

# CITY OF CAPE TOWN

Directorate : Planning & Environment

## POLICY FOR EARLY CHILDHOOD DEVELOPMENT CENTRES (ECD CENTRES)

AUGUST 2003

### EXECUTIVE SUMMARY

The Policy for Early Childhood Development (ECD) centres is premised on a distinction between small and large scale facilities as a means of reflecting and providing for the variations in demand for ECD centres of differing sizes and levels of care provision. Through different land use planning requirements for these scales of centres, the policy aims to provide for the varying roles and impacts that these facilities display in the range of socio-economic and urban environments, which characterise the City of Cape Town. In addition to the small and large scale centre categories, the policy also proposes that a maximum of 6 children should be able to be accommodated as of right.

It is to be noted that this policy is primarily intended to guide the assessment of new Land use development applications for ECD centres. The focus thus lies mainly with the land use aspects that need to be taken into consideration in such an assessment and not with the health and welfare requirements, aspects which are handled by Council's Health Services Directorate and PGWC's Social Services Department. This is not to say that this policy does not operate within the broader recognition of the need for a holistic approach to the provision of ECD centres.

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## 1. BACKGROUND

### 1.1 Motivation for Unicity-wide policy

The motivation for a standard Policy for ECD Centres for the City of Cape Town arises from :

- the growth in the number of applications for ECD centres;
- the lack of uniformity in the manner in which applications are handled, with different procedures and criteria being applied both between and within administrations; and
- the prevalence of issues particular to ECD centres, particularly noise and traffic impacts;

The policy therefore provides a framework to assist officials in assessing applications for *ECD centres* as well as informing operators of Council's requirements in this regard.

## **1.2 ECD centres : Roles and types**

According to the Department of Social Services' ECD Manual, the primary purpose of an ECD centre is to provide supplementary educational care for children. The nature of the care and education that a child receives during the first seven years of life is crucial for their later development. The needs of children include physical needs for food, physical care, health and basic development. Here, provision for adequate play activities is essential as playing contributes to the development of a child's senses, body control and co-ordination. Meeting a child's socio-emotional and intellectual needs is also critical. It thus is important that children receive responsible care that meets all their developmental needs.

The care of school-going children after school hours and during holidays is also important as it ensures a protected environment in which attention is given to homework and the child is taught to constructively use their free time. An ECD centre thus should be regarded as forming part of the community.

An 'ECD centre' means any building or premises maintained or used for the care of children. It includes a playgroup, crèche, aftercare centre, pre-school and nursery school or similar. According to the Department of Social Services' ECD Manual, ECD centres can operate under a variety of names, including :

- **Crèches**, which provide full-day care for children between 3 months - 7 years of age. The main intention is to provide day care and stimulation for children of working parents. They tend to operate throughout the year and are open everyday from 07:00 - 17:00. Staff do not have to be qualified, though they will usually have undertaken a training programme.
- **Nursery schools**, which is a school for the education of children over the age of 2 years but who are not yet of an age to be admitted to ordinary school. The primary task of nursery schools is the provision of pre-school education. They tend to follow the timetable of ordinary primary schools (08:00 - 12:30) and must have qualified teaching staff.
- **Educare centres** are used to describe a centre that integrates education, health and welfare services for pre-school children. They encompass characteristics of both crèches and nursery schools.

## **1.3 Legislative framework**

### **1.3.1 The Constitution**

The Constitution of the Republic of South Africa specifies that every child has the right to :

- 28(1) (b) to family care or parental care, or to appropriate alternative care when removed from the family environment;
- (c) to basic nutrition, shelter, basic health care services and social services;
- (d) to be protected from maltreatment, neglect, abuse or degradation;

Clause 28(2) also requires that a child's best interests are of paramount importance in every matter concerning the child.

In terms of Schedule 4, Part B of the Constitution, the local authority has the legislative competence to pass legislation relating to child care facilities. Its responsibility does not lie with providing the facilities per se.

