



**SUBMISSION TO
PRODUCTIVITY COMMISSION**

**INQUIRY INTO CHILDCARE AND EARLY
CHILDHOOD LEARNING**

February 2014

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Recommendations

RECOMMENDATION 1

That national funding agreements and state-level funding for early childhood education and care services be dramatically overhauled to recognise the unique challenges facing families, services and the workforce in NSW.

RECOMMENDATION 2

That dedicated regional staff from the NSW Early Childhood Education and Care Directorate resume their former role as a local resource for early childhood education and care services, assisting services to identify and implement policies, procedures and practices consistent with their commitment to continuous improvement.

RECOMMENDATION 3

That primary school teaching qualifications – augmented by appropriate industry-specific training – be recognised in early childhood education and care services as an interim measure to assist in addressing the shortage of Early Childhood Teachers in NSW.

RECOMMENDATION 4

That the new Early Childhood Teacher requirements for smaller early childhood education and care services that took effect 1 January 2014 be immediately suspended and implementation delayed by 12 months to assist services in the employment of Early Childhood Teachers.

RECOMMENDATION 5

That Early Childhood Teacher waivers be linked to the early childhood education and care service applying for the waiver, rather than the current practice of linking the waiver to the individual educator.

RECOMMENDATION 6

That the Australian Children's Education and Care Quality Authority remove the fee for early childhood education and care services to apply for an Early Childhood Teacher waiver in light of workforce shortages in NSW and other jurisdictions.

RECOMMENDATION 7

That clause 135 of the Education and Care Services National Regulations be immediately amended to allow a more flexible approach to the temporary replacement of Early Childhood Teachers in NSW, as per the existing requirements in other jurisdictions.

RECOMMENDATION 8

That the 2016 ratio requirements for 2-3year olds be delayed or staggered to ensure that both early childhood education and care services and families have time to adjust to the new requirements and consequential affordability and accessibility impacts.

RECOMMENDATION 9

That the NSW Government deliver Universal Access funding to all long day care and preschool services in NSW to assist in the provision of Early Childhood Teachers dedicated to delivering preschool programs to preschool-aged children in their year before school to support the achievement of the NSW Government's Universal Access Targets and ensure compliance with the National Partnership Agreement on Universal Access to Early Childhood Education Intergovernmental Agreement on Federal Financial Relations.

RECOMMENDATION 10

That the Federal Government assist families, early childhood education and care services and its workforce by funding the sector more appropriately in respect of Equal Remuneration Orders.

RECOMMENDATION 11

That local councils and State Planning Departments be meaningfully engaged in the planning and socio-demographic analysis associated with proposed early childhood education and care services and that Local Environmental Plans be regularly reviewed to ensure consistency with state and national regulations pertaining to early childhood education and care.

RECOMMENDATION 12

That publicly available, online planning tools be utilised to provide indications of future demand for early childhood education and care services to avoid approval of new services in areas where there is not sufficient demand, and conversely to ensure approval of new services in areas where there is strong demand for early childhood education and care services.

RECOMMENDATION 13

That local councils, State Planning Departments and State Early Childhood Education and Care Directorates (or similar) work with the early childhood education and care sector to urgently identify planning barriers to the delivery of quality, affordable and accessible early childhood education and care.

RECOMMENDATION 14

That assessment and rating procedures within the early childhood education and care sector be urgently reviewed and that the sector be more adequately resourced to ensure that services can be assessed and rated, and subsequent assessments conducted, in a more timely fashion.

RECOMMENDATION 15

That the NSW Small Business Commissioner, Early Childhood Education and Care Directorate and early childhood education and care sector representatives identify and resolve undue administrative burdens imposed by regulation without compromising the quality, affordability or accessibility of early childhood education and care.

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1. Introduction

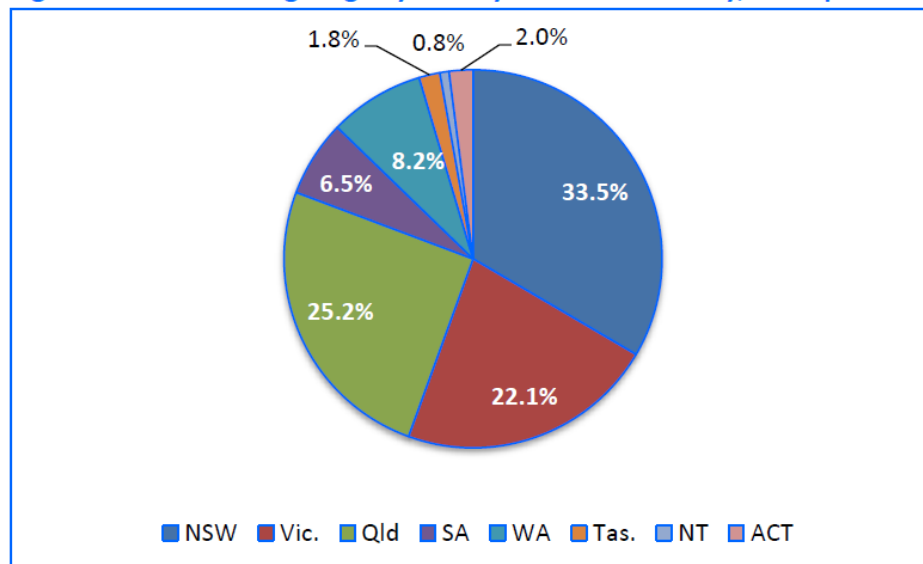
Child Care New South Wales represents, advocates on behalf of and provides collective services for early childhood education and care services throughout New South Wales, representing more than 1100 registered services across the state. Our members are committed to providing excellence in early childhood education and care for the more than 100 000 families we provide essential services to. Our members are primarily private, long day care services. Approximately 65% of members are metropolitan-based, with the remaining 35% of members based regionally.

Child Care New South Wales welcomes the opportunity to provide a submission in response to the Productivity Commission *Inquiry into Childcare and Early Childhood Learning*. It should be noted that Child Care New South Wales has provided extensive input to and strongly supports the submission lodged separately by our national body, the Australian Childcare Alliance. This submission is intended to complement the Australian Childcare Alliance submission, highlighting NSW-specific issues, examples and recommendations.

2. Early Childhood Education and Care in NSW

According to the Australian Children's Education and Care Quality Authority (ACECQA), as at 30 September 2013, there were 4407 approved services in NSW, of which 4233 were centre-based services (long day care, preschool and outside school hours care)¹.

Figure 1: Children using long day care by state and territory, June quarter 2013



Source: Department of Education administrative data.

The most recent data provided by the Department of Education² indicates that as at June 2013, there were 340,130 children across 246,030 families using approved child care in NSW, approximately 60%

¹ Australian Children's Education and Care Quality Authority (2013) *NQF Snapshot Q3 2013*
http://files.acecqa.gov.au/files/Reports/0910_ACECQA_Snapshot_Q3_final.pdf

(203,230) of whom are in long day care, reflecting the growing demand for early childhood education and care services more closely aligned with work hours. The same data confirms that almost a third of the 1.057 million children in approved care nationally are in NSW, and similarly that one third of early childhood education and care services nationally are located in NSW. As highlighted in Figure 1 above, NSW has the largest proportion (33.5%) of children attending long day care (as opposed to other types of early childhood education and care services), highlighting the need for sustained investment in the sector. A similar proportion (30%) of the number of children in outside school hours care nationally are also in NSW, which Child Care New South Wales suggests reflects the transition from long day care to outside school hours care for parents working outside the home and/or studying.

The NSW Government's *Review of NSW Government Funding for Early Childhood Education*³ indicates that there are approximately three times as many long day care and occasional care services operating in NSW as preschools, with approximately twice as many children in NSW under the age of 6 attending long day care services as those attending preschools (p14).

The child care, education and training volume of the *Report on Government Services*⁴ released in late January 2014, confirms that there has been a 6.5% increase in the number of children aged 12 years and younger attending Australian Government approved early childhood education and care services⁵. This report also highlights that 54.7% of all child care services in NSW are privately managed, with 73% of centre-based long day care services, 27.8% of vacation care services; 28.5% of outside school hours care services; and 6.2% of preschool service providers in NSW privately managed (Table 3A.64). This same report highlights that the number of child care places in NSW fell by 1161 between 2011-12 and 2012-13, including 361 fewer long day care places (Table 3A.60). It should be noted that this reduction in long day care places is in spite of the number of long day care services in NSW increasing in recent years, substantiating the arguments made throughout this submission about the impacts of qualification requirements and changes to ratio requirements on the number of places that services are offering (despite being approved for a higher number of licensed places).

