



6 March  
2022

# A SUBMISSION TO THE NSW GOVERNMENT'S **WOMEN'S ECONOMIC OPPORTUNITIES** **REVIEW**

Recommendations and suggestions for achieving more affordable, fairer and effective early childhood education and care in NSW.

## About Us

The Australian Childcare Alliance (ACA) NSW is grateful for the opportunity to provide a submission to the NSW Government's Women's Economic Opportunities Review ahead of the 2022/2023 NSW Budget.

ACA NSW is the state's peak body representing over 1,600 privately-owned centre-based childcare services who employ about 25,000 individuals and serve up to 125,000 children and their families.

Alongside other Australian states and territories, ACA NSW is the NSW peak body and collaborators with its sister peak bodies across Australia to form the national Australian Childcare Alliance.

## About ACA NSW's Submission

Our submission is assembled as follows:

- Volume 1: Strategic Solutions
- Volume 2: Immediate Solutions
- Volume 3: Regulatory Sandbox (Proposal for Safer, High Quality, Lower Cost Childcare)

**Volume 1** offers the NSW Government with new strategy proposals that will benefit all citizens across New South Wales, and especially women and children. They are designed to:

- overcome legacy challenges that have challenged the twin and often contradictory objectives of childcare affordability and quality early childhood education;
- provide working parents with additional support

**Volume 2** proposes to leverage the NSW Government's existing abilities without the need for the Federal Government or other state/territory governments' concurrence or cooperation. Moreover, these solutions have minimal financial cost for the NSW Government and have negligible negative impact on overall employment.

These proposals resolve legacy challenges faced by NSW-based early childhood education and care (ECEC) service providers, including those highlighted by the NSW Productivity Commission's Green Paper<sup>1</sup> and White Paper<sup>2</sup> (released in August 2020 and May 2021 respectively). These Papers showed that NSW ECEC service providers are burdened with higher operational costs than any other

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<sup>1</sup> NSW Productivity Commission's Green Paper (Aug 2020) - [https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper\\_Consolidated.pdf](https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper_Consolidated.pdf)

<sup>2</sup> NSW Productivity Commissioner's White Paper (May 2021) - <https://www.productivity.nsw.gov.au/white-paper>

Australian jurisdiction without any demonstrable proof of nett beneficial advantages for NSW children above other states and territories since 1 January 2012 (for example, the NSW-specific regulatory requirement<sup>3</sup> that results in 167%-333% higher costs for additional degree-qualified early childhood teachers<sup>4</sup>).

**Volume 3** advises the NSW Government to capitalise the promises of quality early childhood education and care in a manner so as to maximises children's subsequent progress especially during Kindergarten through to Year 2 (prior to the NAPLAN assessment in Year 3).

This can be achieved by leveraging its existing Regulatory Sandbox programme<sup>5</sup> (first introduced in 2016) so as to produce superior and fit-for-purpose regulatory frameworks that achieve the twin objectives of:

- quality early childhood education and care within the context of children's educational and social well-being outcomes that is demonstrably reportable across the continuum of ages 0-18 years; and
- regulatory and operational efficiencies such that true fee affordability for parents and taxpayers can be realised.

Given early childhood education and care is primarily funded by the Commonwealth's Child Care Subsidies<sup>6</sup> as well as the Universal Access Funding<sup>7</sup>, these provide the NSW Government with the ability to more effectively synchronise their resources in concert with the Commonwealth's investments in children's development.

The Federal Budget<sup>8</sup> announced in May 2021 finally required all states' and territories' governments to establish and implement preschool outcomes measures and implementation by the end of 2022 and the beginning of 2024 respectively. This is particularly noteworthy given that this new federal requirement comes in its tenth year since the National Quality Framework came into effect on 1 January 2012 and has attracted resistance from most of the sector.

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<sup>3</sup> NSW specific Regulation 272, Education and Care Services National Regulations - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.272>

<sup>4</sup> ACA NSW asks NSW Government to financially offset more costly NSW regulations toward achieving parity with other states and fee affordability for parents - <https://nsw.childcarealliance.org.au/news-archive/939-aca-nsw-asks-nsw-government-to-financially-offset-more-costly-nsw-regulations-toward-achieving-parity-with-other-states-and-fee-affordability-for-parents>

<sup>5</sup> Innovation NSW's Regulatory Sandbox - <https://web.archive.org/web/20200705120826/https://www.innovation.nsw.gov.au/regulatorysandboxes>

<sup>6</sup> Federal Government's Child Care Subsidy - <https://www.servicesaustralia.gov.au/individuals/services/centrelink/child-care-subsidy>

<sup>7</sup> Federal Government's Preschool Funding (aka Universal Access) - <https://www.dese.gov.au/universal-access-early-childhood-education/announcements/preschool-funding-extended-2021>

<sup>8</sup> Federal Budget 2021 - <https://nsw.childcarealliance.org.au/federal-budget-2021>

If successful, Volume 3 also proposes the introduction of standing regulatory sandbox review every two years for the early childhood education and care sector in order to ensure evolving regulatory and operational requirements continue to be synchronised with the objective of fee affordability and agreed outcomes.

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## List of Recommendations

### Recommendation V1-01

The NSW Government establish a dedicated NSW Commissioner for Early Childhood Education and Care who would directly advise the NSW Premier and the NSW Government.

### Recommendation V1-02

The NSW Government adopts the Victorian Government's model of helping to pay the gap for eligible parents'/guardians' children during their year-before-school, in effect creating free preschools for all children, not some children.

### Recommendation V1-03

That the NSW Government investigates the development of a NSW Education App that provides all parents with access to their children's developmental progress.

### Recommendation V1-04

That the NSW Government establishes appropriate measures of children's outcomes following their early childhood education and care experiences, and reviews such measures so that NSW's implementation of the early childhood education and care framework is fit-for-purpose.

### Recommendation V1-05

That the NSW Government and Federal Government revise their respective legislation relating to long service leave and superannuation so that critical workers can both convert (some or all of) their long service leave into contribution for their personal superannuation with more favourable tax rates.

**Recommendation V1-06**

That the NSW Government's NSW Productivity Commissioner employ its Regulatory Sandbox program so as to develop alternative yet superior frameworks for early childhood education and care that will achieve greater fee affordability for parents as well as superior outcomes for children.

**Recommendation V2-01**

Repeal NSW-specific Regulation 272 and enable NSW-based long daycare services to observe Regulations 132, 133 and 134 for the number of degree-qualified early childhood education teachers instead.

**Recommendation V2-02**

Repeal NSW-specific Regulation 271 and enable NSW-based long daycare services to observe Regulation 123(1)(c) instead for the number of educators for children aged 3-6 years old.

**Recommendation V2-03**

Amend Regulation 242(3) and replace "272(1A)" with "272" as follows:

*In this regulation –*

*relevant regulation means regulation 130, 131, 132, 133, 134, 266, 267, 272, 279, 293, 294, 303, 304, 330, 331, 332, 333, 348, 349, 362, 363 or 379.*

**Recommendation V2-04**

Re-classify all NSW-based early childhood education and care services to be NSW Payroll Tax exempt by virtue that they are educational institutions.

**Recommendation V2-05**

Upon receiving at least the Commonwealth's national average per child of \$1,292 from Universal Access funding, the NSW Government should allow long daycare services to reduce their fees or avoid increasing fees.

**Recommendation V2-06**

The NSW Government should immediately trial for at least 12 months the emulation of Regulation 299C for NSW and upon application via a Temporary Waiver for services. And upon subsequent review of the trial, the NSW Government should consider rendering the NSW equivalent of Regulation 299C to be made permanent.

**Recommendation V2-07**

That the NSW Government immediately establishes an appropriate income test eligibility framework that would apply to all parents intending to receive the free preschool funding. And that the NSW Government considers permanent establishment of an appropriate incomes test eligibility framework for future parents receiving the benefits of NSW preschool funding.

**Recommendation 2-08**

That the NSW Government immediately establishes a mechanism from the NSW Department of Education such that NSW community/mobile preschools and the NSW Department of Education can ensure children receive the intended 600 hours of free preschool funding.



Australian Childcare Alliance  
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VOLUME 1:  
STRATEGIC SOLUTIONS

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Recommendations and suggestions for achieving more affordable, fairer and effective early childhood education and care in NSW.

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# 1. Establish a NSW Commissioner for Early Childhood Education and Care

The National Quality Framework (NQF) governs the current early childhood education and care framework and came into effect on 1 January 2012.

The NSW Department of Education is the regulatory authority for the NSW jurisdiction. And although the Australian Children's Education and Care Quality Authority (ACECQA) is the National Authority, it is more generally accepted that it functions more as a secretariat, attempting to ensure national consistency and far less so a regulator.

The first NSW Government public concern that NSW has higher staffing requirements than those required by the NQF was by way of the NSW Productivity's Green Paper<sup>9</sup> in August 2020 and White Paper<sup>10</sup> in May 2021.

Despite the original intention of national consistency, jurisdictional differences simply confirm that it is possible for state government(s)<sup>11</sup> returning to as well as deviating<sup>12</sup> from NQF standards when superior outcomes prevail at no risk to children.

