



OUTDOOR ENVIRONMENT GUIDELINES

REQUIREMENTS FOR APPROVAL OF CENTRE-BASED CARE SERVICES IN THE ACT

ACT Education Directorate
Children's Education and Care Assurance

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Relevant legislation

[Education and Care Services National Law Act 2010](#)

[Education and Care Services National Regulations 2011](#)

OVERVIEW

Research evidence shows that children receive overwhelming benefits when they can freely engage in natural environments.¹ The importance of outdoor learning environments is acknowledged in the Early Years Learning Framework (EYLF).

'Outdoor learning spaces are a feature of Australian learning environments. They offer a vast array of possibilities not available indoors. Play spaces in natural environments include plants, trees, edible garden, sand, rocks, mud, water and other elements from nature. These spaces invite open-ended interactions, spontaneity, risk-taking, exploration, discovery and connection with nature. They foster an appreciation of the natural environment, develop environmental awareness and provide a platform for ongoing environmental education' ([EYLF, 2009, pp15-16](#)).

Natural environments allow children to experience risk taking and problem solving, face challenges, and learn to cope with different situations. They also allow children to begin to understand the natural world around them. Importantly, outdoor play should allow children opportunities to learn and develop a wide range of skills including:

1. **Motor skills:** such as walking, running, jumping, climbing, hopping, skipping, sliding and tricycling;
2. **Manipulative skills:** such as throwing, catching, kicking, striking and bouncing; and
3. **Stability skills:** such as bending, stretching, swinging, twisting and balancing.

A natural environment that is continually changing provides children with challenges and opportunities to explore. These experiences contribute to children's overall physical health and emotional wellbeing. A natural environment enables children to observe weather and seasonal changes, observe flora and fauna interacting; and personally feel the effects of the environment (the warmth of the sun, the breeze on their skin etc).

¹ Loge, A. (2011). Health benefits to children from contact with the outdoors & nature. Children and Nature Network: New Mexico, USA

Kemple, K. M., Oh, J., Kenney, E., & Smith-Bonahue, T. (2016). The Power of Outdoor Play and Play in Natural Environments. *Childhood Education*, 92(6), 446-454. doi:10.1080/00094056.2016.1251793

The importance of the outdoor learning environments is embedded within the requirements of the National Quality Framework (NQF). Section 3 of the *Education and Care Services National Law (ACT) Act 2010 (the National Law)* identifies the objectives and guiding principles of the NQF.

Objectives:

- To ensure the safety, health and wellbeing of children attending education and care services;
- To improve the educational and developmental outcomes for children attending education and care services;
- To promote continuous improvement in the provision of quality education and care services;

Guiding Principles:

- That the rights and best interests of the child are paramount;
- That children are successful, competent and capable learners;
- That the principles of equity, inclusion and diversity underlie this Law;
- That Australia's Aboriginal and Torres Strait Islander cultures are valued;
- That the role of parents and families is respected and supported;
- That best practice is expected in the provision of education and care services.

CONTEXT

In Australia the *Education and Care Services National Regulations 2011 (the National Regulations)* set out specific space requirements for the provision for indoor and outdoor space in centre-based education and care services. It stipulates that outdoor spaces provided at the education and care service premises must allow children to explore and experience the natural environment.

In addition, the National Quality Standard (NQS), against which services are assessed and rated, contains a number of standards and elements under Quality Area 2 (children's health and safety) and Quality Area 3 (physical environment) which impact directly on the provision of the outdoor spaces. A table with relevant legislative requirements and National Standard provisions is provided at [Attachment A](#).

These guidelines provide stakeholders with advice on how the ACT Regulatory Authority interprets and implements this legislation in relation to service approvals and waivers.

The ACT is prized for its unique natural environment and Canberra is commonly referred to as the 'Bush Capital'. Within [Canberra's Living Infrastructure Plan 2019](#) it is recognised that '*urban density needs to be balanced with a natural environment, green spaces and trees*' and that there is a

commitment in the ACT to *'ensure we plan, design, construct and manage our city in a way that values, incorporates and protects natural assets'*.²

While these guidelines have been adapted from the New South Wales Department of Education and the Victorian Department of Education and Early Childhood policy statements regarding waivers of Regulation 108 – outdoor space, they take into account the Territory's unique circumstances. Unlike larger jurisdictions in Australia, the ACT does not currently have densely populated metropolitan areas.

