Futuro
Early Learning

ATTENTION TO
IPART

DATE
9 January 2023

Dear Colleagues,

Review in relation to Early Childhood Education and Care Affordability, Accessibility and Consumer Choice

Futuro Early Learning (**Futuro**) is grateful for the opportunity to make a submission in relation to the Draft Terms of Reference for this review.

About

Futuro is an Approved Provider in New South Wales and is currently in the process of building its first long day care centre in South-West Sydney. Futuro's Directors have extensive experience with the development of new long day care centres, having worked for many years for one of Australia's largest long day care operators specialising in new centre design, construction and operation.

Background

The Background to the Draft Terms of Reference notes that whilst the ECEC sector is subsidised and regulated for safety and quality, the NSW Government currently has limited oversight of affordability, accessibility, and consumer choice. Futuro agrees with this proposition, however, cautions against the introduction of further regulation in the ECEC Sector.

***Regulatory* Burden**

Futuro recommends that the existing regulatory burden be taken into consideration, and that IPART consider opportunities to streamline and/or bring consistency to the existing regulatory framework.

The following is a non-exhaustive list of the regulations and requirements Approved Providers in New South Wales are currently required to comply with in the development and operation of new centres:

1. Education and Care:
    a. *Education and Care Services National Law* and Regulations (Cth);
    b. *Children (Education and Care Services National Law Application) Act* (NSW);
    c. The National Quality Framework;
    d. The National Quality Framework Handbook;
    e. The National Quality Standards;

f. Public Health Act and Regulations (NSW);

g. Public Health Orders (Cth & NSW);

h. Staying Healthy in Childcare Guidelines (NHMRC);

i. Munch n Move Guidelines (NSW);

j. Food Safety requirements, including audits of kitchen premises (NSW Local Government);

1. Child Protection:

    a. *Children & Young Persons Care & Protection Act* and Regulations (NSW);

    b. Child Safe Standards;

    c. *Children's Guardian Act* and Regulations (NSW);

    d. *Crimes Act* (NSW);

2. Employment:

    a. *Work Health & Safety Act* and Regulations (NSW);

    b. *Disability Discrimination Act* and Regulations (Cth);

    c. *Fairwork Act* and Regulations (Cth);

    d. National Employment Standards (Cth);

    e. Children's Services Award (Cth), or any Enterprise Bargaining Agreement if in place;

    f. Educational Services (Teachers) Award (Cth), or any Enterprise Bargaining Agreement if in place;

    g. NESA teacher accreditation requirements;

3. Funding:

    a. *Family Assistance Law* and Regulations (Cth);

    b. PRODA Approval (Cth);

    c. Kinder funding requirements (NSW);

    d. *Ad hoc* grant conditions (NSW);

4. Centre development:

    a. State Environmental Planning Policy (NSW);

    b. Childcare Development Guidelines (NSW);

    c. Kitchen licensing requirements (NSW Local Government);

    d. Development Control Plan (NSW Local Government);

    e. National Construction Code (Cth);

    f. Soil assessment certification (Cth);

    g. Fire evacuation requirements (NSW Local Government);

    h. Sustainability (Section J Report)(Cth);

    i. Acoustic certification (NSW Local Government);

    j. Traffic certification (NSW Local Government); and

    k. Air quality certification (NSW Local Government).

Some of the documents listed above are guidelines and therefore recommendations rather than mandatory requirements. However Approved Providers are still assessed against those guidelines with respect to Development Approvals, Service Approvals and during Assessment and Rating and spot checks, effectively making those guidelines mandatory in nature. The list above also does not incorporate general corporate regulatory obligations (ASIC registration, tax compliance etc).

Further complications arise where agencies responsible for the administration of these regulations and guidelines provide contradictory advice. Whilst this is perhaps inevitable across so many different levels of Government, it increases the regulatory burden on operators and increases the risk of inadvertent non-compliance.

Regulatory burdens on small operators

Futuro recommends that IPART take the regulatory burden on small operators into consideration.

Larger operators often have systems and processes in place that would make it relatively easy to provide greater transparency regarding occupancy and financial metrics to Government. Large operators currently own 34% of services in New South Wales.

Small and mid-size operators on the other hand, own 66% of services in New South Wales. Smaller operators have little or no head office personnel to collate and provide this information and are often overwhelmed by the existing regulatory burdens.

CCS-related data collection

The Federal Government has the capacity to collect and analyse attendance and cost data as part of its administration of the Child Care Subsidy (**CCS**). However, this is only one very small piece of the puzzle, and it is important to note that some services place *de facto* caps on occupancy from time to time, that may not be reflected in data collected by the Federal Government. As a result, Futuro recommends that data from the Federal Government be treated with caution.