But given the length of time that has passed still without appropriate resolution in NSW, NSW is most likely to benefit from the establishment of a dedicated NSW Commissioner for Early Childhood Education and Care who would directly advise the NSW Premier and the NSW Government of the necessary changes needed to:

1. measure and maximise the impact of early childhood education and care on enrolled children compared to others (eg those children who were home-schooled);
2. achieve the most affordable childcare fees for all (and not some) NSW children and their families every year;
3. ensure all (and not some) NSW children enrolled in early childhood education and care every year achieved the highest possible outcomes of agreed measures;
4. streamline all requirements and processes so that operational burdens are minimised if not reduced;

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<sup>9</sup> NSW Productivity Commission's Green Paper (Aug 2020) - [https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper\\_Consolidated.pdf](https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper_Consolidated.pdf)

<sup>10</sup> NSW Productivity Commissioner's White Paper (May 2021) - <https://www.productivity.nsw.gov.au/white-paper>

<sup>11</sup> South Australian Government changed staffing ratios back to the national standard for centre-based services (May 202) - <https://www.esb.sa.gov.au/news/changes-ratios-new-educators-and-transporting-children>

<sup>12</sup> Queensland Government's staffing ratios during rest periods - <https://www.legislation.qld.gov.au/view/whole/html/2018-02-01/sl-2011-ecsnr#sec.299C>

5. ensure all (and not some) NSW children who experienced early childhood education and care are able to achieve the highest possible outcomes when they are in Kindergarten, Year 1 and Year 2;
6. ensure school principals and teachers relating to Kindergarten, Year 1 and Year 2 cohorts of children leverage and maximise the impact of their early childhood education and care;
7. identify and remove all unnecessary regulatory and non-regulatory obstacles to achieve the above;
8. ensure NSW children's outcomes are favourable compared to their cohorts interstate and internationally;
9. ensure the research and publication through NSW's Centre for Education Statistics and Evaluation of early childhood education and care outcomes across all children's cohort and all settings; and
10. highlight and facilitate the teaching of all examples of excellence for adoption by all early childhood education and care services for the benefit of all children.

These measurable outcomes should include at least the educational, social, mental and physical developmental milestones. Incidentally, these are still not recorded consistently nor as a mandatory requirement<sup>13</sup> across all early childhood education and care services for at least their communication to the children's schools as part of their enrolment process for Kindergarten.

#### **Recommendation V1-01**

The NSW Government establish a dedicated NSW Commissioner for Early Childhood Education and Care who would directly advise the NSW Premier and the NSW Government.

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<sup>13</sup> NSW Department of Education's Transition to School Statements - <https://education.nsw.gov.au/early-childhood-education/working-in-early-childhood-education/transition-to-school>

## 2. Free preschool for all children, not just some

Since 2019, then NSW Treasurer (the Hon Dominic Perrottet MP) announced<sup>14</sup> that:

*"in an Australian first, every three year old in New South Wales will now have access to subsidised early learning."*

This was further reinforced by a broadcast<sup>15</sup> from the then most senior outgoing bureaucrat of the NSW Department of Education to the entire NSW early childhood education and care sector:

*"I am extremely proud to have led our teams in delivering increased access to 600 hours of preschool for children in the year before school, and to have been the first state to introduce funding support for all three year olds from 2019."*

The NSW Government announced that free preschool was here to stay<sup>16</sup> via the NSW Budget 2021/2022 for 45,000 or so children enrolled in NSW's 763 community and mobile preschools. Yet, free preschool was not provided for over 150,000 children enrolled in NSW's long daycare services who are required by law to provide preschool programming.

ACA NSW proposes that the NSW Government emulates the funding arrangement of free care introduced by the Victorian Government<sup>17</sup>, and apply it for NSW children who are eligible for Child Care Subsidy during their year-before-school.

It is worth remembering that the Commonwealth's Child Care Subsidy:

- is for up to 85% of fees or the relevant hourly rate cap<sup>18</sup>;
- supports any eligible parents who can demonstrate a range of activities (ie in paid work, unpaid work and studying an approved course); and

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<sup>14</sup> NSW Budget announcement (19 June 2018) -

<https://www.parliament.nsw.gov.au/Hansard/Pages/HansardResult.aspx#/docid/HANSARD-1323879322-102594/link/66>

<sup>15</sup> E-mail broadcast from the NSW Department of Education (16 September 2019) -

<https://nsw.childcarealliance.org.au/images/Documents/2019-09-16---NSW-ECECD-EC-Extra-eNews-pages-17-8.pdf>

<sup>16</sup> Free preschool here to stay (20 June 2021) - <https://nswliberal.org.au/Shared-Content/News/2021/Free-preschool-here-to-stay>

<sup>17</sup> Victorian Government's Free Kinder in 2021 -

<https://www.education.vic.gov.au/childhood/providers/funding/Pages/freekinder2021.aspx>

<sup>18</sup> Commonwealth's Child Care Subsidy's Hourly Rate Cap -

<https://www.servicesaustralia.gov.au/individuals/services/centrelink/child-care-subsidy/how-much-you-can-get/type-child-care-you-use-affects-it#hourlyrate>

- supports any eligible parents whose combined household income<sup>19</sup> is below \$353,680 per year.

So, by leveraging the Commonwealth's Child Care Subsidies, the Victorian Government's Free Kinder funding arrangement is effectively paying or helping to pay the gap remaining of the services' fees that are normally paid for by parents/guardians.

This third party contribution has been allowed by the Commonwealth via an amendment<sup>20</sup> to the Child Care Subsidy Minister's Rules.

ACA NSW is recommending that the NSW Government pay or help pay the gap remaining of the services' fees:

- for eligible parents/guardians of children in the year-before-school; and
- for up to 600 hours per eligible child per year.

#### **Recommendation V1-02**

The NSW Government adopts the Victorian Government's model of helping to pay the gap for eligible parents'/guardians' children during their year-before-school, in effect creating free preschools for all children, not some children.

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<sup>19</sup> Commonwealth's Child Care Subsidy's Family Income Test - <https://www.servicesaustralia.gov.au/individuals/services/centrelink/child-care-subsidy/how-much-you-can-get/your-income-can-affect-it#familyincomeccs>

<sup>20</sup> Child Care Subsidy Amendment (Coronavirus Response Measures No. 1) Minister's Rules 2021 - <https://www.legislation.gov.au/Details/F2021L00055>

### **3. A NSW Education app for all parents**

Following the success of the Service NSW app especially during the COVID pandemic, NSW citizens have become comfortable with accessing their information maintained by the NSW Government.

And in anticipation that preschool outcomes<sup>21</sup> of children aged 4-5 years old will become available from 2024 onwards, parents would likewise be interested in their children's progress especially if they can understand their children relative to other children across NSW, Australia and ideally the rest of the world.

By understanding their children's progress, parents can then be empowered to make decisions that are in the best interest of their children.

In so doing, more outcomes-focussed citizens can only enhance NSW's future by developing the best possible human skills and capabilities.

#### **Recommendation V1-03**

That the NSW Government investigates the development of a NSW Education App that provides all parents with access to their children's developmental progress.

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<sup>21</sup> Federal Department of Education's announcement (20 October 2021) – Preschool Outcomes Measure Expert Advisory Group Terms of Reference - <https://www.dese.gov.au/preschool/resources/preschool-outcomes-measure-expert-advisory-group-terms-reference>

## 4. Ensuring and demonstrating the promises of quality early childhood education and care

There exists a significant body of scholarly articles linking quality early childhood education for children to their future much higher earning potential, superior health outcomes, even reduced involvement in crime.

ACA NSW remains convinced of the true promises of quality early childhood education and care. However, it is extremely concerned that the NSW Government has not established any mechanisms to track their benefits since the introduction of the National Quality Framework (NQF) on 1 January 2012.

Most concerning is that up until the COVID pandemic, over 44 commissioned research<sup>22</sup> were made by the NSW Department of Education yet:

*“Information does not exist” in relation to reports with respect to the outcomes as the result of [early childhood education and care] services rated “Meeting”, “Exceeding” and “Excellent” in terms of the outcomes of improved education, safety, health and well-being [of children].*

Now that the NQF is already over 10 years old, especially for the purposes of ensuring government policies, legislation and regulatory framework individually and collectively achieve their objectives, the NSW Government should ensure that appropriate measures of children's outcomes are in place.

### **Recommendation V1-04**

That the NSW Government establishes appropriate measures of children's outcomes following their early childhood education and care experiences, and reviews such measures so that NSW's implementation of the early childhood education and care framework is fit-for-purpose.

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<sup>22</sup> Results of GIPAs and FOIs released - <https://1drv.ms/u/s!Ao98k9p-eGjFg4hZvhR3EzBevZ9WTQ?e=tpm0G0>

## 5. Allowing long service leave to be converted into contribution towards personal superannuation

Anecdotally, just one in four Australians stay with the same employer for over 10 years<sup>23</sup>. And the Australian Children's Education & Care Quality Authority (ACECQA)'s National Children's Education and Care Workforce Strategy<sup>24</sup> suggests that almost two-fifths (39%) of the early childhood education and care (ECEC) workforce have over six years of experience.

Given that 96% of employees across the ECEC sector are women, there is potentially a higher potential of women employees achieving long service leave entitlements.

However, with women generally having lower superannuation balances than men, one plausible solution may be to amend NSW and Commonwealth legislation to allow women the choice to convert some or all of their long service leave as their contribution towards their personal superannuation.

Moreover, given ECEC employees are one of nine (9) groups of employees declared as critical workers<sup>25</sup> during the COVID pandemic, it is also suggested that Federal Government consider lowering all taxes related to superannuation for such employees in order to maximise their future savings.

### **Recommendation V1-05**

That the NSW Government and Federal Government revise their respective legislation relating to long service leave and superannuation so that critical workers can both convert (some or all of) their long service leave into contribution for their personal superannuation with more favourable tax rates.

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<sup>23</sup> ABC article (8 July 2019) - <https://www.abc.net.au/news/2019-07-08/portable-long-service-leave-should-be-national-says-expert/11267374>

<sup>24</sup> ACECQA's National Children's Education and Care Workforce Strategy (September 2021) - <https://www.acecqa.gov.au/sites/default/files/2021-10/ShapingOurFutureChildrensEducationandCareNationalWorkforceStrategy-September2021.pdf>

<sup>25</sup> NSW Public Health (COVID-19) Self-Isolation Order (No 4) 2021 – Critical worker exemption - <https://www.health.nsw.gov.au/Infectious/covid-19/Documents/certain-critical-worker-exemption.pdf>

## **6. Developing alternative yet superior outcomes**

Volume 3 of this submission provides the NSW Government with a process via its Regulatory Sandbox program such that greater fee affordability for parents can systemically be achieved yet at the same time produce superior outcomes for children.