NSW is in a somewhat unique situation in that there is such a high proportion of 'small' services relative to the proportion of small services in other states, presenting challenges in terms of economies of scale and capacity to absorb costs associated with regulatory reforms and other external pressures. As indicated in Figure 2 overleaf, there are 1083 'small' centre-based services of 29 or less approved places in NSW. This represents 25.6% of centre-based services in NSW. This is considerably higher than in Victoria, where 19.7% of centre-based services are 'small' services; and Queensland where 18% of centre-based services are 'small' services. Nationally, 20.4% of centre-based services are 'small' services of 29 or less approved places⁶.

² Department of Education (2014) *Child Care and Early Learning in Summary – June quarter 2013*

http://docs.education.gov.au/system/files/doc/other/cc_el_in_summary_june_qtr_2013.pdf

³ NSW Government (2012) *Review of NSW Government Funding for Early Childhood Education*

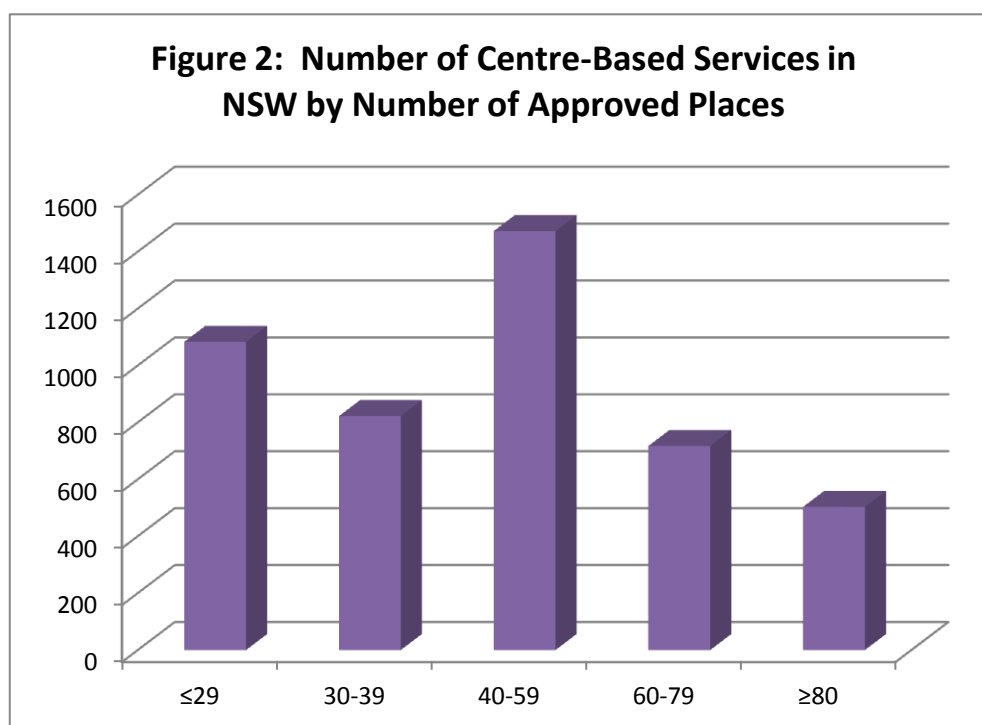
https://www.det.nsw.edu.au/media/downloads/about-us/statistics-and-research/public-reviews-and-enquiries/review-of-nsw-government-funding-for-early-childhood-education/review_nsw_gov_funding_ece.pdf

⁴ Australian Government (2014) *Report on Government Services 2014* <http://pc.gov.au/gsp/rogs>

⁵ Australian Government (2014) *Report on Government Services – Volume B: Child care, education and training*

<http://pc.gov.au/gsp/rogs/childcare-education-training>

⁶ These calculations were undertaken 1 February 2014 using publicly available data from the national database provided on the ACECQA website <http://acecqa.gov.au/educators-and-providers1/national-registers>



The 2011 Census data⁷ shows that NSW has a population of 6.917 million people (32% of the Australian population), comprising 1.830 million families (32% of Australian families) and an average of 1.9 children per family (consistent with the national average). Child Care New South Wales has summarised key statistical data pertaining to the Sydney Significant Urban Areas, NSW, and Australia in Table 1 below.

Table 1: Key 2011 Census Data for Sydney, NSW and Australia⁸

	Sydney Significant Urban Areas	NSW	Australia
Population	4.029 million	6.918 million	21.508 million
Median Age	36	38	37
Families	1.054 million	1.830 million	10.874 million
Average Children Per Family	1.9	1.9	1.9
Median Weekly Household Income	\$1 490	\$1 237	\$1 234
Median Monthly Mortgage Repayments	\$2 169	\$1 993	\$1 800
Median Weekly Rent	\$365	\$300	\$285

This data highlights the unique pressures being faced by families in the urban Sydney area, where median monthly mortgage repayments are 120% that of the national average and the median weekly rent is almost 130% that of the national average. With almost 20% of the Australian population residing

⁷ Australian Bureau of Statistics (2013) *2011 Census QuickStats*
http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/1?opendocument&navpos=95

⁸ Australian Bureau of Statistics (2013) *2011 Census QuickStats*
http://www.censusdata.abs.gov.au/census_services/getproduct/census/2011/quickstat/1?opendocument&navpos=95

within the urban Sydney area and families facing relatively higher costs of living than families in other part of NSW and indeed the remainder of Australia, there is limited capacity to ‘absorb’ increased early childhood education and care fees, noting regular media reports⁹ that Sydney is one of the most expensive cities to live in across the globe. The child care, education and training volume of the *Report on Government Services*¹⁰ released in late January 2014 confirms that NSW continues to have the highest median weekly service cost of Australian Government approved long day care services outside of the Australian Capital Territory, with a median cost of \$392/week (less in regional NSW, where the median cost was \$325/week). Child Care New South Wales argues that the higher population, higher costs of living, higher land/rental costs, higher early childhood teacher requirements (see below) and higher award wage rates (Educational Services (Teachers) Award 2010 and Children’s Services Award 2010) in NSW are compounding to increase the cost of delivering high quality early childhood education and care, which – without additional government support – is passed directly on to families by private and not-for-profit services alike.

RECOMMENDATION 1

That national funding agreements and state-level funding for early childhood education and care services be dramatically overhauled to recognise the unique challenges facing families, services and the workforce in NSW.

3. Government Involvement in Childcare and Early Learning

As outlined in the Australian Childcare Alliance’s submission, all levels of government have played a role in developing an early childhood education and care sector capable of delivering quality education and care. However, Child Care New South Wales argues that considerable rationalisation could be undertaken to deliver more streamlined regulatory and operating frameworks without compromising quality of education and care, whilst at the same time improving affordability and accessibility. A common criticism from members about the current regulatory and operating frameworks is put simply in the following member comment: “*There are too many levels of government involved*”.

