm in size.

### b) Child Care Premises

All signage associated with the child care premises is to be compliant with the City's Local Planning Policy 2 Signage (LPP2).

## Operational Criteria

### 1. Hours of operation

#### a) Family Day Care

Unless otherwise approved by Council, with due regard on residential amenity, the hours of operation of Family Day Cares shall be between 7:00am and 6:00pm on weekdays and 8:00am and 6:00pm on Saturdays. Family Day Care will not be permitted to operate on Sundays and Public Holidays.

#### b) Child Care Premises

Hours of operation for Child Care Premises shall be restricted to Monday to Friday between 7.00am and 7.00pm and Saturday between 8.00am and 4.00pm, unless otherwise approved by Council.

### 2. Maximum Number of Children

#### a) Family Day Care

The maximum number of children permitted shall be in accordance with the Education and Care Services National Regulations 2012 (as amended).

#### b) Child Care Premises

In accordance with the Education and Care Services National Regulations 2012 the number of children present at the childcare premises must not exceed the

maximum number of children specified in the license or permit to operate. The proposed number of children will be considered having regard to the locational criteria identified in Clause 1 of the Policy.

### 3. Preparation of Food

Prior to commencement of operation the applicant must book a food premises inspection with the City's Health Services Department. The premises must meet all requirements and pass the inspection without requiring any corrective actions before it will be allowed to trade. In addition to this the applicant will be required to submit an Application for Registration of Food Business in line with the provisions of the Food Act 2008. This application, must be accompanied with the appropriate registration fee, and a complainant food safety plan must be provided a minimum of two weeks prior to commencement of operation.

### 4. Outdoor Play Areas

Any proposed outdoor play area shall be setback a minimum of 1 metre from lot boundaries to ensure that the potential for noise impact upon surrounding properties is minimised. Play areas may be required to be separated from the boundary by a physical barrier.

Outdoor play areas are to be provided with adequate shading, to the satisfaction of the City of Kalamunda. This may include shade sails, patio areas or dense vegetation.

### 5. Noise Management

As part of the application for a child care premises a Noise Management Plan and Acoustic Impact Assessment shall be prepared by a suitably qualified professional, submitted to, and approved by the City of Kalamunda prior to any approval being granted. The documents should demonstrate either compliance with the *Environmental Protection (Noise) Regulations 1997* or design/specification measures that will be incorporated to reach compliance.

### 6. Bushfire Management Plans

In accordance with the provisions of *State Planning Policy 3.7 (SPP3.7) – Planning in Bushfire Prone Areas* a Child Care Premises or Family Day Care is considered to be a 'Vulnerable Land Use'. For this reason, any application made to commence operation of either of these uses within a bushfire prone area shall be accompanied by a Bushfire Management Plan prepared by a suitably qualified Bushfire Management Consultant and submitted to the City of Kalamunda as part of the application to commence development.

The elements required of any such Bushfire Management Plan shall be implemented and any ongoing maintenance required or updates to that plan shall be adhered to. Please note that this report will be referred to the Department of Fire and Emergency Services for their review and approval prior to any approval being granted by the City.



The City will not support the development of vulnerable land uses in bushfire prone areas where it cannot be demonstrated by the applicant that the use will not compromise the safety of the occupants of that particular use.

## 7. Matters to be Considered

The following matters will be given consideration in the assessment of applications for childcare premises and family day care development:

- a) Any relevant matters set out in Clause 67 of the Regulations and the objectives of the zone;
- b) The impact of the proposed development on the amenity and character of residential or non- residential areas, as viewed from a street, public space, or neighbouring property;
- c) Preservation of all significant trees and other vegetation;
- d) Whether the development application will still achieve a desired streetscape where a variation is applied;
- e) The preservation of areas of useable on-site open space;
- f) Any special limitation on the development of the land by virtue of its size, shape, or environmental/geographical feature;
- g) Whether support for the development application will set an undesirable precedent for similar sized surrounding lots; and
- h) Comments received from affected adjacent property owners/occupiers.

## 8. Public Consultation

Advertising of a proposal for a childcare premises or family day care will occur if the proposal is located in a zone where the use is classified as a "D" or "A" use in accordance with Table 1 of Local Planning Scheme No. 3. The application shall be assessed as a standard application in accordance with Local Planning Policy 11 – Public Notification of Planning Proposals.

## 9. Variations to the Policy

Any variation to development requirements will require the applicant to provide additional justification demonstrating how the proposal will not adversely affect adjoining property owners, the streetscape or the amenity of the locality, with particular reference to Clause 10 – 'Matters to be Considered' of this policy. The City may undertake consultation with adjoining affected property owners/occupiers during assessment.

## Definitions

### Family Day Care

A Family Day Care is defined as the following under the LPS No.3:

**"Family Day Care"** has the same meaning given to the term in the Community Services (Child Care) Regulations 1988:

The Community Services (Childcare) Regulations 1998 define the use as being:

**“Family Day Care”** means a childcare service provided to a child in a private dwelling in a family or domestic environment;

The Regulations also stipulate – “Child Care Service” does not include an outside school hours care service as defined in the Community Service (outside school Hours care) regulations 2002.

The Community Service (outside school Hours care) regulations 2002. Stipulate “outside school hours care service” as a meaning ““a childcare service provided outside school hours for children of school age, except such a service that is provided solely for the purposes of –

- a) A child’s participation in religious instruction or sporting, education, recreational or cultural events, or activities; or
- b) A child’s membership of a non-profit community organisation.”

**Child Care Premises**

A Child Care Premises is defined as the following under LPS No.3:

**“Child Care Premises”** has the same meaning given to the term in the Community Services (Child Care) Regulations 1988;

The Community Services (Child Care) Regulations 1988 define the use as being:

“Child Care premises” means premises specified in a license or permit as premises in which a child care service may be provided;

Legislation	City of Kalamunda Local Planning Scheme No.3
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