### **Recommendation V1-06**

That the NSW Government's NSW Productivity Commissioner employ its Regulatory Sandbox program so as to develop alternative yet superior frameworks for early childhood education and care that will achieve greater fee affordability for parents as well as superior outcomes for children.



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VOLUME 2:  
IMMEDIATE SOLUTIONS

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# A SUBMISSION TO THE NSW GOVERNMENT'S **WOMEN'S ECONOMIC OPPORTUNITIES** **REVIEW**

Recommendations and suggestions for achieving more affordable, fairer and effective early childhood education and care in NSW.

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## 1. Demand, Supply & Vacancies

The twin objectives of early childhood education and care have always been the development of children with superior education and social well-being outcomes, as well as assisting working parents to achieve higher workforce participation levels.

Contextually, using the most recently available Federal Government report on early childhood education and care (ie June Quarter of 2018), the distribution of usage by children is as follows:

Service Type	NSW	VIC	QLD	SA	WA	TAS	NT	ACT	TOTAL
Long Daycare	233,760	166,540	165,290	40,860	56,090	11,750	5,690	16,180	<b>694,830</b>
Family Daycare	54,710	51,520	25,890	4,780	11,260	3,840	340	1,380	<b>153,370</b>
Occasional Care	1,800	2,110	300	100	840	90	0	70	<b>5,300</b>
Out-of-school-hours Care	144,140	102,510	103,980	40,800	36,860	8,390	4,080	13,380	<b>453,850</b>
<b>TOTAL</b>	<b>423,280</b>	<b>314,000</b>	<b>288,110</b>	<b>84,220</b>	<b>99,180</b>	<b>22,580</b>	<b>9,900</b>	<b>30,240</b>	<b>1,269,260</b>

**Table 1: Number of children using the respective service types, June quarter 2018<sup>1</sup>**

With the above in mind, the NSW Government should be cognisant of the existing momentum of supply of early childhood education and care services and the number of places therefore made available to parents.

And since the introduction of the current early childhood education and care framework on 1 January 2012, it is worth comparing the supply of additional long daycare (LDC) services and places that has consistently increased against population increases:

NSW	2012	2013	2014	2015	2016	2017	2018	2019	2020
New LDC Services	2,409	80	89	110	120	95	136	133	113
% increase	-	3.3%	3.6%	4.3%	4.5%	3.4%	4.7%	4.4%	3.6%
Additional Places	121,164	4,787	6,644	7,833	7,905	7,563	10,655	9,378	7,717
% increase	-	4.0%	5.3%	5.9%	5.6%	5.1%	6.8%	5.6%	4.4%

**Table 2: Supply of Early Childhood Education and Care services and places in NSW<sup>2</sup>**  
(NOTE: Grey column in 2012 represents total numbers of existing and new services in that year)

NSW	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Population	7.30m	7.40m	7.51m	7.62m	7.73m	7.87m	7.98m	8.09m	8.16m
% increase	-	1.37%	1.41%	1.44%	1.53%	1.75%	1.43%	1.34%	0.95%

**Table 3: Population Time Series of NSW<sup>3</sup>**

<sup>1</sup> Federal Department of Education's Early Childhood and child care report (June 2018) - <https://www.dese.gov.au/key-official-documents-about-early-childhood/early-childhood-and-child-care-reports>

<sup>2</sup> Source: Australian Children's Education & Care Quality Authority - <https://www.acecqa.gov.au/resources/national-registers>

<sup>3</sup> Source: Australian Bureau of Statistics' Population Time Series - <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2020/310104.xls>

The annual supply increases were to anticipate and satisfy demand and keep pace with population. However, the Federal Government's Early Childhood and Child Care Reports show significant enough vacancies, especially across long daycare services, family daycare services and out-of-school-hours-care services.

Vacancies across Australia	Jun 2012	Jun 2013	Jun 2014	Jun 2015	Jun 2016	Jun 2017	Jun 2018
<b>Long Daycare</b>							
Total number of services	6,156	6,310	6,606	6,723	6,932	7,184	7,478
% of services reporting	77%	84%	90%	91%	92%	92%	91%
Proportion with vacancies	87%	89%	88%	90%	91%	92%	93%
<b>Family Daycare</b>							
Total number of services	376	499	714	778	823	757	612
% of services reporting	63%	50%	38%	34%	44%	36%	37%
Proportion with vacancies	84%	83%	87%	89%	87%	94%	93%
<b>Occasional Care</b>							
Total number of services	80	119	117	116	110	106	103
% of services reporting	59%	55%	59%	59%	68%	64%	68%
Proportion with vacancies	60%	61%	54%	51%	56%	54%	56%
<b>Out-of-school-hours Care</b>							
Total number of services	5,956	6,292	6,633	6,911	7,331	7,554	7,722
% of services reporting	63%	62%	63%	58%	60%	76%	79%
Proportion with vacancies	86%	87%	90%	91%	92%	94%	95%

**Table 4: Vacancies across Australia<sup>4</sup>**  
**(NOTE: The Federal Department of Education, Skills & Employment has not yet released their reports for 2019 or 2020.)**

Governments' policy to influence price tends to be by leveraging the economic law of demand and supply. However, that has simply not worked to date. Instead, due to the regulatory framework and economic landscape combined, increasing supply appears to have had the opposite effect on prices.

In August 2018, the financial market began to realise this and have come to the conclusion of childcare oversupply<sup>5</sup>.

<sup>4</sup> Federal Department of Education's Early Childhood and child care reports - <https://www.dese.gov.au/key-official-documents-about-early-childhood/early-childhood-and-child-care-reports>

<sup>5</sup> Australian Financial Review: Australia's childcare oversupply explained - <https://www.afr.com/companies/infrastructure/australias-childcare-oversupply-explained-20180828-h14m0r>

## 2. Make NSW Regulations nationally consistent

The existing system commonly known as the National Law and National Regulations came into effect on 1 January 2012. By 31 December 2021, this governing framework for early childhood education and care service providers will have been operating for 10 years.

As their names imply, the original intentions prior to 2012 were for all Australian jurisdictions to be nationally consistent with each other. However, the same National Law and National Regulations (which had to be legislated through Australian state and territory governments) facilitated deviations for any jurisdiction.

Unfortunately, as highlighted by the NSW Productivity Commission's Green Paper<sup>1</sup>, NSW to date continues to perpetuate the largest pool of substantive enough deviations from other national regulatory requirements. Disappointingly, they contribute toward operational costs without demonstrating any measurable nett positive results for NSW children, parents and/or economy.

In fact, these NSW-specific deviations create unfair competition at the expense of NSW services, children and their parents when they compete against their peer services across the borders of New South Wales.

### 2.1 Repeal NSW Regulation 272

As highlighted by the NSW Productivity Commissioner's Green Paper<sup>1</sup>, NSW-based long daycare services are unfairly disadvantaged against comparable services in other Australian states with respect to Regulation 272<sup>6</sup>.

Centre-based Services	ECTs in NSW	ECTs in other states	Difference
< 25 children	0.2 FTE (Reg130)	0.2 FTE (Reg130)	0%
25-29 children	0.6 FTE (Reg272)	0.6 FTE (Reg132)	0%
30-39 children	1.0 FTE (Reg272)	0.6 FTE (Reg132)	167%
40-59 children	2.0 FTE (Reg272)	0.6 FTE (Reg132)	333%
60-79% children	3.0 FTE (Reg272)	1.5 FTE (Reg133)	200%
80 children	4.0 FTE (Reg272)	1.5 FTE (Reg133)	267%
> 80 children	4.0 FTE (Reg272)	2.0 FTE (Reg134)	200%

**Table 5: Differences between NSW regulatory requirement for degree-qualified early childhood teachers compared to other Australian states<sup>7</sup>**

<sup>6</sup> Regulation 272 - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.272>

<sup>7</sup> Source: Australian Bureau of Statistics' Population Time Series - <https://www.abs.gov.au/statistics/people/population/national-state-and-territory-population/jun-2020/310104.xls>

ACA NSW would strongly argue that there has been a persistent absence of any independent report showing broad, measurable and consistently positive educational outcomes for NSW-based children aged 0-5 years old as a direct result of the higher requirements from Regulation 272.

Due to the severe labour shortages of degree-qualified early childhood teachers, there had been an increase in the number of waivers granted by the NSW Department of Education as well as the number of approved applications for overseas-degree-qualified early childhood teachers.

Waivers for Reg272	2013	2014	2015	2016	2017	2018	2019
NSW Waivers Granted	206	103	273	359	285	437	476

**Table 6: Waivers for NSW Regulation 272 granted by the NSW Department of Education**

Overseas applicants approved	2017	2018	2019	TOTAL
New Zealand	218		81	299
Ireland	105		48	153
South Africa	63		25	88
United Kingdom	58		16	74
Philippines	18		-	18
Spain	12		-	12
United States	12		-	12
Hong Kong	9		-	9
Columbia	8		-	8
Chile	7		-	7
Brazil	6		-	6
<b>TOTAL</b>	<b>516</b>		<b>170</b>	<b>686</b>

**Table 7: Number of overseas degree-qualified early childhood teachers approved by ACECQA**

In response to the ongoing and severe labour shortages (especially for degree-qualified early childhood teachers), the Australian Children's Education & Care Quality Authority (ACECQA) and the Education Council have been developing a new workforce strategy<sup>8</sup> for 2021-2030. However, no short term solution is available, and the option to source overseas applicants has virtually stopped due to COVID-19.