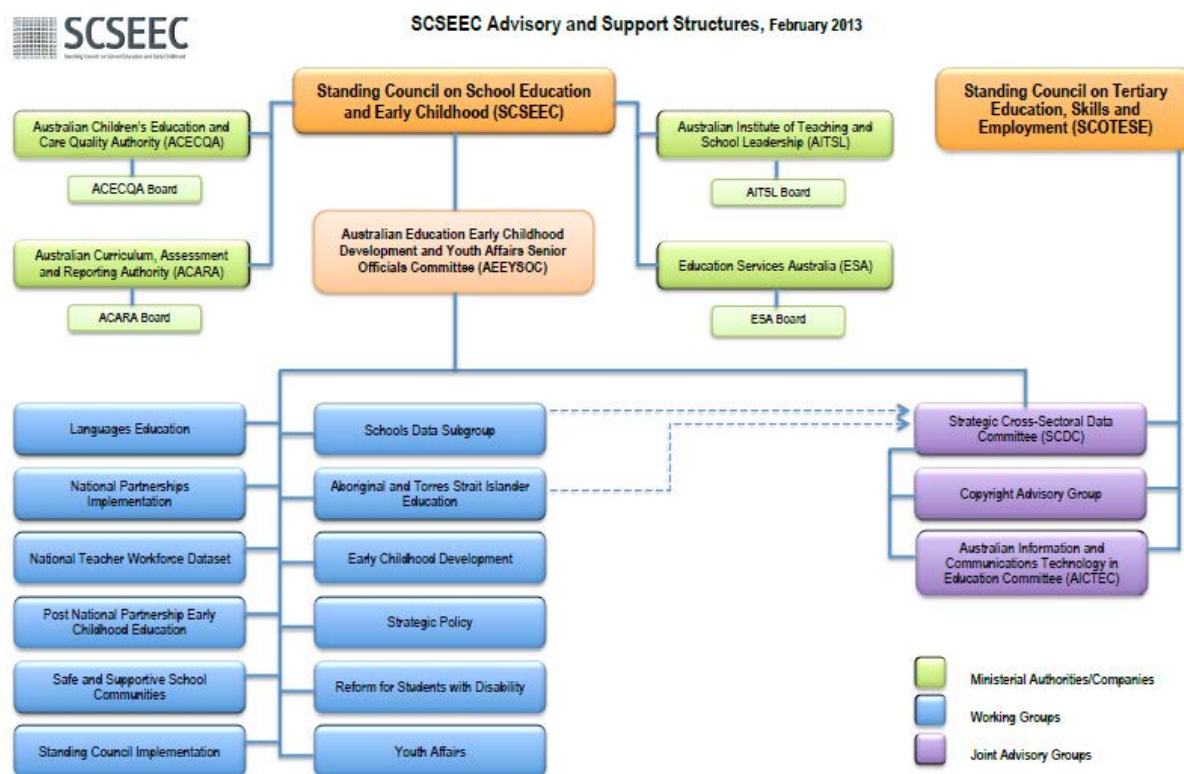
3.1 Advisory, Support and Regulatory Structures

Child Care New South Wales welcomed the Council of Australian Governments’ commitment to a nationally consistent approach, improved education and developmental outcomes for children using education and care services, and a commitment to more collaboration and cooperation within and between jurisdictions. However, implementation was always going to be challenging, particularly in an administrative and funding sense. Figure 3 below provides an example of the complex advisory structures now in place for just part of the advisory and support frameworks across early childhood education and care, separate to the many working groups and committees that sit below this structure.

⁹ See for example <http://www.dailytelegraph.com.au/news/nsw/cost-of-living-in-australia-is-among-the-highest-in-the-world/story-fni0cx12-1226677641006>, <http://www.smh.com.au/data-point/rising-price-of-living-in-australia-20130426-2ik16.html>, <http://au.pfinance.yahoo.com/money-manager/debt-and-budgeting/article/-/20618246/sydney-named-worlds-11th-most-expensive-city/>

¹⁰ Australian Government (2014) *Report on Government Services 2014* <http://pc.gov.au/gsp/rogs>

Figure 3: Standing Council on School Education and Early Childhood Advisory and Support Structures



Whilst there is a high level of awareness of the Australian Children's Education and Care Quality Authority (ACECQA) within the early childhood education and care sector, Child Care New South Wales argues that for centre-based services in NSW, there remains considerable confusion about the roles, responsibilities and functions of ACECQA, particularly relative to those of the Early Childhood Education and Care Directorate within the NSW Department of Education. Members frequently contact Child Care New South Wales seeking clarity as to whether an inquiry, form, report or general information should be lodged with ACECQA, the Early Childhood Education and Care Directorate or another body/agency (eg Office of the Children's Guardian), with some members being threatened with enforcement action for not lodging forms with the relevant agency despite being advised by other agencies that it is not required. Similarly, with multiple support measures available from Federal and State/Territory Governments for children with additional needs; children at risk of serious abuse or neglect; parents undertaking activities such as job search work, study, training or undertaking rehabilitation to enter, or re-enter the workforce; families with additional needs and so on, many members have commented that this complex web of programs needs to be streamlined to focus on the families who need funding the most, thereby benefiting families and saving government administration costs that could be otherwise redirected to families.

In NSW, the Early Childhood Education and Care Directorate regulates the operation of early childhood education and care services for children from birth to school age. It also provides some funding to education and care services, though – as explained further below – this is not generally the case for long day care, and especially not privately owned long day care services.

With the Directorate acting as the regulatory authority in terms of assessment and rating, our members regularly report that they feel they have lost their local ‘support person’, as local Directorate staff are now seen as enforcers rather than mentors, champions, networkers and facilitators. This has been exacerbated by the lack of meaningful feedback and guidance to members as to what they could do differently to move from one rating to a higher rating for each of the quality areas following completion of the initial assessment and rating process (see section 3.4 below). There is a clear need for the Directorate to revisit its role and function at the local level to ensure that services can access guidance and support in keeping with their commitment to continuous improvement.

RECOMMENDATION 2

That dedicated regional staff from the NSW Early Childhood Education and Care Directorate resume their former role as a local resource for early childhood education and care services, assisting services to identify and implement policies, procedures and practices consistent with their commitment to continuous improvement.

3.2 Inconsistent Implementation of ‘Nationally Consistent’ Framework

The most common criticism of the current system as reported to Child Care New South Wales by our members is that the ‘nationally consistent’ regulations are remarkably inconsistent in practice. Much of this inconsistency relates to the decision to set minimum regulatory standards for a myriad of aspects of early childhood education and care, while at the same time allowing jurisdictions with higher standards prior to the new regulations being introduced to be maintained. This in practice means that in some jurisdictions, ratios and educator requirements are considerably more stringent than in other jurisdictions.

3.2.1 Early Childhood Teachers

NSW is currently experiencing serious shortages of Early Childhood Teachers, despite massive numbers of teachers on the waiting list for primary school positions. In NSW, the NSW Education Minister has called for a cap on the number of student enrolments in teaching degrees given reports¹¹ of 40 000 teachers on the waiting list for permanent positions in NSW, with the oversupply expected to last until at least the end of the decade, even if there was a doubling of resignations or retirements. Despite this oversupply, these educators’ qualifications are not currently recognised in early childhood education and care services, undermining the potential for these educators to help address the shortage of Early Childhood Teachers in NSW.

¹¹ <http://www.smh.com.au/national/education/piccoli-calls-for-cap-on-teaching-degrees-20131120-2xvm8.html>

RECOMMENDATION 3

That primary school teaching qualifications – augmented by appropriate industry-specific training – be recognised in early childhood education and care services as an interim measure to assist in addressing the shortage of Early Childhood Teachers in NSW.

The latest NQF Snapshot Report¹² released by the Australian Children’s Education and Care Quality Authority shows that at 31 December 2013, 147 approved services in NSW were already operating with a staff waiver. Child Care New South Wales expects this number will be higher when the next NQF Snapshot is released, as the next report will pick up the months following the new qualification requirements for small services that took effect 1 January 2014, noting that services could not apply for waivers prior to this commencement date (see below).

The ECT situation has been exacerbated in NSW, where there has been –to date – a complete absence of flexibility regarding temporary replacement of ECTs. In all states except NSW, if an ECT is away for a period of up to 12 weeks (eg in the case of illness), they can be replaced by a Diploma. In NSW however, if an ECT calls in sick, unless a temp agency can provide an ECT on the spot, the service will technically be in breach and may face prosecution. The lack of flexibility is seriously hindering the capacity of services to meet regulatory requirements and provide continuity of care for our children.

As a further example of inconsistent requirements across jurisdictions, NSW-based early childhood education and care services catering for 30 or more children are required to have a higher number of ECTs (or higher number of hours in attendance) at the service than in all other jurisdictions, with twice the number of ECTs required in NSW for services with 80 or more children (see Table 2 overleaf). This is one of the prime reasons that ECTs are so difficult to source in NSW.

Services are also being forced to lose staff with decades of experience because they do not have an early childhood qualification (see below). Services simply cannot absorb the financial implications of requiring double the number of ECTs as other jurisdictions, which has unfortunately necessitated fee increases being passed on to parents, as reflected in the member feedback below.

