



**Education
Standards
Board**

early childhood to
senior schooling



Government
of South Australia

Submission on proposed universal 3-year-old preschool in South Australia

28 February 2023

Prepared for
The Royal Commissioner, The Hon Julia Gillard AC
The Royal Commission into Early Childhood Education and Care
(In response to the Call for Submissions by the Royal Commission on
proposed universal 3-year-old preschool in South Australia)



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Context for the Education Standards Board's (ESB) submission and recommendations

The ESB has considered all the guiding questions in the Call for Submissions by the Royal Commission into Early Childhood Education and Care (ECEC) (Commission) on the development of universal 3-year-old-preschool in South Australia in the context of the ESB's legislative and regulatory framework.

The relevant role, functions and powers of the ESB and the legislative and regulatory framework in which the ESB operates are set out in Annexure 1.

Many of the guiding questions in the Call for Submissions are outside the scope and regulatory remit of the ESB. The ESB therefore makes its submission under the broad topics identified in the Call for Submissions and identifies the guiding questions it specifically addresses (where they are relevant).

1. Purpose and aims

The ESB strongly recommends that any 3-year-old preschool model (as a regulated ECEC service) be within the regulatory remit and framework of the National Quality Framework (NQF) and the *Education and Early Childhood Services (Registration and Standards) Act 2011 (SA)* (State Act).

The model(s) being considered for delivering 3-year-old-preschool should be assessed against the existing broader regulatory and legislative landscape for the early years system. All and any risks that could result in unintended consequences, leading to increased regulatory burden, fragmented and complex regulatory systems or unregulated areas of service delivery, must be identified and to the greatest extent possible, minimised.

Examples of models when this could occur include:

- community based playgroups with an early childhood teacher (ECT) present (which would fall outside of the current regulatory framework).
- services where regulated ECEC services (under the State Act or National Law), are provided alongside other family and parent services or allied services like occupational therapy, health and counselling.

The ESB also notes and endorses the recommendations put to the Commission through the Rapid Literature Review that identify the unique and rare opportunities South Australia has to:¹

- 'contribute important evidence through quality monitoring and evaluation of any changes in future service delivery';
- 'for further research into the implementation of 3-year-old preschool'; and
- 'to scientifically test what works and what does not'.

¹ Howells, S., Lam, B., Marrone R., Brinkman S., *Rapid review of the literature and results of academic pulse survey to determine evidence behind the pre-school for 3-year-old children*, pages 7 and 54.

What should be the central aim of 3-year-old preschool? What are important secondary aims?

- The central aim should be an ECT-led, age specific program, delivered in a safe learning environment that optimises improved learning outcomes through adherence to the National Quality Standard (NQS).
- This means, in recognising each child's experience of learning and development, educators implement responsive, equitable, individualised opportunities and additional support, if barriers to success are identified.
- Curriculum frameworks and guides exist in the Approved Learning Frameworks (ALF)² and Early Years Learning Frameworks (EYLF). These have been approved by the Ministerial Council³ under the NQF.
- There must be diversity in:
 - the range of ECEC services;⁴ and
 - ECEC providers,⁵that gives parents and families the ability to choose an ECEC service and provider that suits their familial circumstances.
- The ESB submits secondary aims include:
 - reduced transitions and change fatigue for all: children, parents and ECTs.
 - the opportunity to build relationships with educators and achieve a sense of belonging through a two-year preschool offering.

2. Defining key terms

What does universal pre-school look like to your organisation? How should 3-year-old preschool differ to 4-year-old preschool?

- Universal 3-year-old preschool needs to reflect and cater for the range of development that may occur in children at this chronological age.
- Childhood development is unique to the strengths and needs of the individual child and can be uneven, that is, not all aspects of development occur at the same time. While there are often similar patterns of development presenting in children at each chronological age, there are differences between them and certainly across age groups.

² Section 5(1), National Law.

³ Section 5(1), National Law.

⁴ Section 9(1)(b), State Act.

⁵ Section 9(1)(c), State Act.