The repercussions are even more acute for long daycare services in regional and rural areas.

There is also the concern that the results of having such degree qualified early childhood teachers have not been recorded in order to substantiate their impact on the children aged 0-5 years old from receiving preschool programmes, especially their benefits in terms of educational and social well-being in latter years (ie when they are in primary schools). And to that concern, ACA NSW proposes in *Volume 2: Reforming NSW's Early Childhood Education and Care* that a methodology be established

<sup>8</sup> National Workforce Strategy - <https://www.cecqa.gov.au/national-workforce-strategy>

to measure the benefits of degree-qualified early childhood teachers for children aged 0-5 years old as well as their subsequent impacts on the same children in primary schools.

The effect of Regulation 272 on NSW-based long daycare services in terms of estimated additional costs and as a percentage to average fees are as follows:

# of Places	# of Services in NSW	With NSW's Reg272	If NSW followed all other States	% Labour Cost Savings
		Est Avg Labour Cost	Est Avg Labour Cost	
< 25 children	163	\$0	0%	0%
25-29 children	366	\$0	0%	0%
30-39 children	603	\$417,893	\$392,613	6.05%
40-59 children	1,009	\$606,177	\$517,698	14.60%
60-79 children	549	\$784,604	\$689,804	12.08%
80 children	35	\$905,784	\$747,784	17.44%
> 80 children	571	\$1,048,402	\$922,002	12.06%

**Table 8: Estimated additional labour cost impact resulting from NSW Regulation 272<sup>9</sup>**

Given the above, ACA NSW believes the NSW Government ought to repeal NSW's Regulation 272, and instead have NSW-based long daycare services observe Regulations 132, 133 and 134 for the number of degree-qualified early childhood teachers.

### Recommendation V2-01

Repeal NSW-specific Regulation 272 and enable NSW-based long daycare services to observe Regulations 132, 133 and 134 for the number of degree-qualified early childhood education teachers instead.

NSW Decision-Making:  
NSW Minister can make the unilateral decision and does not need the consent of the Federal Government, state/territory governments or Education Council.

NSW Budget:  
No additional funding is needed from the NSW Government.

NSW Employment:  
It is anticipated that there will be a net zero effect on the number of people employed because the severe labour shortages for this qualification will be offset by employment for alternative qualifications in order to meet the existing staff:children ratio.

Effect on Costs/Fees:  
It is estimated that an additional 6.05% to 17.44% in labour costs is due to the impact of Regulation 272. Its repeal and having NSW be re-aligned with all other Australian states should see positive impacts on fees.

<sup>9</sup> ACA NSW: Impact of Regulation 272 analysis - [https://1drv.ms/x/s!Ao98k9p-eGjFgrAyMFUgL\\_xXW3MFYw?e=e6hzAJ](https://1drv.ms/x/s!Ao98k9p-eGjFgrAyMFUgL_xXW3MFYw?e=e6hzAJ)

## 2.2 Repeal NSW Regulation 271

Similar to the higher regulatory requirement highlighted by the NSW Productivity Commissioner's Green Paper<sup>1</sup>, the other higher staffing requirements imposed on NSW-based long daycare services is via Regulation 271<sup>10</sup>.

State/Territory	Educator Requirement	Educators:Children Ratio
NSW	Regulation 271	1:10
All other jurisdictions	Regulation 123(1)(c) <sup>11</sup>	1:11

**Table 9: Differences in Education-to-Children Ratio in NSW compared to all other Australian jurisdictions for children aged 3-6 years old**

It should be noted that on 31 August 2020, the South Australian Government<sup>12</sup> announced that it would change its educators-to-children ratio from 1:10 to 1:11 effective 1 September 2020.

Regulation 271 on NSW-based long daycare services has the effect of an inflationary factor on fees for parents with enrolled children aged 3-6 years old without any measurable advantages in terms of outcomes for NSW compared to all other Australian states and territories.

Fee/Day	Cert III/ Year	Cert III/ Day	10 Children/ Day	% of Educator/ Fee	11 Children/ Day	% of Educator/ Fees	Difference
\$85	\$55,998	\$215	\$850	25.34%	\$935	23.03%	2.30%
\$120	\$55,998	\$215	\$1,200	17.95%	\$1,320	16.32%	1.63%
\$140	\$55,998	\$215	\$1,400	15.38%	\$1,540	13.99%	1.40%

**Table 10: Impact of Regulation 271 if Educator were Certificate III qualified**

Fee/Day	Dip/Year	Dip/Day	10 Children/ Day	% of Educator/ Fee	11 Children/ Day	% of Educator/ Fees	Difference
\$85	\$63,770	\$245	\$850	28.86%	\$935	26.23%	2.62%
\$120	\$63,770	\$245	\$1,200	20.44%	\$1,320	18.58%	1.86%
\$140	\$63,770	\$245	\$1,400	17.52%	\$1,540	15.93%	1.56%

**Table 11: Impact of Regulation 271 if Educator were Diploma qualified**

Fee/Day	ECT/Year	ECT/Day	10 Children/ Day	% of Educator/ Fee	11 Children/ Day	% of Educator/ Fee	Difference
\$85	\$74,971	\$288	\$850	33.92%	\$935	30.84%	3.08%
\$120	\$74,971	\$288	\$1,200	24.04%	\$1,320	21.84%	2.18%
\$140	\$74,971	\$288	\$1,400	20.60%	\$1,540	18.72%	1.87%

**Table 12: Impact of Regulation 271 if Educator were a degree qualified Early Childhood Teacher**

<sup>10</sup> Regulation 271 - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.271>

<sup>11</sup> Regulation 123(1)(c) - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.123>

<sup>12</sup> SA Government announces change to educator-to-children ratio (31 Aug 2020) -

<https://esb.sa.gov.au/news/changes-ratios-new-educators-and-transporting-children#:~:text=Educator%2Dto%2Dchild%20ratios,choose%20to%20engage%20more%20educators>

With the impact of Regulation 271 conservatively contributing 1.4% to 3.08%<sup>13</sup> in additional costs, ACA NSW believes the NSW Government should repeal NSW's Regulation 271 and instead have NSW-based long daycare services observe Regulation 123(1)(c).

### **Recommendation V2-02**

Repeal NSW-specific Regulation 271 and enable NSW-based long daycare services to observe Regulation 123(1)(c) instead for the number of educators for children aged 3-6 years old.

**NSW Decision-Making:**  
NSW Minister can make the unilateral decision and does not need the consent of the Federal Government, state/territory governments or Education Council.

**NSW Budget:**  
No additional funding is needed from the NSW Government.

**NSW Employment:**  
It is anticipated that there will be a nett zero effect on the number of people already employed.

**Effect on Costs/Fees:**  
It is estimated that the replacement of Regulation 271 with Regulation 123(1)(c) can reduce costs of between 1.4% to 3.08%.

## **2.3 Amend NSW Regulation 242(3)**

Due to the similar concerns raised about severe labour shortages in relation to the recruitment of degree-qualified early childhood teachers above, again there is a lack of national consistency afforded NSW-based early childhood education and care services.

And as the number of waivers has significantly increased in recent years (as shown in Table 6 above), those waivers reinforce the need for national consistency.

The NSW Department of Education only published its Waiver Policy<sup>14</sup> in August 2020. While that is welcomed, it too is silent on NSW-specific regulations (ie Regulation 272) for degree-qualified early childhood teachers.

Reg242(3) flexibility	For NSW	For all other jurisdictions
< 25 children	Actively Working Toward allowed	Actively Working Toward allowed
25-29 children	Actively Working Toward allowed	Actively Working Toward allowed
30-39 children	Manual Application for Waiver Required	Actively Working Toward allowed
40-59 children	Manual Application for Waiver Required	Actively Working Toward allowed
60-79% children	Manual Application for Waiver Required	Actively Working Toward allowed
80 children	Manual Application for Waiver Required	Actively Working Toward allowed
> 80 children	Manual Application for Waiver Required	Actively Working Toward allowed

**Table 13: Differences in Reg242(3) on persons taken to be degree-qualified early childhood teachers<sup>15</sup>**

<sup>13</sup> ACA NSW's Impact of Regulation 271 analysis - <https://1drv.ms/u/s!Ao98k9p-eGjFgg00iWvUlw24l7S8Ug?e=ITDJzB>

<sup>14</sup> NSW Department of Education's Waiver Policy (August 2020) - <https://education.nsw.gov.au/content/dam/main-education/early-childhood-education/operating-an-early-childhood-education-service/media/documents/policies/waiver-policy.pdf>

<sup>15</sup> Regulation 242(3) - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.242>

The realignment of Regulation 242(3) towards national consistency would immediately:

- reduce red tape by removing the operational requirement to apply for a waiver (and therefore time, labour and consistency); and
- instead increase the recruitment or the retention of tertiary students completing 50% or more of the degree qualification (regardless of whether they hold a Certificate III or Diploma qualification).

Both outcomes would contribute towards reducing unnecessary compliance obligation costs without sacrificing the nett number of employees.

### **Recommendation V2-03**

Amend Regulation 242(3) and replace "272(1A)" with "272" as follows:

*In this regulation –*

*relevant regulation means regulation 130, 131, 132, 133, 134, 266, 267, 272, 279, 293, 294, 303, 304, 330, 331, 332, 333, 348, 349, 362, 363 or 379.*

**NSW Decision-Making:**  
NSW Minister can make the unilateral decision and does not need the consent of the Federal Government, state/territory governments or Education Council.

**NSW Budget:**  
No additional funding is needed from the NSW Government.

**NSW Employment:**  
It is anticipated that there will be a nett zero effect on the number of people already employed.

**Effect on Costs/Fees:**  
Although there is administrative cost to manually applying for the waiver, such cost is unlikely to be appreciable relative to the total labour costs or fees.