“I doubt if the families [at our service] will be able to afford the increased fees needed to pay an ECT as we are in the west of Sydney with true Aussie battlers trying to pay off their homes or pay rent and keep their families together doing the right thing. There simply is a limit as to what they can afford to pay. Many will need to reduce days and have their children ‘minded’ by grandparents or neighbours, robbing the children of vital early learning and development programs”. (details withheld)

“We now have to employ an ECT for one full day a week. This will be at the cost of an existing Cert III educator. Depending on how many years since completing their ECT degree as to their hourly rate of pay, I have estimated an increased cost of between \$5 and \$10 per hour to employ this ECT. This equates to \$3000 - \$6000 per year. This will be passed on as increased fees to

¹² Australian Children’s Education and Care Quality Authority (2014) NQF Snapshot Q4 2013
http://files.acecqa.gov.au/files/Reports/2014/2014_ACECQA_Snapshot_Q4_final_web.pdf

parents. Again, this is a lot of money to a small centre” (South Coast based service with less than 20 approved places)

Table 2: Early Childhood Teacher Requirements – NSW Relative to Other Jurisdictions

	NSW		Other Jurisdictions	
≤ 25 approved places or ≤ 25 children in attendance	≥ 20% of the time that the service provides education and care, the service must have access to an ECT working with the service		≥20% of the time that the service provides education and care, the service must have access to an ECT working with the service	
25-29 children in attendance on any given day	Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours on given day	Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours on given day
	Service operating ≥50 hours/week	1 ECT in attendance for six hours on given day	Service operating ≥50 hours/week	1 ECT in attendance for six hours on given day
30-39 children in attendance on any given day	1 ECT in attendance at all times that the service is educating and caring for 30-39 children		Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours on given day
			Service operating ≥50 hours/week	1 ECT in attendance for six hours on given day
40-59 children in attendance on any given day	2 ECTs in attendance at all times that the service is educating and caring for 40-59 children		Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours on given day
			Service operating ≥50 hours/week	1 ECT in attendance for six hours on given day
60-79 children in attendance on any given day	3 ECTs in attendance at all times that the service is educating and caring for 60-79 children		Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours and second ECT or suitably qualified person in attendance 30% of operating hours on the given day
			Service operating ≥50 hours/week	1 ECT in attendance for 6 hours and second ECT or suitably qualified person in attendance 3 hours on the given day
≥ 80 children in attendance on any given day	4 ECTs in attendance at all times that the service is educating and caring for ≥ 80 children		Service operating <50 hours/week	1 ECT in attendance for 60% of operating hours and second ECT or suitably qualified person in attendance 60% of operating hours on the given day
			Service operating ≥50 hours/week	1 ECT in attendance for 6 hours and second ECT or suitably qualified person in attendance 6 hours on the given day

"At this point in time we are going to have to operate at less than licensed places [because of the new ECT requirements] and we have to turn families away. We will also have to reduce staff hours to accommodate the lower numbers of children we will be catering for" (small service, details withheld)

"The number of children in attendance must now drop to 20 from 28. Fees will be increased to cover the costs of an ECT – if I can get one! Fee increases are needed to compensate of the loss of child places. Dropping child places means terminating one staff member and decreasing staff hours" (details withheld)

"Unfortunately, the new requirements for ECTs is driving the cost of care up, not down. The new requirements re: ECTs has required my service to REDUCE numbers. Families are disappointed to find that we can accommodate more children but are limited because of the new requirements. Our area caters to the middle/working class – demand is linked to the cost of care. As the cost of providing care rises to accommodate the new regs/ECT requirements, the cost becomes prohibitive and places provided have had to be decreased. We cannot access the required ECT and yet the director is a 3yr trained Primary School teacher with 13 years experience in NSW primary schools and 18 years experience as the Authorised/Nominated Supervisor while owning/operating preschool and long day care services (all with high accreditation results). The government needs to recognise experienced primary school trained qualifications as an equivalent to ECT qualifications – even as an introduction to the new requirements, until there are sufficient ECTs available!" (Sydney-based service with 25-29 approved places)

"We are in a small rural town and finding an ECT is like finding a needle in a hay stack. It is also annoying that we would have to put off very experienced staff with diploma qualifications for more than likely someone straight from uni with no experience with young children. It is a very worrying time for us." (details withheld)

"Many older educators have been pushed out as they have the skills but not the formal paperwork" (owner of four Northern Rivers/ North Coast/Mid North Coast based services with 30-39 and 40-59 approved places)

"I am considering selling my business as I will no longer be qualified to run my own service that I have managed for twenty years" (details withheld)

On a related note, given the serious shortage of ECTs in NSW, many services have been forced to apply for an ECT waiver in order to ensure compliance with staffing requirements. As at 30 September 2013, 155 approved services in NSW were already operating with a staff waiver¹³. Noting that new requirements for our smaller services commenced 1 January 2014, most members commenced the ECT recruitment process months – if not years – ago. Of the 143 members (noting that these individual respondents could own/operate multiple services) who responded to a member survey conducted by Child Care New South Wales in November 2013, 55 reported that they had been forced to apply for an ECT waiver in the past, with 26 (47%) of these members reporting that they had been looking for an ECT for more than 12 months, and 10 (18%) reporting that they had been looking for more than two years.

¹³ Australian Children's Education and Care Quality Authority (2013) *NQF Snapshot Q3 2013*
<http://files.acecqa.gov.au/files/Reports/0910 ACECQA Snapshot Q3 final.pdf>

The particularly challenging situation for services in NSW – again highlighting inconsistency across jurisdictions – was that the Early Childhood Education and Care Directorate refused to process waiver applications ahead of the 1 January 2014 commencement of the new qualification requirements, despite agencies in other jurisdictions, such as Victoria and Western Australia, processing applications many months prior to the 1 January 2014 commencement. Whilst the NSW Directorate assured Child Care New South Wales that a ‘common sense’ approach would be taken to enforcement in the first weeks of the year, services should not have been forced to lodge paperwork on 1 January 2014 en-masse, opening after the Christmas break without knowing the outcome of their waiver application. It was enormously difficult to explain to members why they could not proactively prepare themselves to ensure regulatory compliance, when their counterparts in other states could do exactly that.

Feedback from members in late 2013 indicated that up to a third of small services in NSW could be in breach on 1 January 2014 given that they simply could not ‘manufacture’ an ECT workforce to meet the new requirements. Recognising the potential barriers to compliance – out of the services’ control – Child Care New South Wales had lobbied for a 12-month delay in the introduction of the new requirements, which would have allowed a full year’s intake of graduates to enter the workforce in attempt to fill some of the ECT gap in NSW. This request was unfortunately denied.

RECOMMENDATION 4

That the new Early Childhood Teacher requirements for smaller early childhood education and care services that took effect 1 January 2014 be immediately suspended and implementation delayed by 12 months to assist services in the employment of Early Childhood Teachers.

As reflected in the member feedback below, there is a clear need for ECT waivers to be linked to the service, rather than the individual, and for the application process to be simplified:

“It is frustrating that the ECT waiver is specific to the individual. We had one approved and the ‘interim ECT’ moved suburbs and had to resign due to travel. We have not been able to employ an ECT however we employed another final year student who qualifies to be an interim ECT. Now we need to reapply for the waiver! It would be helpful if the waiver applied to the service, so long as the ‘interim ECT’ complied with all stated requirements to be approved” (Sydney based service)

“Applying for the ECT waiver was an unnecessarily complicated process and the waiver was only granted for half the time we requested. Our staff member has been with us a long time and had 12 months to complete her degree at the time of the application. A 12 month waiver would have allowed our staff member to complete her degree. Instead we have to look at advertising for and employing another teacher on a contract basis until our current staff member has completed her studies. So much for continuity of care!” (details withheld)

RECOMMENDATION 5

That Early Childhood Teacher waivers be linked to the early childhood education and care service applying for the waiver, rather than the current practice of linking the waiver to the individual educator.

RECOMMENDATION 6

That the Australian Children's Education and Care Quality Authority remove the fee for early childhood education and care services to apply for an Early Childhood Teacher waiver in light of workforce shortages in NSW and other jurisdictions.