### **1.3.2 The Child Care Act**

The Child Care Act No 74 of 1983 is, for the purposes of this policy, one of the key pieces of legislation. Its main concern is with providing for the welfare and care of children. To this end, it provides for the establishment of certain institutions for children, including a 'place of care', which is defined as :

'any building or premises maintained or used, whether for profit or otherwise, for the reception, protection and temporary or partial care of more than six children apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is

controlled by or which has been registered or approved by the State, including a provincial administration.

A **maximum of six children** can be cared for without requiring the operator to register with the Social Services department of the Provincial Government of the Western Cape. The registration process is primarily concerned with assessing the health, care and educational programmes of the centre concerned. The only reference to Zoning Scheme or Building Regulations is in Regulation 30 of the Regulations of the Child Care Act No 74 of 1983, as amended, which specifies that :

(2)(a) “a certificate issued by the local authority within the area in which the place of care is situated or is to be erected to the effect that plans for the said building or buildings, if still to be erected, have been approved by the local authority or, alternatively, that the said building or buildings, if already erected, complies or comply with all the structural and health requirements of the local authority.”

### 1.3.3 The draft Environmental Health By-law for the City of Cape Town

The draft Environmental Health By-law for the City of Cape Town includes reference to childcare facilities, which are similarly defined as :

‘any building or premises maintained or used, whether for profit or otherwise, for the temporary or partial care of children under 18 years of age apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used for the tuition or training of children and which is controlled by or which has been registered or approved by the State.’

There thus is **no provision** in this definition for children to be cared for without reference to the City Health Directorate for approval. This is reiterated in section 31(1) of the by-law, which states that :

“No childcare facility may be operated without the written approval of the Director: City Health, which approval may be subject to conditions.”

### 1.3.4 Zoning Scheme regulations

With respect to the land use approval aspect of ECD centres, applications for such centres are a legal requirement emanating from the provisions of the applicable Zoning Scheme Regulations. That is, in most instances, local authority approval for such a land use activity is required. In assessing applications, the primary concern lies with the desirability of the proposed activity in terms of the appropriateness of its location, the scale of the facility and its impact on the surrounding residential area.

### 1.3.5 Other applicable legislation

It is also to be noted that applications for ECD centres will need to comply with other applicable legislation, in particular the Removal of Restrictions Act, where relevant.

## 2. COMPONENTS OF THE POLICY

### 2.1 Proposed provision for 6 children ‘As of right’

In order to ensure a degree of consistency with the Child Care Act and to provide opportunities for low-key childcare facilities to operate from residential properties, an ECD centre accommodating a **maximum of six children** can operate ‘as of right’, that is that no formal approval from the Planning & Environment Directorate is required and comments of neighbours do not need to be obtained. It is to be noted that the provision for six children is in addition to the children within the household/family.

Notwithstanding, this use shall be subject to conditions as per the Home Industry conditions of Section 22(2) of the Cape Town Zoning Scheme in order to ensure that these facilities have minimal impacts on the surrounding residential area. These are presented further in section 4 of this policy.

It is to be noted that, at this stage, this is still a proposal of this policy and, unless the applicable Zoning Scheme Regulations provide for such a use as of right, it cannot be acted on until the relevant Zoning Scheme Regulations have been amended to include the provision for caring for a maximum of six children as of right. It is preferable that this aspect be taken forward in the Integrated Zoning Scheme process.

## **2.2 Large vs small scale centres**

This policy is to operate on the basis of a distinction between small- and large scale ECD centres. Such a distinction will be instrumental in accommodating the variations in levels of demand for ECD centres of different sizes and levels of provision. It also serves as an effective means of managing the varying impacts of ECD centres, particularly with respect to differing socio-economic environments.

For the purposes of this policy, **25 children** is considered to be an appropriate number to differentiate between small- and large scale centres. Thus, centres with **24 children and less** are to be classified as **small scale** facilities and those with **25 children and more** constitute **large scale** centres. It is to be noted that, within this broad classification system, the actual attendance number is to be determined for each case in accordance with the criteria set out in sections 3.1 and 3.2 below.

## **2.3 Approval mechanisms**

The existing Zoning Scheme Regulations are to be retained, with this policy being used as a universal approach in determining the scale of the ECD centre, the merits of an application and the appropriate conditions of approval. Where a Zoning Scheme currently does not provide a suitable consent/conditional use or a home industry, then ECD centres are to be handled as land use departures.

