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Community Child Care Co-operative submission
Draft State Environmental Planning Policy for Education and Child Care

To: education.sepp@planning.nsw.gov.au
c/o Casey

10 April 2017

Have we learned our ABCs?

We do not object to most of the guidelines and criteria included in the draft SEPP. It makes excellent sense to incorporate the space and design requirements of the National Quality Framework in the overall planning instrument for early childhood education and care (ECEC) facilities, and to leave developers in no doubt that they may still fail to gain operational approval if they fail to appreciate the full requirements of the NQF.

We object, most strongly and on behalf of the 250,000 children that our members care for to the potentially devastating absence in this SEPP of any criteria relating to planning approvals in areas of oversupply and undersupply of childcare places. In connection to this issue, we also object to the SEPP changing a council's potential ability to reject a development application on the grounds of location—the development may be located at any distance from an existing or proposed centre.

Large developers, large corporate tenants and changes to planning policy means that smaller services will increasingly come under pressure and families will find it more difficult to gain access to higher quality Not For Profit (NFP) or owner-operator services in their local area.

The problem begins with the plan's 'Intended Effect', which is to address a future need for family access to more ECEC places in NSW. Based on Productivity Commission data, the draft SEPP cites *"an additional 2,700 long day care centres would be required by 2036 in order to address shortages and meet projected demand".*

Three important words are missing from this and every other statement relating to additional places in the draft SEPP: **in some areas**.

In some parts of Sydney, in particular the inner suburbs and CDB, there is a well-known undersupply of places which is addressed, in market terms, by extremely high fees and waiting lists in most of those locations.

In many parts of Sydney, Newcastle, Wollongong and most of NSW regional centres, however, an oversupply of places now exists and is only going to become worse under a planning instrument that is silent on questions of viability and supply.

We acknowledge that current policy is to allow a free market in supply of ECEC services, however the absence of any discussion of supply as a factor in preparing a development application leads us to wonder if the question has even been considered? Has the Department looked at current supply of and demand for childcare places in NSW? Has the Department looked at where future demand will occur? Is the Department willing to produce a SEPP which deals responsibly with architectural plans but not at all with town and community plans?

Our members are contacting us frequently with stories of councils approving major development applications in areas of oversupply. Community based and owner-operator ECEC services are statistically more likely to provide high quality education and care to young children[1], and they are deeply concerned about their ongoing viability . For example, this comment on behalf of a group of ECEC owners in Coffs Harbour:

> *We have had 6 new centres open in the last 12-18 months, another one coming creating over 400 new places. No centres in our area are full, many have retrenched staff, reduced hours for remaining staff, minimised casual work available and are basically in survival mode. Most of the new centres belong to larger groups (corporates) and have 50-90 places. Average occupancy in the Coffs Harbour area has gone from 95% in 2015 to 77% in 2016. A lot of centres are now running around 50-60%, some less, some more.*
> *Coffs Harbour council has already allowed a new centre to build next door to an existing centre.*
> *Population increase for 0-4-year-old in the past* ***5*** *years is approximately 750 (actual statistics are available) and not all these children will take up a full time childcare place or even attend childcare at all.*
> *We have been told that the over-supply of LDCC is a national problem in regional areas. We know some smaller centres have already closed but not in our area yet.*
> *Governments are creating another ABC (which they said would never happen) and if it does, where will the children go if we lose smaller privately owned centres?*
> CCCC member, Pamela Joy, Park Beach Child Care Centre.

An article from the Coffs Coast Advocate[2] is attached to this submission.

Another comment earlier this year from centre owner Michelle Peden, Newcastle, (attachment B) led to a major article[3] in our current member magazine (attachment C).

