

GUIDELINES FOR APPLYING FOR AN ALTERNATIVE SOLUTION

The Queensland Development Code Part 22 – Child Care Centres

This information has been prepared to assist applicants in making an application for an alternative solution under Part 22 – Child Care Centres of the Queensland Development Code. This information should be read in conjunction with the *Integrated Planning Act 1997*, *Integrated Planning Regulation 1998* and the *Child Care Act 2002*.

1. What are the building standards for child care centres and where are these located?

The building standards are based on the building requirements located in the previous *Child Care (Child Care Centres) Regulation 1991*, however the building requirements for child care centres have been translated into the language of the building code. These standards are less prescriptive and are expressed as performance based standards and will, therefore, allow for flexibility in how services can meet these.

The building standards for child care centres are contained in an annexure called the Queensland Development Code Part 22 – Child Care Centres which is referenced by the *Standard Building Regulation 1993*.

2. How are the standards written?

The building standards are written as **performance based standards**. This allows for flexibility and innovation. The standards focus on outlining the intention of rationale behind each requirement making it possible to achieve the objective in more than one way.

The standards are structured around **performance criteria**. Each performance criteria specifies the outcome but does not specify the means to achieve it.

For each performance criteria there is an **acceptable solution**, which sets out the detailed steps that will guarantee achieving the performance criteria. If a licensee uses the acceptable solution, he/she will meet the standard.

The **acceptable solution** is only one way of complying with the performance criteria.

If a licensee is unable to meet the acceptable solution he/she may offer an **alternative solution**. The alternative solution must satisfy the performance criteria to be acceptable. The alternative solution may be offered in place of or together with parts of the acceptable solution. The building certifier will refer these applications to the Department of Communities that is the “concurrency agency” for the Queensland Development Code Part 22 – Child Care Centres. This means the Department considers and determines whether the ‘alternative solution’ meets the intent of the performance criteria and is acceptable.

3. When did these standards commence?

The *Integrated Planning Regulation 1998* was amended to enable the building standards for child care centres to commence at the same time as the *Child Care Act 2002*. The *Child Care Act 2002* commenced on 1 September 2003.

4. What is a “concurrency agency”?

A **concurrency agency** has the power (within the jurisdiction) defined in the *Integrated Planning Regulation 1998* to direct the outcome of the Integrated Development Assessment System (IDAS) development application. It can direct that certain conditions be imposed on an approval, that an approval be granted for only part of the development, that preliminary approval be granted, or that an application be refused. A concurrency agency can also ask for further information about an application. A concurrency agency may only exercise its powers within its defined jurisdiction.

5. What role does the Department of Communities have as a “concurrence agency”?

The role of the Department of Communities is to assess whether the building work proposed complies with the performance criteria stated in that part other than by complying with the acceptable solution.

6. What triggers the need for referral to the Department of Communities?

An applicant seeks a building development application from the assessment manager (either the local authority or private building certifier) and requests an alternative solution in regard to meeting the requirements of the Queensland Development Code Part 22 – Child Care Centres.

7. Who is responsible for making the referral?

The assessment manager is responsible for stating in the acknowledgment notice sent to the applicant the names and addresses of all applicable referral agencies. The applicant or the assessment manager (acting on behalf of the applicant) may apply to the Department of Communities for an alternative solution assessment. The Department will assess the application against the performance criteria in Part 22 of the QDC.

Some development applications may trigger more than one referral, requiring referral to several agencies.

Applicants are able to apply directly to the Department of Communities for an alternative solution prior to the IDAS application being submitted.

8. Is there a timeframe referrals must be completed?

All referrals for an assessment of the development application must be made within 3 months of the applicant receiving the acknowledgment notice from the assessment manager. Failure to meet this timeframe will result in the application lapsing.

9. What information is required to be included in the application for an alternative solution?

The following information is requested to assist in deciding applications for alternative solutions in regard to the Queensland Development Code Part 22 - Child Care Centres.

1. A complete copy of the Integrated Development Assessment System (IDAS) development application (The approved form is mandatory in Queensland for all IDAS applications). The forms are available on the Integrated Planning Act website: <http://www.ipa.qld.gov.au>
2. A copy of the acknowledgment notice
3. Please attach a copy of the plans indicating the following:
 - a) open indoor floor space
 - b) outdoor play space
 - c) shaded areas and roofed shaded areas
 - d) facilities – eg. Nappy change, toilets, bath shower, hand basins etc
4. Any other relevant supporting documentation.