- (a) Large scale centres
  - as of right where permitted by the applicable Zoning scheme
  - consent/conditional use where permitted by the applicable Zoning scheme
  - land use departure where not permitted by the applicable Zoning scheme
- (b) Small scale centres
  - as of right where permitted by the applicable Zoning scheme
  - a Home Industry where permitted by the applicable Zoning scheme
  - consent/conditional use where permitted by the applicable Zoning scheme
  - land use departure where not permitted by the applicable Zoning scheme

## **3. FRAMEWORK FOR ASSESSING APPLICATIONS**

The following criteria are to be used in assessing Land Use applications for ECD centres. Given the great variation in socio-economic contexts that characterise the City of Cape Town, it is vital that a degree of flexibility be used in the application of these requirements.

### **3.1. Large scale ECD centres (25 children and more)**

Applications for large scale ECD centres are to be guided by the following criteria :

#### **3.1.1 Locational criteria**

- (a) Large scale ECD centres should be located adjacent to public open spaces, schools, churches, other community facilities (clinics, sportsfields, libraries etc) and neighbourhood commercial nodes. This clustering promotes sharing of infrastructure, such as parking, maximises access and confines the traffic impact to a defined area.
- (b) Their proximity to public transport nodes is also to be taken into consideration.

#### **3.1.2 Access and parking**

- (a) Both pedestrian and vehicle access are to be promoted.
- (b) The ECD centre is to be located on main access roads, which must be able to accommodate the anticipated increased traffic flow, especially in areas of high car ownership.
- (c) The number of cars associated with the operation of the centre as well as the levels of car ownership in the immediate area are to be examined together with the estimated peak traffic flow to determine the traffic and parking impacts. This also affects the number of children to be accommodated.
- (d) A suitable, safe, dropping-off area is to be provided.
- (e) Adequate provision is to be made for on-site visitors parking. This is to be assessed in relation to the number of children, the staff complement and the context within which the facility is located.

### **3.1.3 Factors determining the number of children**

The following criteria are to be considered in determining the number of children attending the facility (within the classification system of 25 and more children) :

- (a) The Health Services Directorate are to assess the extent of the erf and the floor area of the building(s) and any other relevant requirements to determine the maximum number of children that can be accommodated.
- (b) Consideration is to be given to surrounding property sizes to ensure that the scale of the ECD centre is in keeping with the density and residential fabric of the surrounding area.
- (c) Applications to increase the maximum number of children attending the ECD centre can subsequently be made. Cognisance will be taken of abutting neighbours' comments in this regard. Any such application must also be circulated to the Health Directorate for their comments.

### **3.1.4 Operator to be owner or lessee**

The operator of a large scale ECD centre is to be the owner or lessee of the property.

## **3.2 Small scale ECD centres (24 children and less)**

Applications for small scale ECD centres are to be guided by the following criteria :

### **3.2.1 Locational criteria**

The following locational aspects are to be considered in assessing an application for a small scale ECD centre :

- (a) Surrounding land uses and erf sizes as well as the location of community facilities are to be assessed;
- (b) The facility should be able to be incorporated into the local area without detrimentally affecting its character;
- (c) The principle of ensuring a well-distributed network of small scale centres as a means of maximising access, is to be promoted.

### **3.2.2 Access and parking**

- (a) Both pedestrian and vehicle access are to be promoted.
- (b) Small scale centres should preferably be located on or close to a local access road that can accommodate the increased traffic flow, especially in areas of high car ownership;
- (c) The increased traffic generated by the facility as well as levels of car ownership in the immediate area are to be assessed in conjunction with the estimated peak traffic flow in order to determine the traffic and parking impacts of the ECD centre. This may affect the number of children to be accommodated by the ECD centre.
- (d) Sufficient on-site parking is to be provided, which includes parking for any additional staff.
- (e) A suitable, safe, dropping-off area is to be provided.