### 3. A level-playing field for all NSW-based services

The early childhood education and care sector is already quite diverse in terms of service types, for example long daycare, family daycare, out-of-school-hours-care, vacation care and occasional care.

The sector is also complex due to its different governance structures as well as the number of services each legal entity has responsibility over, for example privately-owned, multinational, publicly listed, corporatised, franchise, not-for-profit and government owned.

Notwithstanding, it should be noted that the Federal Government recognised all early childhood education and care service providers as educational institutions by establishing that fees invoiced to parents do not attract the Goods and Services Tax. This was enacted by way of the Commonwealth's *GST-free Supply (Child Care) Determination 2017*<sup>16</sup>.

It is broadly estimated that the cost of employees at early childhood education and care services represent at least 60%-70% of overall costs.

On 17 November 2020, the NSW Government raised the threshold for the NSW Payroll Tax as well as lowered the rate of payroll tax. ACA NSW reported<sup>17</sup> that these changes therefore resulted in an estimated 89.5% of those early childhood education and care services previously paying payroll taxes to now cease paying that NSW tax.

Of the remaining services who still pay the NSW Payroll Tax, it would be accurate to say that these services view the NSW Payroll Tax as an on-going disincentive and an additional cost to employment that ultimately is paid for by the NSW parent, notwithstanding the Commonwealth's Child Care Subsidies subject to eligibility.

From such early childhood education and care services, the NSW Payroll Tax is estimated to conservatively add between \$58,949 to \$82,900 to the overall operational costs per service, and an annual estimate of \$4.5m for the NSW Government in annual tax receipts.

Example Fees/Day	% as Payroll Tax	% as Payroll Tax
\$85	1.25%	2.08%
\$120	0.89%	1.46%
\$140	0.76%	1.26%

**Table 14: Percentage of fees per day contribution towards NSW Payroll Taxes<sup>18</sup>**

<sup>16</sup> GST-free Supply (Child Care) Determination 2017 - <https://www.legislation.gov.au/Details/F2017L00389>

<sup>17</sup> ACA NSW thanks NSW Treasurer Perrottet on his additional payroll tax relief - <https://nsw.childcarealliance.org.au/news-archive/990-aca-nsw-thanks-nsw-treasurer-perrottet-on-his-additional-payroll-tax-relief>

<sup>18</sup> ACA NSW's Impact of NSW Payroll Tax Analysis - <https://1drv.ms/u/s!Ao98k9p-eGjFgq00iWvUIw24l7S8Ug?e=C5CdNF>

**Recommendation V2-04**

Re-classify all NSW-based early childhood education and care services to be NSW Payroll Tax exempt by virtue that they are educational institutions.

NSW Decision-Making:  
NSW Treasurer can classify all early childhood education and care services, regardless of their governance and legal structures, as educational institutions, and therefore NSW Payroll Tax exempt.

NSW Budget:  
No additional funding is needed from the NSW Government. That said, the exemption will mean the NSW Government forgoing such revenue.

NSW Employment:  
It is anticipated that the savings from paying the NSW Payroll Tax will instead be redirected to new employment.

Effect on Costs/Fees:  
NSW Payroll Taxes can have an upward pressure on fees of between 0.76% to 2.08%. Hence, the exemption of NSW Payroll Taxes can have a positive impact on fees.

## **4. Fairer funding for all NSW children in their year-before-school**

There has always been consensus between governments that increasing the participation of children in their year-before-school (through either preschools or preschool programmes delivered at long daycare services) would undoubtedly improve children's performances at primary school.

There was previously a division of responsibility between the Federal Government and the state/territory governments, ie the Federal Government being responsible for providing the Commonwealth's Child Care Subsidies while the state/territory governments provide their funds for community/mobile preschools.

However, a more collaborative approach toward achieving higher preschool participation was achieved through additional funding by way of the National Partnership Agreements on Universal Access to Early Childhood Education<sup>19</sup>.

The last formal agreement assigned a total funding of \$427m in 2018, which equates to around \$1,237 per child in their year-before-school regardless of state/territory or circumstance. And the Federal Government has since sought to renew its funding commitment on a year-by-year basis. The then Federal Minister for Education (the Hon Dan Tehan MP) announced another \$452.3m<sup>20</sup> for the year 2021.

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<sup>19</sup> Federal Department of Education, Skills and Employment – National Partnership Agreements - <https://www.education.gov.au/national-partnership-agreements>

<sup>20</sup> Federal Minister for Education commits another year of Universal Access funding for 2021 - <https://www.dese.gov.au/universal-access-early-childhood-education/announcements/preschool-funding-extended-2021>

#### 4.1 Remove the restriction on NSW-based Long Daycare services disallowing them from reducing fees when receiving the NSW Start Strong funding

Assuming the NSW children enrolled in a preschool programme in the year-before-school at long daycare services receive the Commonwealth's national average allocation per child of \$1,292 for 2021, the NSW Government should therefore remove the long-standing restriction on NSW-based long daycare services that disallow them from reducing fees upon receiving NSW Start Strong funding.

Start Strong Criteria for Long Daycare<sup>21</sup>

Payments ^

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Initial payments will be made from June 2020 and payments for each additional equity enrolment will be made from November 2020.

The Approved Provider must spend the funds allocated to each service to:

- purchase resources
- develop an early childhood education program based on the Early Years Learning Framework, or
- develop staff, including upgrading qualifications from a diploma to a four year degree.

The full quantum of funding should be expended for those purposes, and should primarily aim to benefit children in the year before school.

The funds need to be expended during the 2020-21 financial year.

**Figure A: Rules for Long Daycare services when using Start Strong funding**

With a higher and fairer funding arrangement for children in their year-before-school at long daycare services, there is an opportunity for long daycare services to reduce fees or avoid increasing fees.

<sup>21</sup> Start Strong for Long Daycare - <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/start-strong#Start2>

**Recommendation V2-05**

Upon receiving at least the Commonwealth’s national average per child of \$1,292 from Universal Access funding, the NSW Government should allow long daycare services to reduce their fees or avoid increasing fees.

NSW Decision-Making:  
The NSW Government does not need concurrence with any other governments.

NSW Budget:  
Between \$25.3m-\$60.7m is needed to fund the shortfall just to achieve parity with the Commonwealth’s national average allocation.

NSW Employment:  
No impact.

Effect on Costs/Fees:  
Fee reduction possible for eligible children at long daycare services upon receiving at least the Commonwealth’s national average allocation of Universal Access funding.

## 5. NSW to trial QLD-specific educator:children ratio

Prior to the introduction of the National Law and National Regulations in 2012, a staffing arrangement commonly known as the "Crib Break" allowed some educators to take lunch breaks while still on the premises as the remaining educators cared for the children while they slept.

Since 2012, Regulation 122<sup>22</sup> required all educators to be working directly with children in the relevant educator:children ratios even while the children were sleeping.

Consequently, in order for educators to be allowed their lunch breaks (for example) while their assigned children were sleeping, additional staff were hired in order to replace them so as to maintain compliance with Regulation 122.

However, in Queensland, early childhood education and care services could apply for an approval to utilise their specific Regulation 299C – Educator to child ratios during rest periods<sup>23</sup>.

Regulation 299C appears to be in essence the "Crib Break" that continues in Queensland but in no other Australian jurisdiction.

It is worth noting that in NSW's ECEC, the number of deaths of children have been extremely low. And since 2011, there have been 7 sleep related deaths in education and care services across Australia.

Year	# of Deaths (NSW)	# of Deaths (0-2)	# of LDCs (NSW)	# of FDCs (NSW)
2012	0	0	0	0
2013	0	0	0	0
2014	0	0	0	0
2015	0	0	0	0
2016	0	0	0	0
2017	0	0	0	0
2018	1	1	1	0
2019	1	1	0	1

**Table 16: Number of deaths in NSW between 2012-2019**

By way of comparison, during 2019, there were 20 confirmed instances across Australia's 16,403 services where a service did not have sleep and rest policies and procedures for children.

<sup>22</sup> Regulation 122 – Educators must be working directly with children to be included in ratios - <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.122>.

<sup>23</sup> Regulation 299C – Educator to child ratios during rest period <https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.299C>

Every death of every child is tragic. Hence, the current Review of the National Quality Framework has just begun consulting<sup>24</sup> with the ECEC sector about improvements in the sleep and rest practices of children.

It is worth noting that the Review of the National Quality Framework thus far has not recommended the removal of Regulation 299C. In fact, the proposed national options for improvements in sleep and rest practices appear to be supplement Queensland's Regulation 299C.

As such, the NSW Government should immediately trial for at least 12 months the emulation of Regulation 299C for NSW-based services, and upon subsequent review of the trial, its consideration to render the NSW equivalent of Regulation 299C be made permanent.

#### **Recommendation V2-06**

The NSW Government should immediately trial for at least 12 months the emulation of Regulation 299C for NSW and upon application via a Temporary Waiver for services. And upon subsequent review of the trial, the NSW Government should consider rendering the NSW equivalent of Regulation 299C to be made permanent.

**NSW Decision-Making:**  
The NSW Government does not need concurrence with any other governments.

**NSW Budget:**  
No funding is required.

**NSW Employment:**  
There will most likely be a reduction in the hiring of some casual educators that are employed so that other educators can be relieved for their lunch breaks.

**Effect on Costs/Fees:**  
Fee reduction is possible for enrolled children aged 0-2 years old.

<sup>24</sup> Consultation Regulation Impact Statement for the Review of the National Quality Framework - <https://www.nqfreview.com.au/cris>

## 6. Free preschool for all (not some) in NSW

In response to COVID-19, the NSW Government increased its funding for community and mobile preschools in 2020 and 2021<sup>25</sup>.