- The Assessment and Planning Cycle (required as part of Quality Area 1, NQS) forms the basis of how children’s learning is planned in ECEC and provides a structure for educators which promotes children’s learning and takes their unique strengths and needs into account. This process of observation, planning, intentional teaching and reflection, aligns with the objects of the State Act.⁶
- The developmental needs of each individual child and specific cohorts should guide the amount of time needed at preschool.

How should 3-year-old preschool differ to ECEC currently provided to 3-year-olds (eg in centre-based day care and family day care)?

- The main difference is any 3-year-old preschool program should be facilitated by an ECT.

3. Quality and innovation

What does high-quality 3-year-old early learning look like and what are the markers of optimal program delivery?

- A tailored program that reflects the strengths and needs of the individual child in an inclusive environment as reflected in the Assessment and Planning Cycle for Quality Area 1 of the NQS.
- Tailoring a program, and what quality and effectiveness look like, is contextual for the service setting, the cohort of children and the individual child, to achieve the best possible outcomes in safety, wellbeing and education. What suits one environment or child, will not necessarily suit another.
- Markers of optimal program delivery are:
 - Well trained and highly skilled teachers and educators who are able to tailor their interactions to fit the needs of each child in their care.
 - Consistent and stable workforce.
 - Strong, effective service leadership that critically reflects on performance.
 - Safe and developmentally appropriate environments.

How quality differs for different cohorts of children

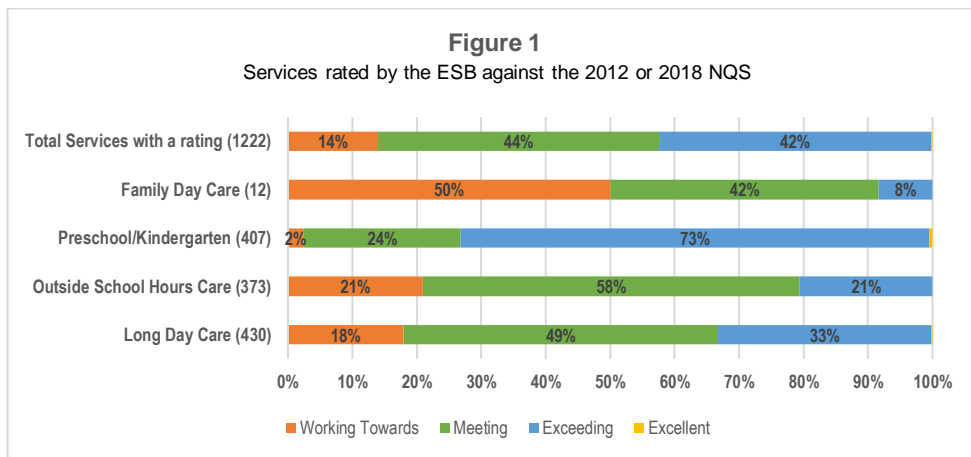
- The quality should not be different for different cohorts of children. The NQF and EYLF have a strong focus on inclusion.
- Any 3-year-old preschool model must create a structure that does not inadvertently exclude children or families based on cost, operating model or accessibility.

⁶ Section 9(1), State Act.

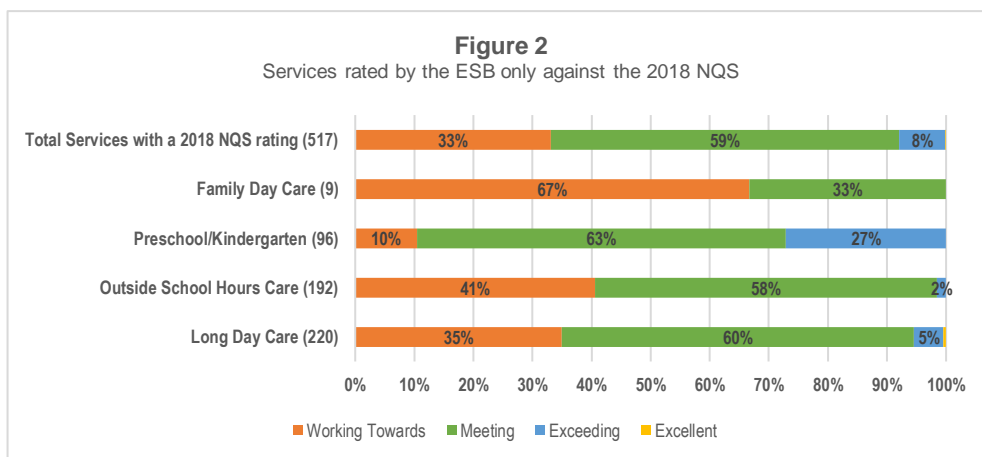
- Barriers to access (in all contexts) should be reduced and there should be genuine inclusion for all children with different abilities and from culturally and linguistically diverse backgrounds.