### **3.2.3 Factors determining the number of children**

The following criteria are to be considered in determining the number of children attending the facility :

- (a) The Health Services directorate is to assess the extent of the erf and the floor area of the building(s) and any other relevant requirements to determine the maximum number of children that can be accommodated.
- (b) Consideration is to be given to surrounding property sizes to ensure that the scale of the ECD centre is in keeping with the density and residential fabric of the surrounding area.
- (c) Applications to increase the maximum number of children attending the ECD centre can subsequently be made. Cognisance will be taken of abutting neighbours' comments in this regard. Any such application must also be circulated to the Health directorate for their comments.

#### **3.2.4 Operator to reside on property**

- (a) The operator of a small scale centre is to be either the owner or the lessee of the property concerned and is to reside there, except if the facility operates from the premises of a place of worship, school or community centre.

#### **3.3 Noise and security considerations for small & large scale centres**

- (a) The location of building(s), play equipment including the nature and type thereof, with particular reference to noise generation, and other proposed structures is to be clearly demarcated on the Site Development Plan and is to take into account the proximity of neighbouring residential dwellings in order to minimise the noise impact on neighbours.
- (b) Outside activities are to be structured so that noise levels will only be generated at specific times.
- (c) Where appropriate, adequate treatment and screening of the erf boundaries will be required in order to minimise the noise impact.
- (d) Childproof gates may be required to be installed on the property, particularly at the entrance to the facility if it is located on a busy road.

#### **3.4 Health and welfare requirements**

Requirements for health and safety aspects, ablution facilities, staff numbers, etc., are to be obtained from Councils' Health directorate and from the Department of Social Services, PAWC.

### **4. CONDITIONS OF APPROVAL**

#### **4.1 A maximum of 6 children 'As of right'**

- 4.1.1 No signage, other than a sign indicating the street name and/or number, will be permitted.
- 4.1.2 On receipt of written complaints, Council may, after investigating the centre concerned, impose the following requirements :

- (a) The Council may, if it is of the opinion that the ECD centre is being conducted in a manner which is or is likely to be detrimental to the residential environment or a source of nuisance, serve a notice in writing on the operator calling upon him/her to -
  - (i) comply with the instructions set out in such notice, and
  - (ii) cease using the premises in question for an ECD centre by a date specified in such notice.
- (a) Council may limit the actual floor area of any building and the area of the site of such building devoted to the ECD centre.

#### **4.2 Small and large scale ECD centres**

The following conditions of approval may be applicable to small- and large scale ECD centres, unless otherwise specified :

- (a) The specified maximum number of children is to be adhered to. Application to amend this condition of approval will be required should the applicant wish to increase the attendance at the school.

- (b) The operator is to be the owner or lessee of the property.
- (c) For small scale centres, the operator is to reside on the property, except if the facility operates from the premises of a place of worship, school or community centre.
- (d) Council may, if it is of the opinion that the ECD centre is being conducted in such a manner which is or is likely to be detrimental to the surrounding residential environment or a source of nuisance, serve a notice in writing on the operator calling upon him/her to -
  - (i) comply with the instructions set out in such notice, and
  - (ii) cease using the premises in question for a ECD centre by a date specified in such notice.
- (b) For small scale centres, the residential appearance of the building is to be retained to a standard that does not detract from the residential character and streetscape of the surrounding area.
- (c) Hours of operation are to be adhered to as specified.
- (d) Except with the consent of Council, no advertising sign or notice other than a single unilluminated sign or notice not projecting over a street and not exceeding 0,2m<sup>2</sup> in area, and which indicates only the name of the ECD centre, shall be erected.
- (e) The operator must comply with all licensing, health and building regulations.
- (f) If more than six children are to be cared for, application for registration in terms of the Child Care Act must be lodged with the Provincial Government of the Western Cape.
- (g) The approval of a Site Development Plan shall be required. The operator shall not deviate from this plan (which must be dated and numbered) without prior consent of Council.