DEFINING OUTDOOR SPACE

The ACT Regulatory Authority refers to the Macquarie Dictionary definition of outdoor being 'occurring or used in the open air'. Further, the Oxford English Dictionary defines outdoors as 'done, situated or used out of doors'. This means that areas classed as 'outdoors' in services in the ACT must be open to the sky, be well ventilated with adequate natural light, and allow children to explore and experience the natural environment in order to meet this definition as well as the obligations under the *National Law* and *National Regulations*. Outdoor space needs to be easily accessible to the children in the service.

SELECTION OF SITE AND LOCATION

It is a requirement under the *National Law* that the Regulatory Authority considers the suitability of the education and care service premises and the site and location of those premises for the operation of an education and care service when assessing applications for service approval (s. 47(1)(b)).

It is the responsibility of the provider to consider if a site is appropriate for the education and care of children as a first step when seeking to establish a service. Providers must consider their obligations and requirements under the *National Law*, best practice approaches to early childhood education (as required by the *National Law*), and the NQF Guiding Principle *'the rights and best interest of the child are paramount'*. As well as meeting legal obligations, providers should consider if the proposed location will be conducive to delivering a high-quality educational program for children.

In assessing the location of the proposed site the provider must have regard to the physical environment. This includes providing an appropriate outdoor area and mitigating any environmental risk (such as passing traffic and neighbouring business activities). Particular consideration must be given to potential soil contamination and air quality as these factors may pose a risk of harm to children, an offence under Section 167 of the *National Law*. In addition,

² ACT Government (2019). Canberra's Living Infrastructure Plan: Cooling the City. Australian Capital Territory, Canberra 2019

Regulation 108 outlines a range of areas that are to be excluded from the calculation of outdoor space. These should be considered when selecting a site.

The provider must ensure that the proposed site will meet the objective of the *National Law* to ensure the health, safety and wellbeing of children that would be attending the proposed education and care service. It is strongly recommended that providers do not enter a lease agreement prior to consulting the Regulatory Authority on the appropriateness of a proposed site.

Multi-story buildings

Multi-story buildings pose significant challenges to providers in meeting their obligations under the *National Law* and *National Regulations* regarding outdoor space requirements³. While multi-story buildings can be considered for a service approval, the service should be located on the ground floor and provide direct access to outdoor space that is exclusive to the service. When selecting a site, providers are encouraged to consider;

- If children will have access to outdoor space (as defined in these guidelines) as required by the *National Law* and *National Regulations*; and
- If the outdoor space available allows children to explore and experience the natural environment.

Verandas and eaves

There are some physical spaces, such as verandas and eaves on the exterior of the building, where the environment is partially covered and/or enclosed. Whether these areas are considered to be indoor space or outdoor space is dependent on the circumstances and is considered by the ACT Regulatory Authority on a case by case basis. To be considered as outdoor space the areas must still be largely open to the sky, be well ventilated with adequate natural light, and readily allow children to explore and experience the natural environment.

SERVICE APPROVALS

When considering service approval applications, the ACT Regulatory Authority refers closely to the *National Law* Section 47 (1);

- a) the National Quality Framework; and
- b) the suitability of the education and care service premises and the site and location of those premises for the operation of an education and care service.

³ Multi-story buildings also pose significant challenges to meeting evacuation requirements. This needs to be taken into account when considering the appropriateness of a site for a service, as a service approval will not be granted if the health and safety of children cannot be guaranteed in emergency situations. Please refer to the *ACT Fire & Rescue Fire Safety Guideline – Childcare Facilities located above ground floor* for more information on this issue.

It is a condition on all provider approvals that the provider must comply with the National Law and National Regulations. The ACT Regulatory Authority must therefore consider whether the proposed service would operate in compliance with the National Law and National Regulations. In particular, the service must include a safe and suitable outdoor area (Regulation 108), a natural outdoor environment (Regulation 113) and adequate shaded areas (Regulation 114). Outdoor areas must also provide access to natural light and adequate ventilation, as is a regulatory requirement for indoor space (regulation 110).

As an objective of the NQF is '*to promote continuous improvement in the provision of quality education and care services*' the ACT Regulatory Authority does not look for a minimum standard when assessing service approval applications, but considers how the provider will be able to ensure the quality of service provision at the site. A service approval application may be refused if the ACT Regulatory Authority is not satisfied that the applicant is capable of operating the proposed service in a way that meets the requirements of the *National Law, National Regulations* or the NQS. Particular areas of the NQS to consider are program learning opportunities (1.1.3), healthy lifestyle (2.1.3) and all elements of Quality Area Three, Physical Environment.

SERVICE WAIVERS

The ACT Regulatory Authority considers that outdoor space is important and integral to children's learning, development, health and wellbeing. There are many suitable sites available in the ACT which provide appropriate outdoor space for the provision of education and care services.