Still on the issue of ECTs, in all states except NSW, if an ECT is away for a period of up to 12 weeks (eg in the case of illness), they can be replaced by a Diploma qualified educator. In NSW however, if an ECT calls in sick, unless a temp agency can provide an ECT on the spot (a virtually impossible ask, even in metropolitan areas), the service will technically be in breach and may face prosecution. The lack of flexibility is seriously hindering the capacity of services to meet regulatory requirements and provide continuity of care to our children. Child Care New South Wales has sought the NSW Government's support in introducing the flexible ECT arrangements available in other jurisdictions. Whilst encouraged by very recent feedback suggesting that the Early Childhood Education and Care Directorate is in support of this suggestion, the regulatory framework is such that any changes will take months to achieve, noting that machinery of government processes apply.

RECOMMENDATION 7

That clause 135 of the Education and Care Services National Regulations be immediately amended to allow a more flexible approach to the temporary replacement of Early Childhood Teachers in NSW, as per the existing requirements in other jurisdictions.

3.2.2 Ratios

As another example of inconsistent regulatory requirements, in NSW, services have been required to have an educator:child ratio of 1:10 for 3-5 year olds for many years. However, in other jurisdictions, the educator:child ratio requirement for the same age cohort will not reduce to 1:11 until 2016, noting that the ratios are currently above this (eg in Queensland the current ratio requirements for three years to younger than six years is 1:12). As such, even two years from now, other jurisdictions will still not have ratio requirements equivalent to those in NSW. This is yet another factor limiting flexibility and affordability for families, as well as the viability of some services in NSW, when compared with other jurisdictions.

This contrasts starkly with the ratio requirements for 2-3 year olds, scheduled to commence 1 January 2016, where NSW services are being asked to dramatically drop the educator:child ratio. It must be recognised that the new educator to child ratios for 2-3 year olds represents a substantial change for long day care services – the most significant of the changes to ratios of any age group. The new

requirements, which take effect 1 January 2016, change the educator:child ratio from 1:8 to 1:5. Long day care services essentially have two options – either drop the number of children in the 2-3 year old rooms to meet the new ratio requirements, or increase the number of educators. Both options will have a significant impact on the operational costs of long day care services, at a time when parents are reporting that they can afford it least. Members are already reporting that they are already ‘phasing out’ provision of care for 2 year olds in advance of the 2016 ratio changes, or planning to reduce the number of approved places for 2 year olds to a multiple of 5 rather than a multiple of 8. For example, a long day care service based in Sydney’s north west, already operating with a waiting list, will be dropping the number of 2yos from 16 to 15. At the same time as families losing a permanent 2yo place and the service losing fees, the service will also incur additional employment costs, as the room of 16 children, formerly staffed by two educators, will now be a room of 15 children staffed by three educators. This is but one example of the many we are hearing on a regular basis.

RECOMMENDATION 8

That the 2016 ratio requirements for 2-3year olds be delayed or staggered to ensure that both early childhood education and care services and families have time to adjust to the new requirements and consequential affordability and accessibility impacts.

3.2.3 Funding

Whilst significant gains have been made in terms of shifting the Australian mindset that early childhood education and care is as much about quality early education as it is about the highest levels of care, this has not been matched by public investment in the sector. International research is proving time and time again that investment in early childhood education and care delivers solid returns to tax-payers, with findings that every dollar invested in early childhood education and care saves taxpayers up to \$13¹⁴, and generates a 15-17% return to society¹⁵. However, only 56% of Australia’s total expenditure on early childhood education in 2010 was met from the public purse, compared with an OECD average of 82% public funding¹⁶.

Even the current ‘Universal Access’ funding arrangements, which *should* be viewed as positive investment in early childhood education and care, are seriously flawed in an implementation sense, undermining the potential widespread benefits of this investment. Child Care New South Wales remains extremely frustrated and deeply disappointed by the NSW Government’s continued failure to provide Universal Access funding to private long day care services in NSW. By way of background, in 2008, the Commonwealth and all State/Territory governments signed a *National Partnership Agreement on Early Childhood Education*¹⁷, less formally known as the Universal Access agreement. The agreement committed all Australian governments to achieving by 2013 universal access to early childhood

¹⁴ Calman, L and Tarr-Whelan, L (2005) *Early Childhood Education for All* <http://web.mit.edu/workplacecenter/docs/Full%20Report.pdf>

¹⁵ Heckman, J.J. (2006) *The Economics of Investing in Early Childhood*

¹⁶ OECD (2013), *Education at a Glance 2013: OECD Indicators*, OECD Publishing <http://dx.doi.org/10.1787/eaq-2013-en>

¹⁷ Council of Australian Governments (2008) *National Partnership Agreement on Early Childhood Education* http://www.federalfinancialrelations.gov.au/content/npa/education/early_childhood/national_partnership.pdf

education programs for all children in their year before school, delivered by university qualified ECTs, for 15 hours a week, 40 weeks a year.

The NSW Government's *Review of NSW Government Funding for Early Childhood Education*¹⁸ made it clear that "families and children should benefit from the Government's investment in quality early childhood education programs regardless of whether they access a long day care centre or a preschool", a recommendation strongly endorsed by Child Care New South Wales. This recommendation is consistent with the requirements of the *National Partnership Agreement on Universal Access to Early Childhood Education Intergovernmental Agreement on Federal Financial Relations*¹⁹, which states that the agreement "will be implemented consistently"; and that universal access would ensure the quality early childhood education program – defined as "a program delivered in the year before full-time schooling in a diversity of settings, including long day care centre based services, stand-alone preschools and preschools that are part of schools" – "would be delivered in a manner that met the needs of parents and working families". In briefings provided to state-level working groups and directly to Child Care New South Wales in mid-2013, the NSW Government also acknowledged that "funding LDCs to have early childhood teachers dedicated to preschool-aged children will support the achievement of our universal access targets". Despite these clear recommendations and requirements of national agreements – and in stark contrast to the position of other jurisdictions – the NSW Government continues to direct Universal Access funding to the community sector only, failing to provide Universal Access funding to benefit the education and care outcomes of the more than 200 000 children in long day care in NSW. It could be argued that the NSW Government is using Universal Access funding as a cost-shifting measure to fund early childhood education and care services in the community sector – funding that would have otherwise been required to come from the NSW Budget.

RECOMMENDATION 9

That the NSW Government deliver Universal Access funding to all long day care and preschool services in NSW to assist in the provision of Early Childhood Teachers dedicated to delivering preschool programs to preschool-aged children in their year before school to support the achievement of the NSW Government's Universal Access Targets and ensure compliance with the National Partnership Agreement on Universal Access to Early Childhood Education Intergovernmental Agreement on Federal Financial Relations.

As mentioned above, the early childhood education and care sector is currently experiencing chronic workforce shortages, with United Voice quoting union research suggesting that 180 educators leave the sector every week²⁰. An Equal Remuneration Order (ERO) application has been lodged with the Fair Work Commission by United Voice and the Australian Education Union (Victorian Branch) for employees in the long day care sector. As a key driver of workforce participation and productivity, Child Care New South Wales argues that the Commission must consider the extent of any ERO on the affordability and

¹⁸ NSW Government (2012) *Review of NSW Government Funding for Early Childhood Education*
https://www.det.nsw.edu.au/media/downloads/about-us/statistics-and-research/public-reviews-and-enquiries/review-of-nsw-government-funding-for-early-childhood-education/review_nsw_gov_funding_ece.pdf

¹⁹ Council of Australian Governments (2008) *National Partnership Agreement on Universal Access to Early Childhood Education Intergovernmental Agreement on Federal Financial Relations*
http://www.federalfinancialrelations.gov.au/content/npa/education/early_childhood_education/early_childhood_education.pdf

²⁰ Big Steps in Early Childhood Education and Care (2013) *About Big Steps* <http://bigsteps.org.au/about>

availability of child care if services are unable to meet the new requirements. As recognised by United Voice itself, both employers and parents will have extreme difficulties meeting significant pay increases. As such, Child Care New South Wales is seeking a commitment that the Federal Government will publicly fund professional wage increases. Parents are prepared to change their vote on the issue of early education and care affordability and accessibility, with 87% of parents saying that they will vote for the party that commits to making child care more affordable and accessible²¹. Crippling the industry by failing to publicly invest in professional wage increases will have unprecedented, permanent impacts on families, small business owners, workforce participation and productivity and the Australian economy more generally.

RECOMMENDATION 10

That the Federal Government assist families, early childhood education and care services and its workforce by funding the sector more appropriately in respect of Equal Remuneration Orders.