## **5. SUBMISSION OF AN APPLICATION**

### **5.1 Items to accompany an application**

To facilitate the optimal assessment of applications, the following information shall be included with the application :

- (a) A clearly dimensioned Site Development Plan indicating :
  - the areas of the dwelling(s) to be used;
  - a table indicating the square metres of the structure to be used for the ECD centre, as well as amount of indoor and outdoor space provided for the specified age categories
  - the location of outside play areas and play equipment;
  - parking, drop-off areas and access arrangements;
  - and boundary edge treatment.
- (b) A written motivation which details :
  - the number of children to be accommodated;
  - the type and nature of the proposed facility, including the type of structures and any proposed additions thereto;
  - the number of people to be employed; and
  - the hours of operation and a daily timetable, including time allocated to outside play.

### **5.2 Advertising**

Advertising of the application is to occur in accordance with the provisions of Council's Public Participation Policy for Land Use Applications.

## **6. DATE OF APPROVAL OF THIS POLICY**

Council approved this policy on 27<sup>th</sup> August 2003.

## GLOSSARY

<b>Conditional / Consent use</b>	The additional use right or variation of a development rule that is permitted in terms of the provisions in a particular zone, only with the consent of the Council.
<b>Day care centre</b>	The use of a portion of a dwelling house or outbuildings by the occupant to provide day care, pre-school, play group or after school care services for a limited number of children.
<b>Early Childhood Development (ECD)</b>	An umbrella term which applies to the processes by which children from birth to at least 9 years grow and thrive, physically, mentally, emotionally, spiritually, morally and socially.
<b>Early Childhood Development (ECD) centre</b>	An umbrella term which applies to any centre providing a programme for the care of young children and which can include a day care centre, crèche, nursery school, play school etc.
<b>ECD Services</b>	Refers to those programmes offered directly to young children by practitioners. These can be offered in a variety of locations, including primary schools, ECD centres, community centres, homes etc.
<b>Educare</b>	A term referring to the provision of education and care of children from birth to age six. This term has now been superseded by the term 'Early Childhood Development (or ECD)'.
<b>Environmental Health Officer</b>	An employee of the City of Cape Town responsible for ensuring a healthy and safe interior and external environment at ECD facilities.
<b>Land use departure</b>	A use right granted on a temporary basis in terms of Planning law, which shall lapse after a time period specified in the approval.
<b>Minimum physical standards</b>	Acceptable physical and administrative conditions that have to be maintained in order to operate an ECD centre.
<b>Place of care</b>	<p>Any building or premises maintained or used, whether for profit or otherwise, for the reception, protection and temporary or partial care of more than six children apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State, including a provincial administration. (Child Care Act).</p> <p>Any building or premises maintained or used, whether for profit or otherwise, for the temporary or partial care of children under 18 years of age apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used for the tuition or training of children and which is controlled by or which has been registered or approved by the State. (City of Cape Town Environmental Health By-law).</p> <p>Examples would include <i>inter alia</i> day care centres, crèches, nursery schools and play schools.</p>
<b>Practitioner</b>	<p>The terms refers to all ECD education and training development practitioners. This encompasses the whole spectrum of ECD educators, trainers, facilitators, lecturers, caregivers, development officers etc, including those qualified by their experience and who are involved in care provision in homes, centres and schools.</p> <p>In respect to educators and trainers, the term includes both formally and non-formally trained individuals proving an educational service in ECD. This would include persons currently covered by the Educator's Employment Act (Act 138 of 1994).</p>

**ANNEXURE 2****COMPLETED TABLE AS PER EXAMPLE BELOW TO ACCOMPANY ALL APPLICATIONS**

Room no	Room area (m <sup>2</sup> )	No of children	Age group

**PERMITTED OCCUPANCY AS PER MEDICAL OFFICER OF HEALTH REQUIREMENTS**

	12-24 months	2-6 years	After school
Indoor space	2m <sup>2</sup> free space per baby Note : Free space = space left after furniture is placed in room	1,5m <sup>2</sup> free space per child	2,5m <sup>2</sup> free space per child
Outdoor space	2m <sup>2</sup> per baby	2m <sup>2</sup> per child	3m <sup>2</sup> per child
Note : If no outdoor space available, add 1m <sup>2</sup> per child to indoor space			

NB : Where occupancy figures in terms of safety requirements (ie fire escapes, etc.) are lower than the above table, then the lower figures should apply.