With regard to the current performance of South Australia’s early childhood sector, by services, against the NQS:

- South Australia has 1270 approved services that are monitored by the ESB. These services are categorised into 4 service types: Family Day Care (12 services), Outside of School Hours Care (OSHC) (373), Preschool/Kindergarten (407) and Long Day Care (430).
- Of these 1270 services, 1222 (96%) have a quality rating (Figure 1).

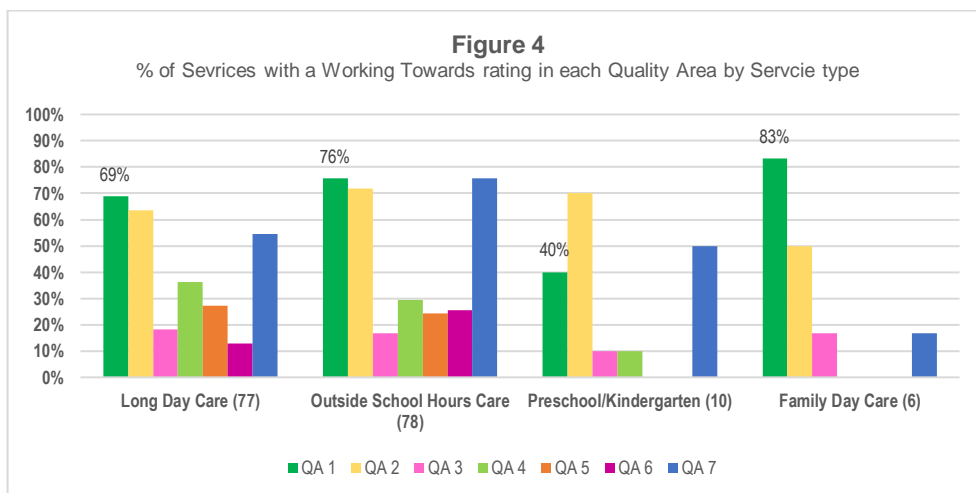
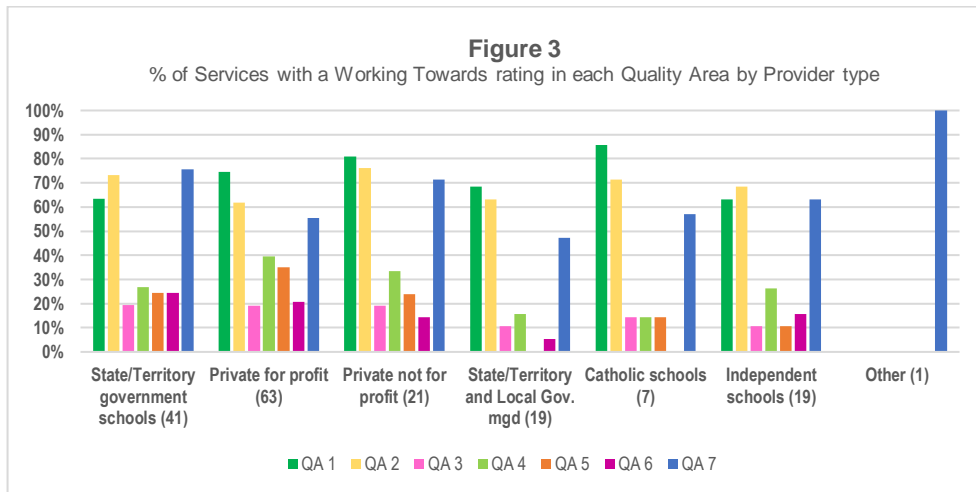


- Of the services with a rating, 517 services (41%) are rated against the 2018 NQS (Figure 2), with the remaining 705 services rated against the 2012 NQS.