The *National Law* allows regulatory authorities to issue service waivers with respect to requirements for outdoor space. A service waiver, if granted, will allow for an equivalent area of indoor space (over and above the indoor space requirements) to be considered as outdoor space.

Due to the importance of outdoor space for children, as well as the availability of suitable space in the ACT, the ACT Regulatory Authority will only consider granting a service waiver for outdoor space requirements of the *National Regulations* in exceptional circumstances, and only if a minimum of 70% of the outdoor space is open to the sky.

Approved providers considering relying on a service waiver to comply with the space requirements of the *National Law* as part of the application for a service approval are encouraged to consult with the ACT Regulatory Authority during the concept and planning stages as there is no guarantee that any waiver for reduced outdoor space will be granted.

ACT criteria for granting a service waiver for outdoor space requirements in exceptional circumstances

The ACT Regulatory Authority will only consider granting a waiver of outdoor space requirements when:

1. The service premises are;
 - located in the ACT with limited access to outdoor space in the immediate area; and
 - there is a demonstrated high level of ongoing demand for the provision of education and care in that area.

AND

2. There is substantial evidence of unmet demand. The evidence provided could include;
 - details of existing early childhood education and care services in the area and how the proposed service would complement or add to the supply of places;
 - information from community or other organisations that may have data on unmet demand in the area;
 - copies of the service's waiting list or expression of interest; and/or
 - other relevant demographic data on the need and demand for early childhood education and care in the area.

For an application to be successful the provider must also demonstrate that:

1. The design of the allocated outdoor space provides the benefits of an outdoor learning environment. This includes;
 - providing access to natural experiences that mimic the outdoors, such as water play, sand play, bark play, accessible plantings, or other elements of nature;
 - provides sufficient area for gross motor activities for different age groups and ample flexibility for continued challenges to meet children's needs and abilities; and
 - allows adequate ventilation and access to natural light.

AND

2. Where appropriate the service accesses outdoor space through regular excursions to community parks and facilities.

TEMPORARY WAIVERS

A temporary waiver for outdoor space may be granted by a regulatory authority in the event that there is limited access to outdoors for a short period of time. For example, where the outdoor play area is being renovated and cannot be accessed on a temporary basis, or where a service is temporarily relocated following significant damage to the usual premises.

While the ACT Regulatory Authority does not require the same criteria as a service waiver to be met for a temporary waiver, providers will still be asked to consider how they will ensure that children can explore and experience the natural environment while the temporary waiver is in place. For example, a service may run daily excursions to a local park while the usual outdoor space is not available.

FURTHER INFORMATION

Children's Education and Care Assurance (CECA) in the Education Directorate is the Regulatory Authority in the ACT:

- Phone: (02) 6207 1114
- Email: CECA@act.gov.au
- Website: [Education Directorate](#)

The Australian Children's Education and Care Quality Authority (ACECQA) is the national, independent statutory authority governing the National Quality Framework:

- Phone: 1300 422 327
- Email: enquires@acecqa.gov.au
- Website: [ACECQA](#)

These guidelines have been adapted from New South Wales Department of Education's guidance regarding waivers of Regulation 108, and the Victorian Department of Education's [*Waivers of outdoor space requirements for centre-based services located in the Melbourne Central Business District \(CBD\)*](#)

Attachment A: Relevant legislative requirements and National Standard provisions

Regulation/Standard	Requirement	Waiver may be granted
Regulation 108 National Regulations	Premises must have at least 7 square metres of unencumbered outdoor space for each child being educated and cared for by the service.	Yes
Regulation 113 National Regulations	Approved providers must ensure that outdoor spaces provided at the education and care service premise allow children to explore and experience the natural environment.	No
Standard 2.2 National Quality Standard	Physical activity is embedded in the program for children.	No
Standard 2.2 Element 2.2.2 National Quality standard	Physical activity is promoted through planned and spontaneous experiences and is appropriate for each child.	No
Quality Area 3 National quality Standard	The physical environment is safe, suitable and provides a rich and diverse range of experiences which promotes children's learning and development.	No
Standard 3.1 Element 3.1.1 National Quality Standard	Outdoor spaces are suitable for their purpose.	Yes
Standard 3.1 Element 3.1.3 National Quality standard	Facilities are designed or adapted to allow interaction between indoor and outdoor spaces.	Yes

Attachment B: References and useful resources

ACT Government (2019). Canberra's Living Infrastructure Plan: Cooling the City. Australian Capital Territory, Canberra 2019

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