And although this funding was to be capped for children up to 15 hours of free care per child each week, it has since been formally confirmed by the NSW Department of Education that parents can effectively have week-long (ie more than 15 hours) of free care per child each week across multiple preschools, and do not need to comply with any income test.

While ACA NSW supported the NSW Government's original time-limited COVID-19 response<sup>26</sup> for community and mobile preschools during 2020, the outcomes instead have created unfairness especially for children enrolled instead in long daycare services.

### 6.1 Fairer use of NSW Government's Free Preschool Funding

Notwithstanding the intentions of the NSW Government<sup>38</sup> to support parents' children through community/mobile preschools, the NSW Department of Education has formally confirmed that there does not exist mechanisms to ensure that parents do not exceed their 600 hours of preschool funding.

And given that there does not exist any income testing of parents who can benefit from this free preschool funding, the potential for abuse is real.

#### Recommendation V2-07

That the NSW Government immediately establishes an appropriate income test eligibility framework that would apply to all parents intending to receive the free preschool funding. And that the NSW Government considers permanent establishment of an appropriate incomes test eligibility framework for future parents receiving the benefits of NSW preschool funding.

**NSW Decision-Making:**  
The NSW Government does not need approval from any other governments for concurrence.

**NSW Budget:**  
No new funding is required. In fact, existing funding of \$120m is likely to be more effectively distributed.

**NSW Employment:**  
The employment levels anticipated at services would remain unchanged as a result of this adjustment.

**Effect on Costs/Fees:**  
This will still retain the objective of free preschool for 600 hours per year at community/mobile preschools for 2021.

<sup>25</sup> \$120m extra for free preschool programs to help parents in 2021 -

<https://education.nsw.gov.au/news/latest-news/-120-million-extra-for-free-preschool-program-to-help-parents>

<sup>26</sup> NSW Government's COVID-19 free preschool funding for 2020 - <https://education.nsw.gov.au/early-childhood-education/operating-an-early-childhood-education-service/grants-and-funded-programs/covid-19/2020-guidelines>

Moreover, the NSW Department of Education also confirmed that there is no mechanism to ensure that parents do not collect two or more sets of 600 hours of free preschool funding during 2021 across multiple community/mobile preschools. This unintended policy outcome inherently puts at risk children and parents of greater need, and undermines the intentions of the NSW Government's policy on the application of competitive neutrality<sup>27</sup> as well as the National Competition Policy<sup>28</sup>.

### **Recommendation V2-08**

That the NSW Government immediately establishes a mechanism from the NSW Department of Education such that NSW community/mobile preschools and the NSW Department of Education can ensure children receive the intended 600 hours of free preschool funding.

**NSW Decision-Making:**  
The NSW Government does not need approval from any other governments for concurrence.

**NSW Budget:**  
No new funding is required other than for the NSW Department of Education to develop and establish the abovementioned mechanism of their design.

**NSW Employment:**  
The employment levels anticipated at services would remain unchanged as a result of thi adjustment.

**Effect on Costs/Fees:**  
This will still retain the objective of free preschool for 600 hours per year at community/mobile preschools.

<sup>27</sup> NSW Government's Policy Statement on the Application of Competitive Neutrality -

<https://www.treasury.nsw.gov.au/sites/default/files/pdf/TPP02->

[1 Policy Statement on the Application of Competitive Neutrality Policy and Guidelines Paper.pdf](#)

<sup>28</sup> National Competition Policy - <http://ncp.ncc.gov.au/>



Australian Childcare Alliance  
New South Wales

[WWW.NSW.CHILDCAREALLIANCE.ORG.AU](http://WWW.NSW.CHILDCAREALLIANCE.ORG.AU)

SUBMISSION TO THE NSW GOVERNMENT'S  
**WOMEN'S ECONOMIC OPPORTUNITIES**  
**REVIEW**

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VOLUME 3:  
REGULATORY SANDBOX

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# A SUBMISSION TO THE NSW GOVERNMENT'S **WOMEN'S ECONOMIC OPPORTUNITIES REVIEW**

Recommendations and suggestions for achieving more affordable, fairer and effective early childhood education and care in NSW.

## 1. Overview

### 1.1 Summary

This Unsolicited Cabinet Proposal requests access to the NSW Government's innovative Regulatory Sandbox Programme<sup>1</sup> for a defined number of early childhood education and care (ECEC) facilities.

The **purpose** is to test an improved, flexible and innovative regulatory framework for ECEC in a flexible closed-system environment, that allows issues to be picked up and acted on quickly and easily, before the NSW implements new legislation for ECEC.

The project builds on the Review of the National Quality Framework (NQF)<sup>2</sup>, initiated by the COAG Education Council, in four main ways:

- test the proposals in a live environment before drafting the updated NSW-specific regulations and launching the NSW Government's new approach;
- try other ideas that may have been too innovative to proceed in the Review report, likely because there was no testing environment to verify the feasibility of those ideas;<sup>3</sup>
- create and collect better data about the ECEC sector and how it contributes to NSW's economic and education outcomes;
- seek opportunities to address NSW-specific issues, including higher wages and real estate costs.

The NSW Regulatory Sandbox programme offers a unique opportunity to test-drive the NQF Review's existing and proposed future approach, and evaluate improvements. Indeed, the NQF's Issues Paper and Consultation Regulatory Impact Statement (CRIS)<sup>4</sup> discusses numerous issues that have been overlooked, or not sufficiently addressed. It states "[c]onsideration of priorities for regulatory action and use of a flexible regulatory approach for high quality providers is needed."<sup>5</sup>

We believe that using the innovative and flexible regulatory sandbox programme to test-drive new ideas would help achieve safer, high quality and lower cost outcomes more fully than would otherwise be the case.

We propose to run this sandbox project in conjunction with relevant NSW Government agencies, mutually trusted experts and a select number of ECEC providers who together represent a cross-section of NSW's ECEC sector.

We propose this Regulatory Sandbox Programme project on the basis that the NSW government, in conjunction with NSW providers, is best placed to create NSW-specific regulations and operational arrangements that are best suited to the NSW operating environment. The NQF provides

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<sup>1</sup> Innovation NSW's Regulatory Sandbox -

<https://web.archive.org/web/20200705120826/https://www.innovation.nsw.gov.au/regulatorysandboxes>

<sup>2</sup> Review of the National Quality Framework (NQF) - <https://www.nqfreview.com.au/>

<sup>3</sup> The 2019 NQF Review Issues Paper states that the sector continues to innovate and respond to changing family needs and the National Law needs consideration in light of these developments – wouldn't it be nice to trial a more flexible regulation that aims to keep pace with sector innovation?

<sup>4</sup> Consultation Regulatory Impact Statement (CRIS) of the Review of the National Quality Framework -

<https://www.nqfreview.com.au/cris>

<sup>5</sup> 2019 NQF Issues Paper, p 20.

opportunities for jurisdictions to adapt their regulation to suit the unique environments of each jurisdiction, and this has resulted in other Australian jurisdictions implementing innovative and unique approaches to the National Law, as highlighted in ACA NSW's ***A State of Possibilities - Volume 1: Immediate Solutions***.

The **outcome** of this proposal would be better regulation of ECEC resulting in safer, high quality, lower cost early childhood education and care in NSW, meeting the NQF objectives and helping set the standard for other Australian jurisdictions.

We anticipate that funding for this Regulatory Sandbox Programme proposal would be met using the unspent funds allocated by the Commonwealth Government to NSW's Small Business Regulatory Reform<sup>6</sup>. It is in NSW's best interests to spend this money on innovative programs that improve the ease of doing business in NSW and this proposal provides the framework for doing so.

## 1.2 Details

This proposal asks for access to the NSW Government's innovative Regulatory Sandbox Programme to test proposed ECEC regulatory changes in a live environment that is flexible and open to innovation. The aim is to help ensure that ECEC regulatory changes appropriately balance safety, flexibility, encouraging innovation and reducing cost to parents.

The importance of balancing safety with cost in ECEC is well known. Increased ECEC access costs due to regulatory changes are likely to disproportionately impact vulnerable children.

Research shows "that vulnerable children experience greater benefit from participation in quality early childhood education and care. However, the benefits would only be realised if the costs of NQF compliance requirements and regulation did not result in higher fees thus creating a barrier to access."<sup>7</sup>

Government has an obligation to provide high quality, safe access to education for children. Early Childhood Education and Care (ECEC) provides two main outcomes:

- education to prepare children for school entry; and
- free portions of parents' time to provide valuable services for the community, whether those be paid or unpaid.

The issues around excessive red tape are well known. On the one hand, government needs to implement regulation to assure the safety and quality of services provided to the public, in particular people to whom the government owes a higher duty of care, eg young children. On the other hand, too much regulation imposes unnecessary costs (driving up prices), can drive smaller and more innovative providers out of the market, among other issues.

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<sup>6</sup> Project Agreement for Small Business Regulatory Reform - [https://1drv.ms/b/s!Ao98k9p-eGjFgq0PF\\_q3p8ZQxSGdlw?e=GjMvdN](https://1drv.ms/b/s!Ao98k9p-eGjFgq0PF_q3p8ZQxSGdlw?e=GjMvdN)

<sup>7</sup> 2019 NQF Review Issues Paper, p 13.

Indeed, the 2014 NQF Review focussed on reducing red tape and unnecessary administrative burden and the 2019 Review considers compliance and enforcement.

Unfortunately, over time, the red tape and regulation around ECEC has increased to the point where it poses a very real barrier to market entry. Providers consistently reported that, since 2012, more time has to be dedicated to regulatory compliance relative to time spent focussing on the children.

We estimate that \$52.9m remains unspent from the Commonwealth government's funding of the NSW Small Business Regulatory Reform<sup>8</sup> and that this funding would have run out on 30 June 2021. It is in NSW's best interests to spend this money on innovative programs that improve the ease of doing business in NSW and this proposal provides the framework for doing so.