- The ESB has prioritised assessing 2012 NQS rated services in its current regulatory strategy, with the goal of having 15% of 2012 rated services rated against the 2018 NQS by June 2024. When achieved, this will mean 50% of services will be rated against the 2018 NQS.

- As of January 2023, 14% of all services with a rating, are rated as ‘Working Towards’ (Figure 1). Of the 517 services rated against the 2018 NQS, the percentage of services with a Working Towards rating rises to 33% (Figure 2).
- The Quality Areas most commonly rated as Working Towards across all provider types (ie the Quality Areas in which providers do not perform as well) are Quality Area 1 - Educational program and practice, Quality Area 2 - Children’s health and safety and Quality Area 7 -Governance and leadership (Figure 3). Preschools/kindergartens as a service type, have a much lower percentage of quality areas rated as Working Towards (Figure 4).



- When analysing ratings and predicting future South Australian quality ratings profile by service type, it should be noted that 33% of approved services are preschools/kindergartens, but only 19% of these are rated under the 2018 NQS, and long day care and OSHC services are overrepresented in the cohort of services rated under 2018 NQS.

- Nonetheless, the ESB recognises this as a risk to achieving regulatory outcomes that maintain and build the public's confidence in the operation of education and early childhood services in South Australia and has an educative strategy to target services rated under the 2012 NQS, to guide and advise these services on the differences and requirements under the 2018 NQS.
- The ESB has also commenced a strategy to analyse and evaluate the current Working Towards services performance against each element of each Quality Area of the NQS, to provide further targeted guidance and support and use partial reassessments (where possible) to enable services to obtain a 'Meeting' rating.

4. Workforce

Consistency of staff is essential to achieving the known benefit to children's educational outcomes in an ECEC setting through building positive interactions and relationships between educators and children and, respectful and collaborative relationships with parents and caregivers (NQS, Quality Area 5 – Relationships with children and Quality Area 6 – Collaborative partnerships with families and communities).

Strong leadership in an ECEC setting, at service and provider level, is another key factor in achieving a quality ECEC experience for a child (NQS, Quality Area 7). Quality leadership in ECEC has far reaching implications for the growth of the learning community.

When leaders have a strong background in education and they understand what effective pedagogy looks like, they can set clear expectations for learning and teaching and provide professional coaching and direction for all staff. The quality of teaching improves as staff have clarity and support, and the learning experience for children improves in ways that actively supports their learning development.

The ESB has seen ECEC waiver applications increase by 268% between 2019 and 2022, mainly because of workforce shortages.⁷ These applications have mainly been for ECT shortages, but also for OSHC qualified educators.

On average there are 160 waivers in place for South Australia at any point in time. There is a high likelihood this will be further exacerbated by the expected increase in 3-year-old children attending an ECEC setting while workforce challenges in the sector persist.

As the vast majority of waiver applications relate to staffing, and there is a proportion of approved providers who request ongoing waivers of this type, the ESB is evolving its regulatory posture for these approved providers. Services can be required and are being asked, to complete a risk assessment to support their application and, in some cases, services are being asked to cap their enrolment numbers. These strategies are being applied by the ESB to mitigate risk to children's education and wellbeing. They are also being used to encourage approved providers to think

⁷ ESB data obtained from the National Quality Agenda Information Technology System (NQAITS) (21 February 2023).

laterally about their staffing attraction and retention policies and strategies, so they can meet their legal obligations for staffing at the end of a waiver period.

What are the highest value interventions to improve workforce supply in South Australia?

- Raising the profile of the ECEC profession and the value of an ECEC educator's role, to inspire people to participate.
- Enhancing attraction and retention strategies and policies to improve professional development, induction, mentoring and career progression of ECEC professionals. At the heart of this lies the need for reform in current pay and conditions for educators.
- Introducing targeted programs and campaigns to attract more students to study and work in the ECEC sector, necessarily supported by subsidised course offerings and traineeships.
- Improving Registered Training Organisation outcomes. The Australian Skills Quality Authority regulatory risk priorities 2022 - 2023 identify the Certificate 3 and Diploma of Early Childhood Education and Care as two of the six higher risk workforce training and education products in the market.⁸
- Offering free/rebated Diploma courses through reputable Registered Training Organisations.