3.3 Local Government

Members' interactions with local government tend to be focused on plans, policies and strategies that apply to future development within the relevant local government area. Early childhood education and care services are required to meet a range of local government requirements regarding the development and planning process, as well as a range of State Government requirements regarding licensing, followed by a number of Federal Government requirements regarding the physical size and structure of the service; Child Care Benefit; fees and registration. This is one of the areas that our members have been working with state jurisdictions to seek red tape relief on, as in many instances, the same paperwork could address all three levels of requirements, yet separate copies and/or separate paperwork is required to be kept/lodged.

On a related matter, members in NSW have reported a circuitous process in terms of development approval whereby the NSW Department of Education and Communities will not issue a service approval until such time as an occupancy permit has been provided²², but some local councils will not issue an occupancy permit until such time as the Service Approval has been provided. For example, a member in the central coast area of NSW has been asked by the local council to provide "A copy of relevant approvals for a centre based service issued by the NSW Department of Education and Communities (DEC) to be submitted to the principal certifying authority prior to occupation of the child care centre", which is not possible given that this occupancy certificate is a requirement of obtaining the service approval. Whilst this particular council has correctly identified the current regulatory authority, many councils' Local Environmental Plans refer to regulatory authorities that no longer exist, or do not recognise or refer to more recent reforms within the sector (both state and national). This highlighted

²¹ Australian Childcare Alliance (2013) *What Parents Want Survey 2013*

https://www.childcare.nsw.gov.au/images/stories/What_parents_want_Survey_Results_2013_FINAL.pdf

²² See Regulation 25(g)(i) of the Education and Care Services National Regulations or ACECQA [Form SA01 – Application for Service Approval – Centre Based Care](#)

the need for local authorities and State Planning Departments to be meaningfully engaged in discussions surrounding early childhood education and care.

Whilst some local government authorities include as part of their social impact assessment an analysis of the needs of residents and workers in relation to early childhood education and care services, as well as assessments on the likely impacts of a proposed development on existing services/facilities (eg The Hills Development Control Plan 2012²³), there is no central repository of planning and demographic data of relevance to current and future planning within early childhood education and care, meaning that development approvals can be granted where there simply is not sufficient need for further early childhood education and care services in a local area. As an example, there is a street in Quakers Hill in Western Sydney where there are five early childhood education and care services – which Child Care New South Wales understands have multiple vacancies – in a 200m strip due to poor planning. A member from the mid-north coast of NSW put it simply that *“Local Council’s approval of new services in areas where there is not a demonstrated need is diluting services”*.

Another issue with local government is the limitations placed on where services can be built and the number of licensed places permitted. For example, Parramatta Council does not allow services in R2 low density areas (single story dwellings and duplexes) and only allows them to be built in R3 medium density areas (town houses and flats) or in R3 commercial areas (commercial and apartment blocks), thus pushing up the cost of building a service in the Parramatta local government area due to the higher cost R3 and R4 land. This impacts on both growth and flexibility. Fairfield City Council has a limit of 40 licensed places for new early childhood education and care services and does not permit an existing provider to establish a service on an adjacent block to meet the needs of families in relation to places and flexibility. The Hurstville City Council requires new early childhood education and care services to have a minimum of 35% of licensed places allocated to children under 2 years of age. Whilst this is in line with the most recent Census data for the local government area, this requirement of the Development Control Plan represents a barrier to the feasibility of operating an early childhood education and care service in the area, thereby impacting on both accessibility and affordability for families.

Members consistently report restrictive parking requirements as one of the most common barriers to addressing demand for early childhood education and care services in Sydney. The following member example highlights the significant impact of car parking requirements on the number of licensed places available at early childhood education and care services and hence the affordability and accessibility of care for local families.

“Parramatta City Council requested a stacker car-park via a D.A Condition. We had to get 2 extra car spaces and without it the service would have been approved with 8 less children. With the stacker car-park we were approved for 28 children per day. The actual indoor/outdoor space requirement via the regulations would have enabled us to have over 40 children per day, but as

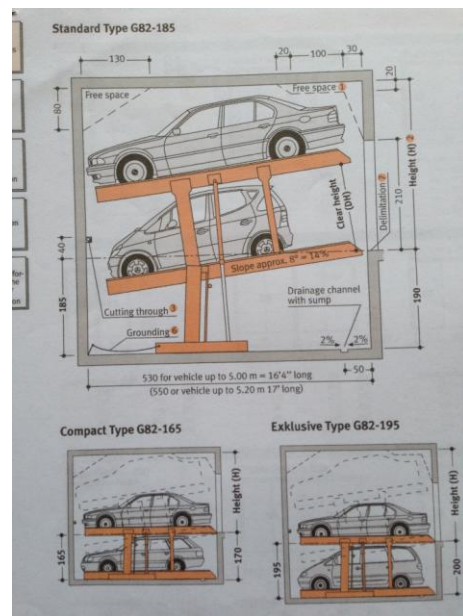
²³ <http://www.thehills.nsw.gov.au/IgnitionSuite/uploads/docs/The%20Hills%20DCP%202012%20Part%20B%20Section%206%20-%20Business.pdf>

we were limited to the 1 to 4 ratio for car spaces - even with the stacker car park - we were restricted to 28 places.

We currently have 49 families enrolled at the service and only about 5-7 families actually use the car park at different times of the day. We have a train station a 2-minute walk away, a bus stop up the road and a very big council parking lot surrounding our commercial property on 3 sides and they still won't let us consider all these attributes. We have submitted traffic assessment reports in the past with these considerations to no avail.

The total cost of the stacker car-park (plan pictured) surrounding digging, electrical, water drainage and the installation was just over \$100 000.

There are several councils surrounding us with different Development Control Plans and different conditions. Our council, Parramatta City Council requires us to have a 1 to 4 ratio for parking spaces. Fairfield City Council also has this same requirement. Holroyd Council and Bankstown don't list specific requirements in terms of how many parking spaces are required. They only require that parking arrangements are adequate and that a traffic assessment report be submitted".



There is scope to leverage off existing online tools such as the NSW Department of Planning and Infrastructure's Population and Housing Projections website²⁴, which provides population projections, age changes and key drivers of growth by region, to provide indications of future demand for early childhood education and care services.

Child Care New South Wales argues that a more collaborative approach to planning - within and across jurisdictions – would assist in alleviating excessively restrictive conditions associated with development controls, such as limiting hours of operation (thereby prohibiting moves towards flexible early childhood education and care); hours that children are allowed outdoors; lighting within and outside the service etc.

RECOMMENDATION 11

That local councils and State Planning Departments be meaningfully engaged in the planning and socio-demographic analysis associated with proposed early childhood education and care services and that Local Environmental Plans be regularly reviewed to ensure consistency with state and national regulations pertaining to early childhood education and care.

²⁴ <http://www.planning.nsw.gov.au/en-au/deliveringhomes/populationandhousingprojections.aspx>

RECOMMENDATION 12

That publicly available, online planning tools be utilised to provide indications of future demand for early childhood education and care services to avoid approval of new services in areas where there is not sufficient demand, and conversely to ensure approval of new services in areas where there is strong demand for early childhood education and care services.

RECOMMENDATION 13

That local councils, State Planning Departments and State Early Childhood Education and Care Directorates (or similar) work with the early childhood education and care sector to urgently identify planning barriers to the delivery of quality, affordable and accessible early childhood education and care.

3.4 Assessment and Rating

The National Quality Framework, introduced 1 January 2012, requires early childhood education and care services to be assessed against new, higher quality standards. Approximately 25% of the 13 676 education and care services across Australia had received a quality rating as at November 2013²⁵, with 29% of the 4407 services in NSW assessed. A major concern for Child Care New South Wales is member reports of inconsistent assessment and rating procedures based on different interpretations of the National Quality Standards, or a perceived ‘fait accompli’ where assessors state at the commencement of an assessment and rating visit that very few services will ever receive an ‘exceeding’ rating. Whilst the quarterly ‘snapshot’ reports from ACECQA state clearly that “caution should be taken when making comparisons between jurisdictions or making predictions about services yet to be rated” and “the services rated are not representative of all services”²⁶, this has not prevented media outlets from publishing their own interpretations of the data, describing ‘working towards’ as a “low” rating, further describing services who have been rated as less than ‘exceeding’ as having “flunked” or “bent the rules”²⁷. Articles like this beg the question of whether the data should in fact be published before the entire sector has been assessed and rated and parents families informed of the limitations of the data released to date. Child Care New South Wales argues that only aggregate data should be published until the entire sector has been assessed and rated and the scheduled 2014 review completed.