ACA NSW anticipates that this Regulatory Sandbox Programme proposal would cost far less than \$43m allocated to regulatory reform in relation to [new] cafes, restaurants and small bars during 2018/2019.

### 1.3 ACA NSW's Unique Experience to Deliver the Proposed Programme

As the peak industry organisation for early childhood education and care in NSW, primarily focussing on privately-owned long day care and out-of-school-hours-care services, ACA NSW is experienced at:

- identifying the need for regulatory change, including market failures and regulations that discourage innovation;
- formulating policy positions among diverse service providers in the ECEC marketplace; and
- working with government agencies to produce policy outcomes that meet the best interests of children, parents, government, the community and the sector.

Furthermore, ACA NSW's CEO (Chiang Lim<sup>9</sup>) has industry reform experiences, particularly in consultation, coordination, development and trials. His past professional experiences include:

- the national removal of \$1b in regulated annual labour costs that was unexpectedly introduced as part of Australia's plain packaging of tobacco products;
- the then world's fastest mobile number portability process (ie the inter-carrier operational processes as well as the development of subordinate legislation); and
- the world's highest remuneration arrangements for lottery retailers.

As such, ACA NSW is in a unique position to work with government agencies and across the marketplace to design a Regulatory Sandbox Programme project that:

- ensures safety and quality for children;
- recognises high quality services;
- includes a representative cross-section of ECEC providers, with different sizes and foci;

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<sup>8</sup> Project Agreement for Small Business Regulatory Reform - [https://1drv.ms/b/s!Ao98k9p-eGjFgq0PF\\_q3p8ZQxSGdlw?e=GjMvdN](https://1drv.ms/b/s!Ao98k9p-eGjFgq0PF_q3p8ZQxSGdlw?e=GjMvdN)

<sup>9</sup> LinkedIn profile - <https://www.linkedin.com/in/chianglim/>

- enables demonstrable improvements in children's educational, health and social well-being outcomes;
- encourages innovation through the leveraging of existing and new technologies and their eco-systems;
- reduces unnecessary regulatory and operational burdens that have a direct impact on fees and fee increases;
- looks at ways of addressing NSW's unique ECEC environmental factors, including higher wages and real estate costs; and
- dovetails with the 2019 NQF Review objectives and work to date.

### 1a. Objectives of the proposal

ACA NSW is asking for access to the NSW Government's Regulatory Sandbox Programme to work with government agencies and across the sector to design a regulatory sandbox program for early childhood education and care that:

- ensures safety and quality for children;
- recognises high quality services;
- includes a representative cross-section of ECEC providers, with different sizes and foci;
- enables demonstrable improvements in children's educational, health and social well-being outcomes;
- encourages innovation through the leveraging of existing and new technologies and their eco-systems;
- reduces unnecessary regulatory and operational burdens that have direct impact on fees and fee increases;
- looks at ways of addressing NSW's unique ECEC environmental factors, including higher wages and real estate costs; and
- dovetails with the 2019 NQF Review objectives and work to date.

This Regulatory Sandbox project proposal recognises the NSW Government's ability to:

- tailor regulations and operational processes specifically for NSW-based services without the need for consensus with any other governments; and
- leverage the NSW Department of Education's existing Waiver Policy<sup>10</sup> on a case-by-case basis.

"The focus of unsolicited proposals is on unique and innovative projects or services."<sup>11</sup>

This proposal is not a procurement proposal. Rather, we are asking the NSW Government to apply its innovative and flexible Regulatory Sandbox Programme to the ECEC environment, to provide us

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<sup>10</sup> NSW Department of Education's Waiver Policy (August 2020) - <https://education.nsw.gov.au/content/dam/main-education/early-childhood-education/operating-an-early-childhood-education-service/media/documents/policies/waiver-policy.pdf>

<sup>11</sup> Unsolicited Proposals: Guide for Submission and Assessment, p 5.

with the opportunity to test how proposed and existing ECEC proposals work in a live environment. That will enable us and government to identify, and address, any flaws and issues pre-implementation.

The NQF process notes that almost “one-quarter (23%) of survey respondents indicated that there were issues not covered in the NQF Review 2019 Issues Paper that significantly impact on the NQF being able to meet its objectives.”<sup>12</sup> Through this proposal, we can test some of these ideas (that were perhaps left on the cutting floor) that could easily progress, once tested.

Our key objective is to live test a number of variations of the existing system that deliver on the National Law's principles and objectives, providing high quality education and childcare, while identifying opportunities to reduce unnecessary red tape and facilitate compliance. This will assist to reduce key drivers of price increases.

Compared to other Australian jurisdictions, the NSW Productivity Commissioner has highlighted additional drivers of price increases in NSW, compared to other Australian jurisdictions, including:

- higher wage costs;
- higher real estate costs; and
- higher regulation (and associated costs).

#### **1b. Method of approach**

This proposal seeks the involvement of the NSW Productivity Commissioner as the official coordinator and custodian of Federal and NSW Governments' specific funding, project-related expenditure and reporter of outcomes and consequent government recommendations.

The other three parties with primary roles in the project would be (the Project Group):

- the NSW Department of Education's Early Childhood Education and Care Directorate (as the NSW Regulatory Authority);
- the NSW Office of the Children's Guardian; and
- the Australian Childcare Alliance NSW (peak industry body and to coordinate project participants - ie the privately-owned early childhood education and care Approved Providers).

The suggested timeframe for this NSW Regulatory Sandbox project is:

- Phase 1 (Up to 6 months) – Establish the Project Group, participants and proposed variations for live trials and monitoring.
- Phase 2 (1 year period) – Implement, monitor and report live trials of the innovative proposals and their outcomes.

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<sup>12</sup> 2019 NQF Review Consultation Report, p 12.

- Phase 3 (Up to 6 months) – NSW Productivity Commissioner to assess and produce the recommendations to the NSW Government.

#### 1.4 Project Steps and Stages

We envisage that the project would involve the following steps or stages.

- (a) The NSW Productivity Commissioner establishes the Project Group that consists of the abovementioned parties.
- (b) The NSW Productivity Commission establishes a representative Parents Reference Group so that the anticipated and actual outcomes from this project can benefit from parental input. This may include potential parental expectations and educating parents to inform their expectations from ECEC.
- (c) All Project Group members will sign confidentiality agreements and agree to maintain commercial confidentiality during and after the project period.
- (d) The Project Group agrees on the proposed innovative approaches that the project will live-test. This would include numerous sets of variations of existing, anticipated and possible variations to regulations, learning frameworks and operational arrangements.
- (e) The Project Group agrees to recruiting a representative set of long day care services who together provide a representative sample of the industry, in terms of:
  - i. the number of places of children (ie their capacities and correspondence with Regulation 272<sup>13</sup>);
  - ii. their geographic locations (eg in the Central Business District, the suburbs, the regions and rurally);
  - iii. attention also to specific cohorts of children (eg Aboriginal children, vulnerable and socially disadvantaged children);
  - iv. the Approved Provider's scale of services (ie Approved Providers who offer one service, and Approved Providers who offer multiple services).
- (f) The NSW Government allows all participating long day care services to be temporarily exempted from the National Law<sup>14</sup> and National Regulations.<sup>15</sup> Instead, the participating service providers will be bound to comply with the project's innovative version of the National Law and National Regulations (see (b) above).
- (g) Live-trial the project's innovative version of the National Law and National Regulations (see (b) above).
- (h) Feedback circle between project participants and Project Group to determine any necessary tweaks or changes to (b) above.

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<sup>13</sup> NSW's Education and Care Services Regulation 272 -

<https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653#sec.272>

<sup>14</sup> Children (Education and Care Services National Law Application) Act 2010 (NSW) -

<https://www.legislation.nsw.gov.au/view/html/inforce/current/act-2010-104>

<sup>15</sup> Education and Care Services National Regulation (NSW) -

<https://www.legislation.nsw.gov.au/view/html/inforce/current/sl-2011-0653>

- (i) NSW Productivity Commissioner drafts report and recommendations to NSW government to provide safer, high quality, lower cost childcare in NSW. (The report may recommend a staged, or one-off roll-out of the new regulatory approach across NSW.)
- (j) NSW government announces new regulatory approach, in line with NSW Productivity Commissioner's report and recommendations.

### 1.5 What Will the Project Do?

The project will, among other things:

- (k) trial and monitor different ways of handling and reporting breaches/non-compliance, with the aims of:
  - i. finding operationally more effective and efficient processes; and
  - ii. eliminating or reducing instances of under-reporting and over-reporting, especially in relation to serious incidents as well as sexual assaults;
- (l) trial and monitor different arrangements and proportions of qualified educators and teachers to children, with the aim of improving preschool readiness and developmental milestones as outlined in the Federal Government's Starting Blocks<sup>16</sup>;
- (m) examine the interactions, flow-on impacts, and gaps created by all funding arrangements in the ECEC space (including the Commonwealth's Child Care Subsidies as well as the NSW Government's Start Strong funding), to identify their impacts on fees and double-dipping opportunities (if any); and
- (n) measure the benefits of early intervention programmes, with the aim of ensuring those programmes positively contribute to children's optimal development (for example NSW's StEPS<sup>17</sup> for vision screening, and TALi to identify attention deficits<sup>18</sup>).

### 1.6 Obligations on Participating Long Day Care Service Providers

All participating long day care services must, as part of their participation in the project:

- (o) agree to comply with the project's innovative version of the National Law and National Regulations (see (b) and (d) above).
- (p) at defined intervals, produce verifiable reports of relevant financial and non-financial outcomes to the Project Group;
- (q) have the NSW Productivity Commissioner receive all financial and non-financial reports from the Project Group and its participants so as to produce appropriate recommendations to the NSW Government for its consideration.