5. Delivery and administration

What is needed to support 3-year-old preschool? (What would you/your organisation need to do to be able to deliver 3-year-old preschool?)

The ESB's Registrar's *Response to 3-year-old preschool questions for roundtable participants* (1 February 2023)⁹ provides a detailed answer to this question and this submission should be read in conjunction with that Response.

The ESB can foresee potential regulatory impacts in the following areas as a result of introducing universal 3-year-old preschool in South Australia (not exhaustive):

- An increase in the volume of provider and service application approvals required to be assessed and determined by the ESB.
- In the medium and longer term, there will be an associated increase in the volume of monitoring activities including new service monitoring and assessment and ratings.
- There will be general impacts on the ECEC sector across the seven Quality Areas of the NQS (at the time of approval or amendment) and subsequent reassessment and re-ratings for all services on an ongoing basis.

⁸ [ASQA's regulatory risk priorities 2022-23 | Australian Skills Quality Authority \(ASQA\)](#).

⁹ Kerry Leaver, *Response: 3-year-old preschool questions for roundtable participants* (1 February 2023).

- The ESB will need to review its capability and capacity to regulate and review performance under Quality Area 1 of the NQS and develop new guidance and advice for services and providers in meeting the expectations of any 3-year-old preschool model.

The potential for increased risk to children's health, safety and wellbeing emerges whenever changes to a provider or service model occurs. These risks must be identified, assessed and mitigated within the service's unique context. Examples of these were set out in the ESB's Registrar's Response.

ACECQA recently performed a comparative analysis of South Australia's assessment and rating performance versus national performance as at June 2022. The national average reassessment and rating cycle time is three years. South Australia's cycle time is approximately 8-10 years. The ESB has one Authorised Officer for every 99 services, compared to a national average of one Authorised Officer for every 48 services.

While every attempt is being made by the ESB to increase the reassessment cycle by improving internal operational performance, ultimately a significant increase in pace cannot be achieved without additional resourcing.

The ESB supports a targeted and staged implementation strategy of any 3-year-old preschool model, that allocates resources to the ESB as part of its implementation. This will reduce the likelihood and consequence of poor outcomes from the policy change, particularly given the current workforce and regulatory challenges described above. It will also mean the ESB is better able to monitor and evaluate quality service provision during implementation and into the future.

Annexure 1

Legislative establishment of the ESB

The Early Childhood Services (Registration and Standards) Board of South Australia, otherwise known as the Education Standards Board (ESB), was established on 1 January 2012 under section 21 of the *Education and Early Childhood Services (Registration and Standards) Act 2011 (SA)* (State Act).

The ESB is an independent statutory authority.¹⁰

Under the State Act, the Chief Executive of the ESB is the 'Early Childhood Services Registrar'.¹¹

Under the National Law and its operation in South Australia, the ESB is the declared:

- 'children's services regulator';¹² and
- 'Regulatory Authority'.¹³

Legislative instruments applicable to and administered by the ESB

The ESB administers the following legislative instruments in SA:

- The State Act which incorporates the *Education and Care Services National Law (South Australia)* (National Law SA).
- *Education and Early Childhood Services (Registration and Standards) Regulations 2011 (SA)* (State Regulations).
- The *National Quality Framework* (NQF) which means, the:
 - National Law: *Education and Care Services National Law 2010* (National Law);
 - National Regulations: *Education and Care Services National Regulations 2011* (National Regulations);
 - National Quality Standard (NQS) (set out in the National Regulations); and
 - prescribed rating system.

¹⁰ Section 21(2), State Act.

¹¹ Sections 3(1) and 27(1), State Act.

¹² Section 5(1), National Law and section 13(3), State Act.

¹³ Section 5(1), National Law and section 13(9), State Act.