Draft Terms of Reference

It is recommended that IPART issue a comprehensive survey of families across the state as part of its review. Sophisticated operators will have a great deal to say in relation to supply, affordability, accessibility and consumer choice and those interests are amply represented by their advocacy organisation, ELACCA.

However, there are factors specific to particular locations and particular cultural backgrounds that impact levels and types of care used that are relevant to IPART's review and that will most efficiently be obtained directly from parents.

By way of example, Futuro has toured services in Glenfield NSW, which has a ratio of 6.1 available childcare places to each child aged birth-5 years. Speaking with a Centre Manager at one service she observed that the lack of supply in the area had forced many families into family day care although that was not their preferred care arrangement. Attendance data alone will not provide this nuance. Similarly, we have experience of areas with high demand ratios with empty long day care services because families in the area prefer to have extended family and grandparents provide care for their children or send their children to relatives overseas.

Supply

There are a wide range of issues impacting supply in growth corridor areas of New South Wales. One such issue is the lack of lead indicators regarding demand. Lag indicators are available, but lead indicators involve a largely intuitive assessment of a wide range of factors and the assumption of high levels of risk on the part of the operator.

By the time there are sufficient lag indicators supporting sufficient demand in growth corridors, a centre will still be 2-3 years away from opening (assuming that a parcel of land of an adequate size can be found). In brownfield areas such parcels of land simply do not exist, and it's not financially viable to knock down 3-4 houses in a row to build a centre.

It is recommended that IPART consider the impact of lead and lag indicators of demand, and the availability of that information to operators in its review.

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Accessibility

Assessing accessibility of care is very complex. In our experience, even when surveying parents regarding their desire to use long day care, there is a substantial discrepancy between anticipated and actual levels of use.

Often, parents will report that they cannot access care, but that accessibility has been impacted by their desire for care:

- in a particular age group;
- on particular days of the week; and
- at particular times of year.

Finally, it is important to consider feedback on accessibility from operators, currently enrolled families, and unenrolled families of children aged birth-5 years old. By way of example, families undertaking shift work may have undertaken desktop research, determined that no centres offer care at the required times, and made alternate informal care arrangements. There is no way to assess that unmet need without surveying all families.

Age group

Subject to the area, some areas have a disproportionate number of birth - 2/3-year-olds, making availability in these ages very difficult to secure. Often, new services will split licensed places fairly evenly between birth - 3-year-olds and 3–5-year-olds, limiting available capacity in those age groups. The distinction is not a fluid one, with the Regulatory Authority requiring cots and a larger number of nappy change facilities for children aged birth-3 years. Families may report that they have not been able to access care for their child, despite the service having capacity in older age groups that they cannot offer to the younger child due to physical centre constraints (cots/nappy change) or availability of staff (noting the higher ratios required for birth-3-year-old children).

Days of the week

Often families report that they have been unable to secure care in their local area, however they require more popular days of the week (Tues, Wed or Thursday) and have rejected offered Mondays or Fridays. Families typically prefer mid-week bookings to avoid paying fees on public holidays, which tend to fall on Mondays and Fridays. The vast majority of services charge for public holidays, as they can claim these days as absences under the relevant CCS legislation. Parents, however, are still required to make the co-pay for such days when the centre is not open. The rationale for charging families for these days is that fixed costs like rent and some wages still need to be paid on these days.

Similarly, some families wish to enrol their child for only 1 day per week. Enrolments 1 day per week make it very difficult for children to settle into care and for children to create bonds with their care givers as a result many services refuse to accept a 1-day enrolment.

Time of year

Most established services see approximately 20% of their enrolments free up in December/January, when older children move on to formal schooling. As a result, families seeking care at other times may struggle to find care unless the centre otherwise has vacancy, in which case – accessibility isn't an issue.

Other factors

New centres will typically ramp their occupancy up over time, usually 12-18 months. Those services may be observed to have capacity, when in fact those places may already have been committed to families on the waitlist. The rationale for staggering new centre intake is to allow children, families and staff time to onboard and settle into care.

Centre size is a factor in considering accessibility. Until recently, many Local Government Areas had limits on the number of licensed places per service, meaning that it is relatively easy for 5 services of 40 places to be full. It may be much more challenging to fill 5 services of 140 places each.