<sup>16</sup> Starting Blocks - <https://www.startingblocks.gov.au/your-childs-development/>

<sup>17</sup> NSW's Statewide Eyesight Preschool Screening - <https://www.health.nsw.gov.au/kidsfamilies/MCFhealth/Pages/steps.aspx>

<sup>18</sup> Australian world's first digital platform to identify and treat clinical attention deficits in early childhood - <https://www.austrade.gov.au/digitalhealth/case-studies/tali-health-world-first-digital-platform-to-treat-clinical-attention-deficits-in-early-childhood>

## 1.7 Timeframe

We anticipate that the project would be conducted over a 12-18 month period.

## 1.8 Final Report and Recommendations

The NSW Productivity Commissioner will draft a report and recommendations to NSW government to provide safer, high quality, lower cost childcare in NSW.

The report may recommend and/or consider:

- (a) whether a staged, or one-off, roll-out of the new regulatory approach across NSW is likely to be optimal;
- (b) how to improve ECEC data and reporting, including requesting the NSW Department of Education to formally:
  - i. and empirically track every child who had benefitted from early childhood education and care against those who had not especially in terms of educational and social well-being outcomes during kindergarten through to Year 3; and
  - ii. measure any savings of resources during kindergarten through to Year 3 due to the investments made in children during their early childhood education and care;
- (c) recommending the establishment of a NSW Early Childhood Education and Care Commissioner with duties that include re-assessing existing regulations, operational processes, educational and social well-being outcomes every two years to ensure they are delivering safer, high quality, lower cost childcare; and
- (d) assisting the NSW Department of Education to establish a Best-of-Class Programme that drives continual innovation and improvement, so that ECEC can continually learn from highlighted examples to achieve the best possible educational and social well-being outcomes for children, as well as implementing regulatory compliance and operational arrangements to minimise costs and fees.

## 1.9 Beyond Long Day Care Services

This project initially focuses on privately-owned long day care ECEC services, because they represent the majority of all early childhood education and care services in NSW.<sup>19</sup>

However, we invite the NSW Government to encourage safer, high quality, lower cost services across the full ECE sector, by replicating this Regulatory Sandbox Programme project across the entire ECEC sector, including:

- not-for-profit long daycare services;

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<sup>19</sup> [ACECQA's National Register](#): 3,344 long daycare services out of 5,754 services in NSW (22 February 2022)

- corporatised and multinational long daycare services;
- family daycare services; and
- out-of-school-hours-care services.

#### **1c. Nature and extent of anticipated outcomes**

The primary anticipated outcomes are collaborative work between ACA NSW (peak body), NSW government, Approved Providers, educators, teachers and other interested parties to design a regulatory sandbox program that:

- ensures safety and quality for children;
- recognises high quality services;
- includes a representative cross-section of ECEC providers, with different sizes and foci;
- enables demonstrable improvement in children's educational, health and social well-being outcomes;
- encourages innovation through the leveraging of existing and new technologies and their ecosystems;
- reduces unnecessary regulatory and operational burdens that have direct impact on fees and fee increases;
- looks at ways of addressing NSW's unique ECEC environmental factors, including higher wages and real estate costs; and
- dovetails with the 2019 NQF Review objectives and work to date.

#### **1d. Benefits the proposal will bring to the State**

Live-testing the updated approach pre-implementation offers numerous benefits to NSW, including:

- government, providers, parents and children are less likely to experience disruption when the new Law goes live;
- minimise unintended consequences of the new Law;
- reduce unnecessary red tape that drives up prices and therefore restricts access to ECEC services, discourages new participants in the sector, and/or drives operators out of the sector;
- truly measurable outcomes in terms of children's educational and social well-being.

## 2. Assessment Criteria

### 2a. Optimise outcomes

This proposal seeks access to the NSW government's innovative regulatory sandbox programme to live test new early childhood education and care regulations pre-implementation.

We propose a unique working group across the stakeholder base to regularly review the programme's effectiveness and ensure that the resulting regulatory system encourages innovation, flexibility while maintaining high safety and quality requirements.

This will help the NSW government better ensure that the proposed new regulatory approach is in the State's best interests and addresses NSW-specific issues.

Government Objective and Reference	How this Proposal Delivers on This	Assists with Government Objective?
highest quality education (NSW key policy priorities)	This proposal provides a live environment in which to test an improved regulatory system to help ensure that ECEC is an appropriate platform for offering the highest quality education in NSW.	✓
bumping up education results for children (NSW Premier's Priorities)		✓
breaking the cycle of disadvantage (NSW key policy priorities)	Research shows "that vulnerable children experience greater benefit from participation in quality early childhood education and care. However, the benefits would only be realised if the costs of NQF compliance requirements and regulation did not result in higher fees thus creating a barrier to access." <sup>20</sup> This proposal provides a live environment in which to test an improved regulatory system to help meet these objectives.	✓
protecting our most vulnerable children (NSW Premier's Priorities)		✓
Government made easy (NSW Premier's Priorities)	The NQF Review identifies that ECEC providers are required to provide similar information to Federal and NSW Government agencies, rather than "telling us once". This proposal provides a live environment in which to test an improved regulatory system to help meet these objectives.	✓
increasing the number of Aboriginal young people reaching their learning potential (NSW Premier's Priorities)	This proposal provides a live environment in which to test an innovative and flexible improved regulatory system to help ensure that ECEC is an appropriate platform for increasing the number of Aboriginal young people reaching their learning potential.	✓

<sup>20</sup> 2019 NQF Review Issues Paper, p 13.

## 2b. Uniqueness

The ACA NSW's proposal is unique – it hasn't been trialed elsewhere.

We want to find ways to deliver future-focused regulation of ECEC that drives innovation, safety and quality while reducing barriers to entry – primarily cost.

This project would also produce useful data in this crucial, but under-measured area of Australia's education sector and economy. Currently, there are only two accepted Australian studies (*The Front Project*<sup>21</sup> and Bankwest Curtin Economic Centre's *The Early Years: Investing in our Future report*<sup>22</sup>) into the benefits of early childhood education and care. However, these studies are subject to the disclaimer that they do not have comprehensive empirical datasets, and they focus on a segment of children and not all children.

The idea behind this project is to test in a live NSW environment the ideas contained in the 2019 NQF Review as well as the real experiences with the existing regulatory and operational arrangements since 1 January 2012. We expect this will deliver unique results, including:

- help ensure that the resulting regulatory system encourages innovation and flexibility within the sector;
- identify unintended consequences pre-implementation, (noting that some unintended consequences of the initial Law and 2014 Review are only now being discussed);
- reduce any disruptions to service around implementation; and
- help ensure that government objectives are met as efficiently as possible.

As the peak industry organisation for early childhood education and care in NSW particularly for privately-owned long day care services and out-of-school-hours-care services, ACA NSW is experienced at:

- identifying the need for regulatory change, including market failures and regulation that discourages innovation;
- negotiating joint policy positions among diverse providers in the ECEC marketplace; and
- working with government agencies to produce policy outcomes that meet the best interests of government, the community and industry.

As such, we are in a unique position to work with government agencies and across the marketplace to design a regulatory sandbox program that:

- ensures safety and quality for children;
- recognises high quality services better;
- includes a good cross-section of ECEC providers, with different sizes and foci;
- encourages innovation;
- reduces unnecessary regulatory burden and associated fee increases; and

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<sup>21</sup> The Front Project - <https://www.thefrontproject.org.au/>

<sup>22</sup> Bankwest Curtin Economic Centre's The Early Years: Investing in our Future - <https://bcec.edu.au/publications/the-early-years-investing-in-our-future/>

- works with the 2019 NQF Review objectives and work to date.

## 2c. Value for money

The Front Project study<sup>23</sup> estimates an economic dividend of \$2 for every \$1 invested into children through early childhood education and care.

However, the NSW regulatory environment approach creates disincentives for vulnerable children and new childcare providers to enter the market. This project proposes to reduce unnecessary red tape costs to drive safer, high quality, lower cost childcare in NSW.

We know that the cost of access to childcare services in NSW tends to be the highest of all Australian jurisdictions. This due to:

- higher wage costs;
- higher real estate costs; and
- higher regulation (and associated costs)<sup>24</sup>.

We know that the NSW government's regulation of the ECEC sector has imposed additional, unnecessary compliance costs, compared to other Australian jurisdictions. In fact, the NSW Government has no evidence that these superfluous regulations provide any benefit for NSW children. This has needless & negative impacts on the sector including:

- driving up prices;
- barriers to new providers entering the market;
- unlevel playing field between NSW and neighbouring jurisdictions, particularly in border regions; and
- barriers to vulnerable children accessing ECEC.<sup>25</sup>

We know that some of these compliance costs are unnecessary and do not result in safer, higher quality childcare. In particular, other Australian jurisdictions have more flexible regulatory approaches to ECEC<sup>26</sup> and lower cost childcare than NSW. This means that it is more cost-effective for border residents to access ECEC services outside NSW.

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<sup>23</sup> The Front Project - <https://www.thefrontproject.org.au/>

<sup>24</sup> NSW Productivity Commissioner's Green Paper - [https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper\\_Consolidated.pdf](https://www.productivity.nsw.gov.au/sites/default/files/2020-11/Productivity%20Green%20Paper_Consolidated.pdf)

<sup>25</sup> 2019 NQF Review Issues Paper, p 13.

<sup>26</sup> See examples of Victoria and Queensland in [A State of Possibilities - Volume 1: Immediate Solutions](#)



Australian Childcare Alliance  
New South Wales

[WWW.NSW.CHILDCAREALLIANCE.ORG.AU](http://WWW.NSW.CHILDCAREALLIANCE.ORG.AU)

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