Her initial comments to us included this information, independently mirroring the comments from Coffs Harbour operators:

> *Our experience in the Hunter is corporates or developers building large centres in areas of adequate or over supply. These centres are then leased out and operated at arm's length with a primary focus on profitability. I would like to express my belief that there Is a degree of urgency surrounding this matter*
> *We have noted that the council's DCP (Development Control Plans) are not being applied to developers and corporates in the same manner as they are to owner operators.*
> *For example there are 2 centres in Newcastle, one in the suburb of Waratah and one in suburb of Hamilton which share a boundary with a licensed hotel. The centre at Waratah shares a carpark with the hotel and the centre due to be built as Hamilton will share a boundary wall with a very busy hotel. I believe this is an unsuitable environment for the care and education of the most vulnerable in our society.*
> *There is another 100 place centre to be constructed at Kahibah within 3 kilometers of 5 other smaller centres. 2 community based long day care and 1 private long day care, 1 community based preschool and 1 private preschool. None of these 5 centres are full.*

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[1] ACECQA quarterly reports http://www.acecqa.gov.au/national-quality-framework/national-quality-framework-snapshots

[2] *Too many for too few kids, Keegan Elder, Coffs Coast Advocate, 4 March 2017*

[3] *Big business taking over childcare, Broadside, Autumn 2017.*

The draft SEPP also fails to reference the existing, albeit weak, Federal legislation requiring large ECEC providers to show evidence of financial viability ahead of future growth. It is as though the lessons of the very recent past, the collapse of the dominant ECEC provider ABC Learning, have already been forgotten.

ABC Learning went into voluntary receivership in November 2008, owning more than 1000 ECEC facilities in Australia at its peak. There was considerable evidence both before and after the collapse that market forces had failed to provide children with better quality care under a large corporate owner[4] (see attachment D).

The fallout from that collapse was extremely disruptive to families, their workplaces, educators and, of course, children. Market forces had failed miserably to provide a healthy range of ECEC providers and instead Australia's governments were forced to create a new market including the creation of the current dominant market force, the NFP Goodstart.

We note that the draft SEPP, while citing other legislative requirements for new ECEC developments, also fails to include the Federal legislation to test financial viability of large ECEC providers, which was created following the ABC Learning collapse. We suggest that the Family Assistance Legalisation Amendment (Child Care Financial Viability) Act 2011, be added to the SEPP as required knowledge for corporate developers.

We accept that planning alone is an insufficient control to prevent a future devastating and expensive corporate collapse, but we are dismayed that the opportunity to at least herald a warning to new developers, has been missed.

We see no reason that a local area needs analysis could not be a requirement of the preparation stage of the development application. In a generous spirit we might consider that rather than attempting to drive out smaller competitors by overloading supply in suburban and regional areas, major developers are simply unaware that existing demand is already met.

Further, we consider it entirely reasonable for the NSW Government to provide incentives to encourage developers and NFP operators to open ECEC services in areas of undersupply, including the inner city of Sydney.

What we cannot accept, and hope that you will not accept either, is to stay silent on this fundamental flaw in the planning instrument and say nothing about the damage it will cause.

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[4] *ABC learning and Australian early education and care: a retrospective ethical audit of a radical experiment* Jennifer Sumsion, in Lloyd, Eva, and Helen Penn. Childcare markets, edited by Eva Lloyd, and Helen Penn, Policy Press, 2012.

Attachments:

A. PDF article Coffs Coast Advocate
B. Example of letters sent to Community Child Care Co-operative (Michelle Peden)
C. PDF article Broadside
D. Chapter from *Childcare Markets, Chicago University Press, 2012*

Too many for too few kids

Too many daycare centres

Keagan Elder
keagan.elder@coffscoastadvocate.com.au

VALID DISCUSSION: Member for Coffs Harbour Andrew Fraser meets with Coffs Coast childcare centre owners. PHOTO: TREVOR VEALE

AN OVER-SUPPLY of daycare facilities has local, family owned centre owners concerned about their future as occupation rates plummeted this year.

Drew Kooyman, owner of Country Cubs Preschool, said too many centres had been granted approval to match a pre-conceived demand for placements on the Coffs Coast.

"It's like the old days where there used to be a pub on every corner," he said.

"It's not a situation where it is build it and they will come."

Mr Kooyman said a few years ago it was a battle to get preschool-aged children into a daycare centre but now the tides had turned, there were empty spaces in just about every centre on the Coffs Coast.

Part of his main concern was the relative ease that new centres could get a licence.

Mr Kooyman said councils, under State Government ruling, had to approve childcare centres if they met the set criteria, regardless of the market's state.

He joined four other local childcare centre owners for a meeting with Coffs Harbour MP Andrew Fraser.

Pamela Joy, Park Beach Child Care Centre owner, voiced similar complaints but said she had to reduce working hours for her staff.

"We've got no waiting lists," she said.

"There is not enough demand for the population.