Finally, quality is an issue. Word of mouth regarding service quality and poor experience on centre tours will result in low service occupancy. This may not be reflected in an Assessment and Rating result. Services that receive an Exceeding rating will be assessed less often than services with Working Towards or Meeting. However, that also means that services may experience a change in management or staff, quality may decline considerably, but the service may still hold an Exceeding rating. Many families would prefer to make alternate care arrangements, or not return to work, then to enrol their child in a centre they consider sub-optimal.

Provider revenue and cost information

It is recommended that efforts are made to ensure that information provided compares like with like. This is particularly salient with respect to the age breakdown in services, the size of services, for-profit v not-for-profit status, and the allocation of support office costs at the centre level.

Age breakdown

Centres with higher birth-3-year-old enrolments will have much higher costs than services with higher 3-5 year old enrolments or preschools. There are substantial additional wage costs associated with the higher ratios, in addition to higher consumable costs (nappies, wipes, formula), higher equipment costs (cots, bottles, sterilisers). Some services will charge a bifurcated or trifurcated fee to (partially) accommodate those higher costs, whilst others will charge a flat fee across all age groups and absorb those losses across the whole centre.

Size

Centre size is also a factor in assessing costs. Larger centres will have higher wage costs associated with the ECT requirements in New South Wales (up to four ECTs required), and smaller centres will have difficulty spreading the cost of non-contact roles like cooks, centre managers, administrators etc.

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For-profit v not-for-profit

There are few industry associations that represent the interests of private for-profit operators, which own the majority of services (52%). The exception is ELACCA, which solely represents the interests of large providers. Revenue and costs will differ substantially between for-profit and not-for-profit operators, with not-for-profit operators benefitting from lack of payroll tax, ad hoc grants and in some instances, peppercorn rental arrangements. Those benefits may be very difficult to quantify.

Support office costs

Larger operators have large support offices with roles like curriculum mentors, compliance managers, digital marketing specialists, data analysts and customer engagement managers. These head office costs are not required for the provision of care at the centre level, but if allocated as a cost at the centre level will artificially inflate costs. Small operators often have an owner that performs these functions, and such costs are not quantified as a line item at the centre level.

As a general observation, it is Futuro's view that a single point-in-time assessment or revenue and cost is unhelpful in making an assessment of the profitability of the sector generally. The Productivity Commission has noted the substantial variability in cost and revenue year on year (see Appendix H '[The costs and viability of childcare operations]' to Productivity Commission report, '[Childcare and Early Childhood Learning]' 2015).

Benchmark prices

The process of establishing benchmark fees is fraught. The daily rate is primarily a function of rent and wages. It will be extremely difficult for a benchmark to account for:

- differing wage costs by location – with some locations poorly serviced by public transport and/or in areas where Educators do not live, higher wages and incentives are paid to attract staff;
- differing staff incentive costs by operator – where not-for-profits benefit from salary packaging that other operators cannot offer, for-profit-operators must pay higher hourly rates in order to be competitive in the recruitment market;
- differing rental costs by site – this applies not only to rental costs in a particular location (i.e., lower cost real estate vs higher cost real estate), but also the timing of land acquisition and lease commencement. As property prices increase over time, and particularly certain parts of New South Wales, the date of lease commencement will significantly impact rental costs. For services on older leases, they could be paying 50% or less in rent than a newer centre opening down the road.
- preferential leasing costs – some landlords will offer preferential rental arrangements to not-for-profit operators, under the impression that the benefits flow to families in the form of reduced fees (which is not supported by the data). In other cases, the landlord/developer is a related entity of the operator, resulting in an advantageous rental deal.

- development costs – following the War in the Ukraine and the Pandemic, the cost of construction materials and labour has increased substantially. Those costs are passed onto operators in the form of increased rent. The same applies to increased finance costs (due to recent interest rate rises).
- maintenance costs – older sites will require higher maintenance costs and/or refurbishment costs. Yards for example will require expensive refurbishment every 5-8 years. Subject to the size of the yard, the cost can exceed $750,000 in light of current development and department standards.

Benchmarking fees is a blunt tool, as evidenced by the limited success of the hourly cap in placing downward pressure on fees (see AIFS 'Child Care Package Evaluation: Final Report', 2022). In high rental areas like the Sydney CBD, introduction of the hourly cap substantially impacted affordability and in turn occupancy, resulting in the closure of a large number of services. The hourly cap does not impact commercial drivers - operators are not able to charge co-pays that the market cannot tolerate.

It is suggested that the benchmarking process give consideration the variables listed above, in addition to the prospect that further price-related policy interventions may result in service closures.

Futuro looks forward to making a more detailed submission to IPART's Review. Should you have any questions in relation to this submission, you are most welcome to contact Futuro's General Manager, Megan Black at [redacted]

Kind regards

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