Child Care New South Wales is also deeply concerned that at the current rate of assessment and rating visits, it will be many years before the entire sector has been assessed, presenting enormous challenges for those services already rated as ‘working towards’ and desperately seeking a re-assessment to demonstrate the improvements they have made to ensure they are now ‘meeting’ the relevant quality

²⁵ Australian Children’s Education and Care Quality Authority (2013) *NQF Snapshot Q3 2013*
http://files.acecqa.gov.au/files/Reports/0910_ACECQA_Snapshot_Q3_final.pdf

²⁶ *ibid*

²⁷ The Australian (2 August 2013) *The Australian Children’s Education and Care Quality Authority says childcare centres are not meeting standards, rules bent for 1 in 20* <http://bit.ly/17K1HIW>

area/s within the National Quality Standards. Whilst there is a legislative requirement for these services to be re-assessed within a 12-month period, it has been made clear to Child Care New South Wales that initial assessment and rating visits are the current priority in NSW, suggesting that it is highly unlikely that this 12-month requirement will be met and as such, that services whose practices have improved since their last assessment and rating visit are stuck with the initial rating for an extended period of time.

RECOMMENDATION 14

That assessment and rating procedures within the early childhood education and care sector be urgently reviewed and that the sector be more adequately resourced to ensure that services can be assessed and rated, and subsequent assessments conducted, in a more timely fashion.

4. Demand for and Expectations of Childcare and Early Learning Services

Child Care New South Wales notes that the Productivity Commission is seeking empirical evidence on demand for early childhood education and care. Whilst we do not have access to state-wide data on demand for early childhood education and care in NSW, we have sought our members' feedback on this issue. It is fair to say that demand varies markedly within and between regions, ranging from high-demand, waiting-list situations to low-demand viability concern situations, combined with changes in patterns of education and care, as reflected in the comments below:

"We have had an increase in demand due to our financial investment providing the very best in child care with ECTs in all rooms, highly qualified staff and excellent facilities" (South Coast service with 80 or more licensed places)

"We are experiencing an increase in demand with more and more families where both parents are in full-time work" (Sydney-based service with 60-79 approved places)

"There has been a decreased demand in the number of days attending due to affordability issues, but an increased expectations of some families who want their child/ren to read and write at a much earlier age" (Sydney-based service provider with multiple services ranging in size from 25-29 places to 60-79 approved places)

"There has been decreased demand as there is an oversupply of services in our areas" (service provider with 5 services in the Sydney and South Coast regions ranging in size from 25-29 approved places to 80 or more approved places)

"Demand has decreased at individual centres because there are a lot more operating in the area and demand is linked to fees and government rebates available" (Sydney-based service with 25-29 approved places)

"Families are starting to choose 2-3 days per week [rather than 5 days per week]. We offer an 8hr day and a 10hr day for 2-5 year olds (soon to be 3 year olds only ahead of the future 1:5 ratio requirements). More families are choosing the short day program at a lower cost" (Sydney-based service provider with three services ranging in size from 25-29 approved places to 40-59 approved places).

The higher fees of NQF and wage demands drive parents to more casual arrangements and cheaper forms of care" (North Coast service with less than 59 approved places)

"Increased demand for part time. Many parents may work full time but they use grandparents as part time carers" (Sydney based service with 25-29 approved places)

The points raised by members above regarding 'casual arrangements', 'cheaper forms of care' and 'part-time carers' highlights concerns about informal early childhood education and care, noting that the focus of these informal arrangements tends to be 'care' rather than 'early childhood education', which can lead to negative outcomes for children. As highlighted by Bernal and Keane, *"informal care used after the first year leads to significant reductions in child achievement. Formal care (i.e., centre based care, pre-school) does not have any adverse effect on cognitive outcomes."*²⁸.

Members have reported that fluctuating population size can also seriously affect demand. Whether the result of housing booms (see member comment below), sea change/tree change population drift or seasonal conditions (eg drought), temporary or permanent population fluctuation can seriously hinder a service's ability to plan for the future.

"There are less families with younger children in my area now than 5 years ago. It's a small coastal village on the south coast. This downturn in children can also be noticed with less numbers of children enrolled at the local primary school and less children registered at local junior sporting organisations. A housing boom on the coast some years ago has led to less houses for permanent rental and those that are available are at too high a rent for young families. They have moved slightly inland to gain cheaper rental. (South Coast based service with less than 20 approved places)

As acknowledged in the *Report on Government Services*²⁹, *"it is difficult to measure accurately how many children access multiple services"* (p3.10), which also complicates analysis of demand.

As outlined in Section 3.3 above, Child Care New South Wales argues that there is much improvement to be made to the collection and distribution of early childhood education and care service supply and demand data at the local, regional, state and national level.

²⁸ Bernal and Keane (2006) *Child Care Choices and the Children's Cognitive Achievement: The Case of Single Mothers*
http://research.economics.unsw.edu.au/mkeane/Bernal_Keane_IV_Single_Mothers.pdf

²⁹ Australian Government (2014) *Report on Government Services – Volume B: Child care, education and training*
<http://pc.gov.au/gsp/rogs/childcare-education-training>

5. Government Regulation of Childcare and Early Learning

As stated above, whilst the National Quality Framework was intended to raise quality and drive continuous improvement and consistency in Australian education and care services, it has unfortunately escalated the regulatory burden on educators to the point that it may be perceived as counter-productive in some instances. Child Care New South Wales is not arguing against quality improvements; continuous improvement; nor consistency. However, these important regulatory reforms must be implemented seamlessly and efficiently, such that they become the building blocks of the sector rather than road blocks. The following member comment highlights the administrative burden being experienced by the sector currently:

“A medium sized centre needs a full-time manager (38 hours per week) just to manage government red tape regulations, QIP assessment and ratings, and some basic centre management work such as enrolments.” (owner of four Northern Rivers/ North Coast/Mid North Coast based services with 30-39 and 40-59 approved places)

In addition to the many red tape issues and suggested solutions identified in the Australian Childcare Alliance submission, Child Care New South Wales has identified the following examples of ‘red tape’ that are adversely affecting the quality, affordability and accessibility of early childhood education and care services in New South Wales. For the purposes of clarity, Child Care New South Wales considers ‘red tape’ to be administrative burdens imposed by regulation.

5.1 *Quality Improvement Plans*

Under the National Quality Framework (NQF), all approved services must have a Quality Improvement Plan (QIP) to assist providers ‘self-assess’ their performance in delivering quality education and care and plan future improvements. It is also a tool used by regulatory authorities in assessing and rating services. Whilst services are very familiar with the QIP process, the increased focus on the QIP as a precursor to assessment and rating has meant that many educators are constantly adding to the QIP – in many instances on a daily basis, as ‘insurance’, for fear that unless an issue is documented, regulatory authorities may assume it has not been addressed/considered. Child Care New South Wales firmly believes that the relationship between the educator and the child is the absolute priority. Record-keeping and QIP updates should be a means by which to ensure compliance with regulatory requirements and chart a path for continuous improvement, not a regulatory burden that detracts from ongoing engagement between the educator and the child. Whilst QIPs are required to be reviewed and revised at least annually, the requirement for QIPs to be “available at all times” has meant that many services see it necessary to constantly review and revise the document, which can be an enormously time-consuming process.

5.2 *Duplication*

It must be recognised that the early childhood education and care sector has legislative requirements brought about by all levels of government, including Federal requirements; State requirements and Local Government requirements. In most instances, files, records and paperwork cannot be shared

between the various jurisdictions, meaning that services have become the repository of rapidly growing hard-copy records for multiple authorities for the same purpose.