Functions and powers of the ESB

Under the State Act

As relevant to the Commission's Call for Submissions, the function of the ESB under the State Act is to regulate the provision of education services and early childhood services.¹⁴

Under the National Law

The ESB's functions as the Regulatory Authority in South Australia under the National Law are:¹⁵

- to administer the [NQF];
- to assess approved education and care services against the [NQS] and the national regulations and determine the ratings of those services;
- to monitor and enforce compliance with [the National Law];
- to receive and investigate complaints arising under [the National Law];
- in conjunction with the National Authority¹⁶ and the relevant Commonwealth Department, to educate and inform education and care services and the community in relation to the [NQF];
- to work in collaboration with the National Authority to support and promote continuous quality improvements in education and care services;
- to undertake information collection, review and reporting for the purposes of -
 - the regulation of education and care services; and
 - reporting on the administration of the [NQF]; and
 - the sharing of information under [the National Law];
- any other functions conferred on the Regulatory Authority under [the National Law].

¹⁴ Section 29(1)(a), State Act.

¹⁵ Section 260, National Law.

¹⁶ The *National Authority* under the National Law is the Australian Children's Education and Care Quality Authority (ACECQA) established under sections 224 and 230 of the National Law.

Objectives and Principles of the legislative framework the ESB operates under

When exercising regulatory powers and performing regulatory functions, the ESB must act according to the Objectives and Principles set out in the State Act¹⁷ and the National Law.¹⁸

Objects of the State Act

The Objects of the State Act¹⁹ include providing for the regulation of the provision of education and early childhood services in a manner that maintains high standards of competence and conduct by providers, and

- recognises that all children should have access to high quality education and early childhood facilities and services that -
 - address their developmental needs; and
 - maximise their learning and development potential through an appropriate curriculum; and
 - support their educational achievement; and
 - promote enthusiasm for learning; and
 - support, promote and contribute to their health, safety and well-being; and
- provides for a diverse range of services; and
- recognises the rights of parents to access a diverse range of education and early childhood services providers; and
- enhances public confidence in the operation of education and early childhood services providers.

Principles of the State Act

The ESB 'should' take the following principles into account 'in the administration' of the State Act:²⁰

- parents and guardians should have the right to choose the best services for their family;
- parents and guardians, and members of school communities, should have access to relevant information concerning the regulation of their child's school;

¹⁷ Section 9(3), State Act.

¹⁸ Section 4, National Law.

¹⁹ Section 9(1), State Act.

²⁰ Section 9(2), State Act.

- the welfare and best interests of children is the primary consideration in the performance of the [ESB's] functions;
- any person who works with children is obliged to protect them, respect their dignity and privacy and safeguard and promote their well-being;
- cooperation between the Minister, the ESB and the school education sectors contributes to achieving the effective provision of education and early childhood services;
- successful learning is built on a foundation of rich, engaging environments and meaningful interactions in which children's voices are listened to and acted on.

'In exercising a power or performing a function' under the State Act, the ESB 'should have regard to and seek to give effect to the following principles':²¹

- providers of education services and early childhood services should not be burdened by regulation more than is reasonably necessary;
- the actions of the [ESB] in relation to minimising or responding to a particular risk should be proportionate to the potential harm posed by the risk;
- the [ESB] should have regard to all of the circumstances of a particular provider of education services or early childhood services (including, without limiting this paragraph, the provider's history of compliance with this or any other relevant Act and any risk that the provider may not comply with this Act in the future).

Objectives of the NQF

The Objectives of the NQF²² are to:

- ensure the safety, health and wellbeing of children attending education and care services;
- improve the educational and developmental outcomes for children attending education and care services;
- promote continuous improvement in the provision of quality education and care services;
- establish a system of national integration and shared responsibility between participating jurisdictions and the Commonwealth in the administration of the [NQF];
- improve public knowledge, and access to information, about the quality of education and care services;

²¹ Section 9(3), State Act.

²² Section 3(2), National Law.

- reduce the regulatory and administrative burden for education and care services by enabling information to be shared between participating jurisdictions and the Commonwealth.

Guiding Principles of the National Law

The following are the Guiding Principles of the NQF under the National Law:²³

- that the rights and best interests of the child are paramount;
- that children are successful, competent and capable learners;
- the principles of equity, inclusion and diversity underlie [the National 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.

²³ Section 3(3), National Law.