"Last year we were running at 70–80%, the year before we were just about full.

"(Now) we're running at 50% at the moment."

Ms Joy said she was concerned about the number of big corporate daycare centres opening along the Coffs Coast.

"They can carry (on) because they have big centres elsewhere," she said.

This concern was echoed by Lilly Pilly Early Learning Centre owner Alison Groth.

"With all these centres we're losing the quality of childcare," Mrs Groth said.

Mr Fraser likened the influx of supply to coffee shops, which had also increased dramatically.

"That is a problem of a competitive market," he said.

Mr Fraser said he understood the concerns of the daycare centre owners though.

"They have a fear for another ABC coming in," he said.

"They have a legitimate concern about an oversupply."

He said he would pass these concerns to the NSW Minister for Education Rob Stokes and Minister for Family and Community Services Pru Goward.

Attachment B – example letter to CCCC

Good Morning,

Thank you for the opportunity to comment. I am located in the Hunter and own 7 privately operated centres. I work in my centres every day and have a Masters of Early Childhood Education.

Our experience in the Hunter is corporates or developers building large centres in areas of adequate or over supply. These centres are then leased out and operated at arm's length with a primary focus on profitability. I would like to express my belief that there Is a degree of urgency surrounding this matter

We have noted that the council's DCP (Development Control Plans) are not being applied to developers and corporates in the same manner as they are to owner operators. I am concerned that local governments are only concerned with development laws and not the Regulations and legislation around the provision of care. The physical location and layout of some centres currently being developed would make it extremely difficult to comply with the spirit of the legislation as well as the actual legislation itself. It has been my experience that some developers and corporates are taking advantage of the perceived lack of direction in the legislation and that DECS has not the resources nor the expertise to fight corporate Australia.

For example, there are 2 centres in Newcastle, one in the suburb of Waratah and one in suburb of Hamilton which share a boundary with a licensed hotel. The centre at Waratah shares a carpark with the hotel and the centre due to be built as Hamilton will share a boundary wall with a very busy hotel. I believe this is an unsuitable environment for the care and education of the most vulnerable in our society.

There is another 100 place centre to be constructed at Kahibah within 3 kilometers of 5 other smaller centres. 2 community based long day care and 1 private long day care, 1 community based preschool and 1 private preschool. None of these 5 centres are full. The centre is to be approved 50cms from the boundary with 7 less car parking space than is required under the DCP. Any other development would be required to be 5 metres from the boundary. We cannot understand the inconsistency in the application of council's development control plans. Not only are centres being approved in areas of oversupply but they are being approved to be built to maximise the number of children. Again I do believe that an environment such as this can provide quality outcomes for small children.

I am also concerned at the commodification of children with corporates offering deals to parents such as 2 for 1 cost of childcare. We even had 1 developer offering $100 free groceries when you enrol. Centres who employ extra staff and focus of the qualifications and experience of staff to ensure the quality of the relationships and education offered to children are not in a financial position to compete with gimmicks such as this.
I ask that the Community Childcare Cooperative petition

- for a temporary halt the development of childcare centres in areas of oversupply
- for closer scrutiny of owners and operators of childcare centres in the future
- for plans for potential childcare centres to undergoing some form of review before going to council.

Once again I appreciate your time to advocate for children on this matter
Regards

[redacted]

SPECIAL ISSUE

Broadside

COMMUNITY CHILD CARE CO-OPERATIVE (NSW) AUTUMN 2017

Louise Murfet with children at Jacaranda Pre-School.

PHOTOGRAPH: JOHN VEAGE

Big business taking over **childcare**

Big business is moving into early education and care and we need to be concerned. Will they squeeze out smaller providers and community services? How will children be affected?

Early education and care is increasingly becoming big business in Australia and, in business circles, new corporate-speak has become the flavour of the month: "investment-grade asset", "aggregation", "profit-to-childcare place ratios" and "childcare landlords".

Corporate entities, private equity firms and developers have moved into the sector in a big way. And it's no wonder, considering the almost $1 billion in profits made by the childcare industry in the last financial year.

As the population grows and more children are born, it makes sense for governments and councils to focus on future needs of communities and ensure enough places for children, but who will be providing these places? Big business entities? Smaller providers? Community?

