



Queensland Regulatory Authority and local council interaction – early childhood education and care services

The purpose of this fact sheet is to clarify the scope of the Queensland Regulatory Authority's considerations with respect to the planning and approval process for early childhood education and care (ECEC) services as compared to the considerations of local councils.

Read the definitions of key early childhood education and care terms on the next page.

When planning or developing an ECEC service, Approved Providers must comply with National Quality Framework (NQF) as well as local government requirements.

Local councils are responsible under the applicable local government planning scheme for approving planning and development applications for ECEC services, including how an existing building or area of land is used.

Service approvals – local planning and development considerations

When applying to the Regulatory Authority for a service approval to operate a centre-based ECEC service, Approved Providers must provide:

- a copy of the *planning permit* (from the local council) for the proposed ECEC service

- a *statement from a building practitioner* that the building is suitable for providing education and care, and complies with the Building Code of Australia (BCA) Class 9b building or a *certificate of classification* stating the premises complies with the BCA for a Class 9b building.

Services that provide education and care primarily to school aged children in outside school hours settings are specifically excluded from the requirements for 'early childhood centres' under the Building Code of Australia.

Approved Providers must also demonstrate to the Regulatory Authority that the service premises comply with the National Law, National Regulations and National Quality Standard, including:

- the physical environment requirements contained in regulations 103-115 National Regulations, which include minimum unencumbered indoor and outdoor space, fencing, developmentally appropriate equipment for children, adequate developmental and age-appropriate toilets and premises designed to facilitate supervision; and
- the standards and elements relating to children's health and safety (quality area 2) and the physical environment (quality area 3).



Regulatory Authority and local council interactions

An Approved Provider or the Regulatory Authority may request information and documentation from the local council about a proposed or operating ECEC service.

This may include circumstances where:

- the Approved Provider has applied to increase a service's maximum child capacity. The Regulatory Authority may require written evidence from the Approved Provider that the proposed increase will meet local planning and development requirements
- the Regulatory Authority requires clarity or has concerns about the building and planning development approval — for example, matters relating to town planning laws, car parking, traffic, general safety, fire egress or noise, for a proposed or existing service
- the Regulatory Authority has concerns about a building's compliance and safety.

Regulatory Authority considerations and the National Law

The Regulatory Authority may refuse to grant a service approval if the service's location or design poses an unacceptable risk to children's safety, health and wellbeing (section 49(1)(a) of the National Law).

This is regardless of whether the local council has approved the proposed site and development.

The Regulatory Authority may consider a service's location and design to be an unacceptable risk to children's health, safety and wellbeing if:

- there is evidence of high noise levels and traffic pollution, such as fumes or road dust; potential danger from projectiles in the outdoor play area; or the potential for vehicles to crash through or over barriers into an outdoor play area or into the service
- a material change of use approval may result in potential adverse impacts on children, such as petrol fumes, noise levels, or ignition of flammable liquids or explosions.

When applying for a service approval, the Approved Provider must satisfy the Regulatory Authority that the service can adequately manage or address any potential risk to children's health, safety and wellbeing.

This will help ensure the service meets operational requirements (Chapter 4 of the National Regulations), including protecting children from harm and hazard (section 167 of the National Law).

Key early childhood education and care terms

Authorised officer is a person who is responsible for assessing and rating ECEC services, monitoring compliance with regulatory standards, and supporting continual quality improvement. In departmental regional offices they may also be referred to as an early childhood manager or early childhood officer.

Approved provider is a person who is authorised to apply for one or more ECEC service approvals.

Centre-based service is an education and care service other than a family day care service. This includes most long day care, kindergarten and outside school hours care services that are delivered at a centre.

Early childhood education and care (ECEC) service is a service providing education and care on a regular basis to children under 13 years of age other than a service that is excluded under the National Law or Regulations. For more information about services excluded by the National Law and the National Regulations read the Guide to the National Law and National Regulations on the [Australian Children's Education and Care Quality Authority's \(ACECQA\) website](#).

National Quality Framework is a national system for the regulation and quality assessment of approved ECEC services. It applies to most long day care, family day care, preschool and kindergarten, and outside schools hours care services.

Regulatory Authority is a body in each state and territory that regulates and assesses approved ECEC services. In Queensland, it is the Chief Executive of the Department of Education.

Read more on the [website](#).

More information

- Email the department at ecis@qed.qld.gov.au
- Contact your nearest regional office (visit the department's website at www.earlychildhood.qld.gov.au and search for "regional offices").
- Phone the Regulation, Assessment and Service Quality team on (07) 3328 6780.