For example, whilst the Federal Government (via the Department of Human Services) provides the Australian Childhood Immunisation Register, services are required to keep their own copies of children's immunisation records. In NSW, the record-keeping requirements pertaining to the immunisation status of children in care have recently been revised, with new requirements taking effect 1 January 2014. Services are now be required to have on site specific documentation showing the child is fully vaccinated for their age; or on a recognised catch-up schedule; or has a medical contraindication to vaccination; or the parent has a conscientious objection to vaccination. The previous requirement was to have a copy of the immunisation status only. Whilst Child Care New South Wales supports the need for full disclosure regarding immunisation, and has worked closely with NSW Health to assist a smooth transition to the new requirements, it must be recognised that services are being asked to 'police' Federal and State Government legislative requirements.

As another example, services are required to meet a range of Local Government requirements regarding the development and planning process, as well as a range of State Government requirements regarding licensing, followed by a number of Federal Government requirements regarding the physical size and structure of the service; Child Care Benefit; fees and registration. In many instances, the same paperwork could address all three levels of requirements, yet separate copies and/or separate paperwork is required to be kept or lodged with multiple agencies across multiple jurisdictions.

5.3 *Serious Incidents*

Whilst the ACECQA Form S101 and the national regulations provide a level of guidance, the vague definition of 'serious incidents' has meant that some services are over-reporting, resulting in excessive paperwork at the service's end; and time and cost impacts at the authority's end. Whilst this has been clarified somewhat at a state level, many services are still of the understanding that a form should be lodged "whenever medical assistance was sought". Child Care New South Wales supports the need for serious incidents to be reported, but suggests that the S101 form and ACECQA communications materials be urgently clarified. In addition to serious incidents, there is also a series of 'notifiable illnesses' for which services are required to notify NSW Health, which can result in duplication of reporting across jurisdictions.

5.4 *Working with Children Check*

In NSW, a Working with Children Check is a prerequisite for anyone in child-related work. It involves a national criminal history check and review of findings of workplace misconduct, with only two outcomes – a clearance to work with children for five years, or a bar against working with children. Whilst the check is 'fully portable', meaning that it can be used for any paid or unpaid child-related work in NSW for as long as the worker remains cleared, it is not portable across state borders (other than for one-off events or if working less than 30 days in a calendar year), which is troublesome for educators working in border-towns such as Coolangatta (NSW/Queensland border) and Albury-Wodonga (NSW/Victoria

border), where two checks may be required if staff work in multiple services. In addition to the cross-border issue, as a result of recent changes in NSW, the check is now administered by the Office of the Children's Guardian, with a five-year phase-in depending on the sector. In the case of early education and child care, including approved providers, manager or certified supervisors, staff who are already employed do not need to lodge applications until 1 January to 31 December 2017. New staff must apply immediately. Members are reporting delays of up to 30 days in the processing of applications, leading to frustrating delays in the employment of qualified, experienced staff in a sector already experiencing chronic workforce shortages. This also affects existing staff aged less than 18 years, who are required to apply for the Working with Children Check on their 18th birthday, which could result in the staff member not being able to work for a period of up to six weeks whilst waiting for the results of the check to come through.

5.5 Early Childhood Teacher Waivers

Child Care New South Wales is also seeking a more streamlined and less administratively burdensome process for applying for ECT waivers. Whilst the NSW Early Childhood Education and Care Directorate has provided guidance material for members in how to advertise for an ECT, demand is simply outstripping supply, meaning that applying for a waiver is inevitable in many circumstances. In order to apply for a waiver, a service must demonstrate that they have made "reasonable efforts" to fill an ECT vacancy at their service by demonstrating the benefits to families, children and communities in having the service operate; cost of any adjustments needed for the service to comply; the provider's history of and approach to compliance; the availability of qualified staff; unusual or unforeseen circumstances (such as natural disasters); the service's quality improvement plan, and any attempts made by the provider to comply with the requirement(s). The paper trail required to demonstrate these requirements can be extensive. If an application does not include all the prescribed information, the regulatory authority may treat the application as invalid, delaying the timeframe for processing the application, as the statutory timeframes do not begin until an application is complete and therefore valid. The regulatory authority is required to keep copies of incomplete applications for an unspecified period, further adding to the overall administrative burden. Any attempts to streamline the process by referring to paperwork that the Department may have on file are hampered by the ACECQA guidelines which specify that regulatory authorities should not complete applications on behalf of applicants using information held on file.

5.6 Certified Supervisors

Child Care New South Wales is concerned that the application process for certified supervisors is leading to lengthy delays, despite a statutory timeframe of 60 days applying for decisions to be made. Members have reported extensive delays in the processing of ACECQA form CS01 (Application for Supervisor Certificate) – with some delays exceeding 18 months – which has led in some instances to credit card expiry dates having passed, further delaying the processing time as payments cannot be authorised. Whilst the application form itself does not appear overly burdensome, the existence of a 17-point checklist outlining attachments to accompany the application highlights the complexity of the application process. This is in addition to the provision of a resume, written reference and evidence of

completion of an approved education and care qualification. Child Care New South Wales argues that a dramatically streamlined process would greatly assist in the earliest possible appointment of certified supervisors to ensure that services can meet their legislative requirements. Child Care New South Wales understands there may be progress on this issue in the near future, but at the time of writing, the current process remains. On a similar issue, Child Care New South Wales argues that approval forms should not be required for 'Nominated Supervisors', as this should be a case of notification, not approval.

5.7 Reflections

The Early Years Learning Framework identifies 'reflective practice' as one of the five key principles underpinning effective early childhood pedagogy. Educators are now required to closely examine their ethics, philosophy and decision-making processes, documented accordingly. Whilst not arguing against the importance of reflective practice in early childhood education and care, members are reporting that the documentation requirements to substantiate this 'reflection' is overly time-consuming and unnecessarily burdensome. Child Care New South Wales argues that a simplified process is required involving less documentation of how this principle is being incorporated in early childhood education and care.

5.8 Staff Signing In and Out

Child Care New South Wales is concerned that the current requirements regarding staff sign-in processes are unclear and arguably impractical, leading to significant confusion within services about what is legally required, and what should be documented accordingly. Members are reporting that regulatory authority staff are advising educators to sign in and out as they move from room to room, even when children of similar age groups are free to move from room to room as they select activities of most interest to them. Educators who are following these children have been asked to sign in/out, which is highly impractical and arguably unnecessary. A similar situation arises when educators move from inside to outside, even when rooms are 'open' to facilitate the flow of indoor/outdoor play. At the extreme end of the spectrum, members have advised that authority staff have even suggested educators sign in/out for 'long bathroom breaks', which is clearly unnecessary. Whilst the NSW Department of Education and Communities has recently clarified the requirements in a legal sense, regulators on the ground appear to have varying interpretations of the requirements. Child Care New South Wales suggests that the staff sign in/out process requires urgent clarification, particularly in terms of regulator behaviour.

Child Care New South Wales has sought the support of the NSW Government in supporting initiatives to reduce red tape, and is working with the NSW Minister for Small Business and NSW Small Business Commissioner to identify workable solutions which would both assist the Federal Government in meeting its child care red tape commitments and assist the NSW Government in meeting its *NSW 2021: A Plan to Make NSW Number One* red tape commitments.

RECOMMENDATION 15

That the NSW Small Business Commissioner, Early Childhood Education and Care Directorate and early childhood education and care sector representatives identify and resolve undue administrative burdens imposed by regulation without compromising the quality, affordability or accessibility of early childhood education and care.

5.9 Flexibility

Families in New South Wales NSW are fortunate to have strong long day care, preschool, family day care, outside school hours care and in-home care services available to them (albeit at varying levels of accessibility, as outlined throughout this submission), all of which are regulated, noting that in-home care services are aiming to become NQF compliant in the short-term future. The funding of an additional service delivery model, as canvassed in the Productivity Commission's issues paper³⁰, is unnecessary, particularly when that model appears to have little regulation or evidence-based positive outcomes for children. Child Care New South Wales argues that funding a service delivery model that is not focused on the NQF would undermine the agenda for improved early childhood education and care on a national level and would result in additional costs to government in terms of monitoring the compliance of in-home care practitioners to the NQF, site visits etc. Instead, allowing family day care and centre-based care services to extend their hours of operation, without hindrance by local councils (as outlined above), and expanding the in-home care market would enable the sector to meet the needs of families in a more flexible manner.

³⁰ Productivity Commission (2013) *Childcare and Early Childhood Learning Productivity Commission Issues Paper*
<http://pc.gov.au/projects/inquiry/childcare/issues>