Will children's needs be safeguarded if childcare becomes the plaything of big business? Given that childcare is so massively supported by taxpayer-funded subsidies, is allowing these larger corporations and private equity firms to make such large profits a good use of those subsidies? And is this trio of corporates, private equity and developers acting in the best interests of children, if their primary interest is making vast returns for their owners and shareholders?

Councils fast-tracking development

In certain parts of NSW, there is a trend for local councils to fast-track the building and development of early education and care services, and small operators, the community sector and those that are interested in children's right to access high quality education and care have good reason to be concerned.

Kahibah is a small suburb south of Newcastle in the Lake Macquarie Council area. For decades, families living in the area have had a choice of a few education and care services in surrounding suburbs—several community-based long day care services, a community-based preschool and a private long day care. These services are small, mostly licensed for between 25 and 50 places.

This seemed like quite a suitable arrangement for this community, but then the developers moved in.

A developer created a 100-place childcare centre in the suburb and leased it to G8 Education, a corporate provider

continued from previous page

that owns almost 8 per cent of services across Australia. The developer then sold the property via an expression of interest campaign managed by real estate giant Colliers. The purchaser of the property was promised annual rent of $300,000, with 4 per cent annual rent increases and the tenant to pay all outgoings. A 15-year lease was provided to G8 Education, with an option to extend after expiry.

Corporates bypass planning regulations

From her office, Michelle Peden can see some of the construction of these large early education and care services in the horizon, and can see even more when she drives around the suburb. As the owner of Kinda Capers, a 33-place for-profit long day care centre that draws from Kahibah, she believes there are many problems with the G8 Education centre under construction.

"It's two storey, it doesn't comply with quite a number of the elements of the DCP [development control plan], it is down on car parking spaces and it's just 50 centimetres off the perimeter boundary," says Peden. "If I wanted to develop a centre, I would need to be five metres off the boundary. I just don't see how that centre can comply with the regulations in offering quality care to children. I can't understand why, as an owner–operator, I'm forced to comply with every single element of the DCP but when a large developer comes in, the DCP just goes out the door, they cut them all sorts of slack."

Peden is also worried about the children who will be using the centre. "They are not providing sufficient car parking and it's a corner block, so you've got children who will be getting out of cars near a corner on a busy road to get into a centre. The children don't have access to outdoor play areas. The potential for an accident is significant because they haven't been made to comply with the DCP."

And this is not the only problematic service. "We're finding that there's a lot of corporates, in conjunction with developers, opening very large centres in areas where there's not a demonstrated need."

Peden doesn't believe that the quality of some of these developments is consistent with the quality outcomes that are required under the EYLF or under the whole framework and regulations.

She also says she has never seen commercial leases like the ones being signed. "Developers are asking the lessee to pay a proportion of construction costs. Then they're signing them up to a lease for three-to-five years and then, if they want to activate that lease in three-to-five years, they're asking for another contribution of tens of thousands of dollars to be able to re-sign that lease."

She is also concerned about the contracts large providers are offering staff and their impact on relationships with children. "I don't know how they can even be legal."

According to Peden, there are staff on three-hour minimum contracts and if it's decided that they're not needed, they are told to go home. "If you're the one that that little person has bonded to for the day, and you're the only person that little person wants to deal with for the day, then tough luck, you've done your three hours, you can go home."

Peden says it is hard for the smaller providers to compete with the large developer-backed companies. "We've got these private equity groups coming in with really, really deep pockets and they're doing things like offering two months free childcare. That's an enormous attraction to parents who are cash strapped."

> At Affinity Education, only 11% of services were rated by ACECQA as exceeding the National Quality Standard. The national average is 30%.[1]

She also points to another large for-profit operator, in partnership with a developer in the area, that has offered $100 free groceries for every child who enrolled.

"My concern is that when I start complaining, I just look like a private centre who's whingeing about competition. I don't have any issues with competition at all, but flooding the market with childcare centres without ensuring the quality of the service that those centres can offer, I think, is extraordinarily problematic."

Peden says there is a problem with supply and demand. "We have a serious oversupply in the Newcastle and Greater Hunter areas." She also believes the councils in these areas have an attitude whereby they can't deny development applications based on the fact that other centres around aren't full, because they could be taken to the Land and Environment Court.