17. Who will be involved in making the alternative solution decision?

Each application is decided by a panel, which will be convened and chaired by the Office of Child Care, Department of Communities. The panel will consist of a representative from the Office of Child Care, the relevant departmental regional office that the application relates to. Under section 3.2.7 of the *Integrated Planning Act 1997*, the Department of Communities may engage a **third party** where additional expertise and comments are required. This third party may be a person/agency/organisation and may provide comments on the application. An example of this may be a peak child care association or another department such as The Department of Industrial Relations for a performance criteria relating to equipment and chemical safety.

The final decision will be made by the Chief Executive (Director General) or delegate.

11. How often will the panel meet?

The panel will meet as required to comply with the timeframes as stated in the *Integrated Planning Regulation 1998*. The application must be decided in 30 business days from the entire application being received. This time is extended if the concurrence agency requests additional information.

12. How will the application be decided?

The panel will decide the application by considering the following:

- natural justice principles
- the Objects and Guiding Principles of the *Child Care Act 2002* (sections 8 and 9) are reflected in decisions
- whether the proposed building work complies with the performance criteria stated in that part, other than by complying with the acceptable solutions
- Child Care Policy No. 356-2 – Licensing child care services

An **example** of the decision-making framework for an alternative solution may include:

Performance Criteria 8 of Part 22 – Child Care Centres which details personal washing facilities. The application proposes to use an innovative steam system instead of the conventional washbasin that is connected with hot and cold water.

The decision would be based on determining whether the hand washing facilities achieves the following intent regarding the performance criteria.

Are there personal washing facilities separate for each nominated age group and do they:

- minimise delays for children requiring to use a washbasin; and
- encourage hand washing; and
- are easily accessible to children; and
- facilitate the personal washing of young children by carers; and
- safeguard the health of children.

In addition, the panel would also need to consider the requirements in the Regulation regarding “hand washing facilities” that include soap and drying facilities and the impact of these requirements in regard to the health of children.

In addition the panel may utilise the expertise of a third party to provide additional advice on the alternative solution offered. An example of this could be a representative in regard to community health standards such as the Public Health Unit, Department of Health.

14. How will the applicant be advised of the decisions?

The applicant or the assessment manager (if acting on behalf of the applicant) will be advised in writing. The letter will advise the concurrence agencies decision in regard to whether the development application should be approved, whether any conditions should be placed on the decision notice or whether the development application should be refused.

15. What if I do not agree with the decision that has been made by the concurrence agency?

Any appeals would go the Building and Development Tribunal set up under Chapter 4 Part 2 of the *Integrated Planning Act 1992*. The concurrence agency has the power to require an assessment manager (private certifier) to refuse an application or place conditions on the decision notice it issues for the commencement of building work. It is the refusal or the conditions placed on the decision notice issued by the certifier that are appealable.

An appeal by an applicant against a decision of a council or private certifier must be lodged with the Registrar of Building and Development Tribunals **within 20 business days** after the day the decision, notice or requirement is received by the applicant. The applicant needs to complete an appeal application from The

Registrar, Building and Development Tribunals, for further information and to obtain this form contact telephone 3237 0403 or fax 3237 1248.

16. Who can I contact for further information?

Department of Communities Regional offices:

Darling Downs/South West Queensland	4688 4060	Department of Communities
Far North Queensland	4039 8476	Office for Children
Fitzroy/Central West	4938 4699	GPO Box 806
Gold Coast	5583 4400	BRISBANE QLD 4001
Brisbane	3109 0620	Telephone: 3224 4225
Mackay/Whitsunday	4944 8600	Freecall outside Brisbane: 1800 637 711
Moreton	3280 1777	Email: ccis@communities.qld.gov.au
North Queensland	4799 7110	Website: www.communities.qld.gov.au
Sunshine Coast	5475 0060	
Wide Bay/Burnett	4197 7900	

Department of Local Government, Planning, Sport and Recreation contacts:

Building Codes Queensland
Local Government and Planning
Department of Local Government, Planning, Sport and Recreation
Telephone: 3237 0368
Website: <http://www.lgp.qld.gov.au/?id=30>
Or via link from the Department of Communities Internet or at
http://www.lgp.qld.gov.au/docs/building_codes/queensland_development_code/QDC_Part22.pdf

Building and Development Tribunals
Local Government and Planning
Department of Local Government, Planning, Sport and Recreation
Telephone: 3237 0403
Website: <http://www.lgp.qld.gov.au/?id=35>