Peden believes the Australian Government should stop approving services for Child Care Benefit and Child Care Rebate as a way of ensuring supply meets demand. "Unless you can prove the centre you're building is needed in the area, you shouldn't be getting a CCMS licence."

Big business comes to Sutherland

Louise Murfet, the director of the community-based Jacaranda Preschool in the Sutherland Shire, shares Peden's concerns, with a rash of new development applications lodged in the Shire.

The *St George Leader* reported that 13 childcare development applications were lodged in the Shire over the last six months of 2016—the largest being a 174-place service. The 13 applications are for 800 new places overall. This compares to the 321 places approved in total in 2015, and 315 in 2016.

Murfet says that large providers are assessing the amount of new apartment blocks being constructed in the area and are building childcare centres to capture the families from these, without looking at existing supply in the area—where there is actually an oversupply of places for 3–5-year-olds and an undersupply for 0–2-year-olds. But Murfet says the Sutherland Shire Council told her they cannot reject a development application, just because of issues relating to oversupply.

She is also worried about quality. "I look at some of these places that are going in and there's no outside area. There's no outdoor with sky and sun and breeze coming for these children. They're undercover all the time and that really concerns me. Sutherland Shire is not the middle of Sydney. We are not in the CBD, so these big places that are going in, are they what is best for children?"

How will smaller services survive?

Like Michelle Peden, Murfet is concerned about the viability of smaller services like hers. "I truly believe that if you've got a good program, that people will continue to come to you," she says. "I think good services will last out. But at the same time, for the smaller service, one or two places can make a big difference to your viability."

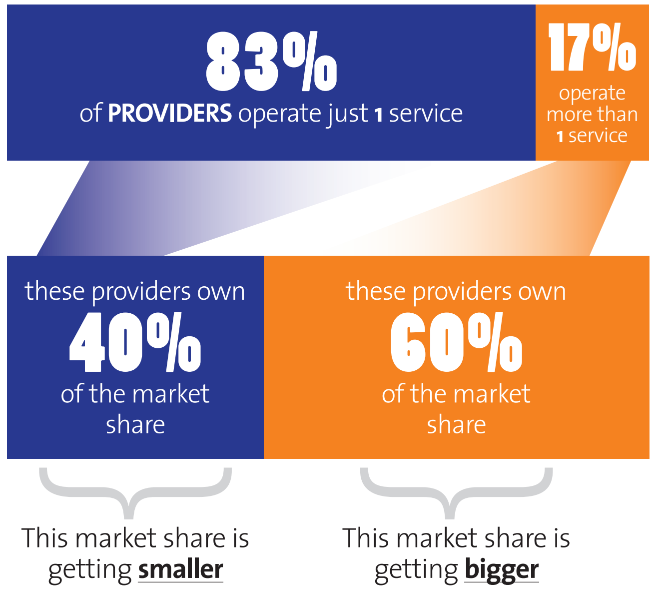
The *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities*) was released earlier this year, and proposes changes to the NSW planning system, making it easier for early education and care facilities to be built or "to ensure that facilities are well-designed, appropriately located, and fit for purpose". The proposed SEPP introduces physical environment requirements for services that match the National Quality Framework and will reduce approval delays for developers.

The SEPP will also change the ability of local councils to implement a development control plan that contains requirements that exceed NQF requirements. These include conditions councils can insert to provide higher quality care or care appropriate for their area, such as restricting centre sizes or requiring a certain number of places for 0–2-year-olds. The SEPP will also change a council's ability to reject a development application on the grounds of location—the development may be located at any distance from an existing or proposed centre.

Large developers, large corporate tenants and changes to planning policy means that smaller services will increasingly come under pressure and councils will find it more difficult to provide access to higher quality services in their local area. The SEPP is now open for consultation, and Community Child Care will be raising these issues with the NSW Government.

The stats that matter

The squeeze on small services[1]



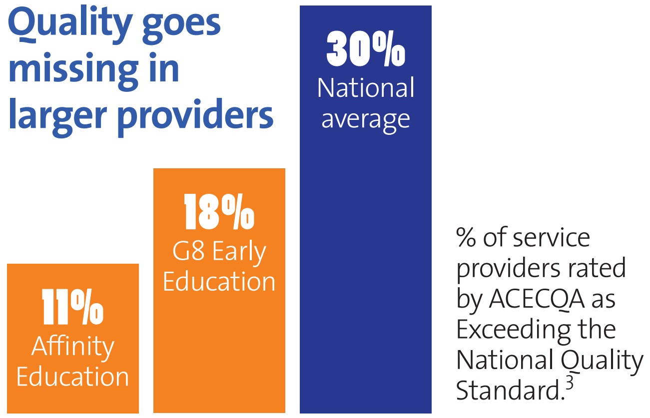
By 2036, in NSW there will be[2]...

2,700 extra LDC services

600,000 children under 5

Who will provide the additional places required?

Quality goes missing in larger providers



PROFITS = $1 billion Private profits created during 2015

1. Australia Children's Education and Care Quality Authority, *NQF Snapshot Q4 2016*.
2. NSW Department of Planning and Environment, *Draft State Environmental Planning Policy (Educational Establishments and Child Care Facilities*.
3. Australia Children's Education and Care Quality Authority, *National Registers*.

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And what about children?

Children? One might ask what do they have to do with any of this, really, because they seem to have been forgotten in this rapid expansion of services and places. Unless there are some very prodigious young learners out there, children wouldn't be overly concerned about who owns their early education and care service or issues surrounding private equity firms and profits, but they do recognise the good relationships with their peers and strong attachments with their educators. They might not be able to articulate it very well, but children know what a good service is.

Long-fought campaigns to improve educator-to-child ratios and the creation of the National Quality Framework had children at the centre of their focus, with the intention of improving outcomes for children attending early education and care services.

Many in the early education and care field recognise that good quality physical environments and quality educators result in children being better equipped with future challenges in life, which results in better communities. Yes, we all know this, but it needs repeating because it's apparent that the many people who should know better are not listening.

For some investors and private equity firms that are far removed from the day-to-day management of these services, educator-to-child ratios and quality standards are seen as impediments to profits, rather than something that improves outcomes for children.

As we saw with the rapid expansion of ABC Learning in the early 2000s, and the unbridled corporate greed that led to its collapse, early education and care at this level can quickly descend into chaos if left unchecked, only for governments to step in and sort out the resulting mess. The folly of high level corporate involvement in early education would not be tolerated if it were extended to the primary and secondary education sectors. So why is it tolerated in early childhood education?

Treating children and childcare as a commodity that relates more to "investment-grade assets" or "profit-to-childcare place ratios" than quality education means that we are standing at the edge of an abyss, where smaller services offering high quality education and care are squeezed out by corporate and private equity entities dangling all sorts of freebies and incentives to parents in their pursuit of profits. And, if this continues, it's a position that might be too difficult to scale back from.

Is your service being surrounded by new corporate entities or fast-tracked development? Share your stories with Community Child Care by sending an email to: **info@ccccnsw.org.au**

QUARTERLY WRAP

Some current movements and hot topics in early childhood education

New ACECQA CEO appointed

January 3: Gabrielle Sinclair is appointed as the new ACECQA Chief Executive Officer. Gabrielle comes to ACECQA with a wealth of knowledge and experience in children's education and care, and we look forward to working with her.

New minister in NSW

January 31: Sarah Mitchell is announced as the new NSW Minister for Early Childhood Education in a cabinet reshuffle caused by the resignation of Premier Mike Baird. Community Child Care CEO Diane Lawson has already met with the new Minister, continuing our strong role as an advocate for educators and children. Minister Mitchell has a three-year-old child in preschool, which she says provides with a parent's perspective in her new portfolio.

NQF changes are coming

February 13: Education ministers across Australia agree to make changes to the NQF, including clarifying and simplifying elements and standards. A revised National Quality Standard will be introduced in all states by 1 February 2018.

Kate Ellis to resign

March 9: Kate Ellis announces she will resign from politics at the next federal election. She is Shadow Minister for Education and Early Childhood, and was previously Minister for Early Childhood Education, Childcare and Youth.

The Omnibus bill

STOP PRESS!

March 23: The Australian Government struggles to have its 'Omnibus bill' approved and splits it into two bills. Community Child Care and 20 other peak organisations are voicing their concerns: the impact of the activity test on disadvantaged families; the emphasis on workplace participation and not early education; access for low-income families to at least 15 hours per week of early education; and additional top-up support (22.5) for ATSI families. **This is a rolling issue and updates will be provided through *Shortside*.**