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Territory Plan Section
Environment Planning and Sustainable Development Directorate
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DV352 – Changes to various development tables, codes and definitions including prohibition of child care centres in industrial zones

Thank you for the opportunity to provide comment on Draft Variation to the Territory Plan No. 352 (“Draft Variation”). We note that the Variation includes many amendments which also include the proposal to prohibit child care centres in industrial zones. This submission focuses on the changes to various development tables, codes and definitions including prohibition of child care centres in industrial zones.

The Property Council strongly urges the ACT Government to reconsider the wider policy considerations than strict prohibition of a particular use.

Overview
The Property Council does not support the proposal to prohibit child care centres in industrial zones, as set out in section 3.1.2 of the Draft Variation (“the Proposal”). The key issues around this prohibition is that the proposal does not seek to resolve the wider policy issues of the Industrial and Industrial mixed zones and ensuring appropriate facilities within these zones.

Industrial Zoning and Extent
The current application of Industrial zones and the spatial distribution of these areas within the Territory needs to be more carefully considered. Whilst it is understood that the provision of childcare centers may not be as appropriate for heavier or general industry, the blanket approach of prohibiting its use in mixed use industrial zones fails to adequately address the spatial size of these zones and those uses which are generally complimentary.

Due to the social and economic outcomes within the many of these zones and the need to ensure provision of essential services within these areas, it may be more beneficial to review the following:

- The current size and distribution of IZ1 and IZ2 to ensure that current and future land for these uses are met; and
- Consideration of additional zones for heavier industrial to provide adequate separation from other light industrial uses.
The area size and location of more noxious industries and Industrial areas away from mixed use Industrial zones

The Property Council believes that the Proposal unnecessarily seeks to curtail the objective assessment of child care facility development in suitable locations on a case by case basis. For example, appropriate design (such as careful siting and the use of natural barriers), and the development of management plans (such as for noise), can appropriately reduce risks for adjacent industrial land uses and the occupants of any child care centre. The protection of the health and safety of vulnerable persons (including children) can also be achieved through appropriate existing regulations (including child care licensing laws for example).

For the above reasons, we consider that the Proposal will result in poorer outcomes for these areas which are currently characterised by less industrial uses. The proposal is also likely to negatively impact many property owners that hold Crown leases that permit the development of child care centres in industrial zones, as well as the broader community that requires access to convenient child care.

Industrial zones and the health and wellbeing of vulnerable persons
The Draft Variation describes in the explanatory statement a variety of concerns regarding the establishment of child care centres in industrial zones. These concerns include references to the protection of the health and wellbeing of vulnerable people.

It is noted that child care centres are already subject to strict licensing requirements, including in relation to the siting of such developments. Further, as is noted in the Draft Variation, the Community and Recreation Facilities Location Guidelines General Code (“Guidelines”) provides specific guidance on the location of child care centres. These Guidelines promote appropriate objective assessment of proposed locations and their suitability. The need to buffer such development from the potentially harmful effects of industrial uses (noise and fumes) is specifically mentioned.

Noise impact considerations
The Proposal removes the possibility of an objective assessment of each case on its own merit. This is not to say that all sites in industrial zones are suitable for this use, rather that in many cases it will be possible to achieve suitable noise outcomes by a combination of:

- appropriate noise mitigation (specific noise barrier walls, use of building structures as natural barriers);
- careful siting of the centre - opportune use of natural space buffers between the centre and an actual industrial site (road reserves, easements, non-industrial zoned land parcels); and
- understanding the requirement that the occupants of neighboring land parcels meet their own noise emission obligations under the Environment Protection Regulation.

It is suggested that the Territory could consider inclusion of a new mandatory Rule in the Industrial Zones Development Code that requires that a Noise Management Plan (NMP) be prepared where a centre-based child care facility (or other potentially noise-sensitive land use) is proposed to be located on industrial zoned land.
As for similar assessments already required by Rules within the Commercial Zones and Multi-Unit Housing Development Codes, the NMP would be prepared by a suitably accredited noise consultant and need endorsement by the Environment Protection Agency. It should address external noise impacts onto the child care facility as well as noise emissions from the facility. The NMP would also detail the approaches to noise mitigation and siting discussed in the bullet points above.

The mandatory requirement for such an assessment (and commitment by the proponent to action the assessment findings) would help to manage the ongoing risks associated with potentially inappropriately sited or designed centres in industrial zones.

Co-location of Community Uses
The Guidelines also provide that child care centres present an appropriate co-location opportunity in relation to community uses that will not be prohibited under the Proposal. For example, the development of pre-schools and primary schools in the industrial zone will remain assessable in the Merit Tract as educational establishments. As noted in the Guidelines, compatible facilities (such as child care centres) should be clustered at every opportunity to provide a range of amenities to meet community needs.

We are concerned that a prohibition on child care in industrial zones suggests a bias (against parents) working in trades and industry in those areas. Many of these areas are located considerable distance to employment areas if not permissible within the zone.

In summary, the Property Council believes that in order to achieve flexibility which is consistent Territory Plan objectives, it would be preferable that the Proposal not proceed.

We trust that this review has been of use. Whilst we have chosen to only focus on the issue of prohibiting child care centres in industrial zones, we would welcome a further opportunity to be more fully briefed on other changes proposed, so we might provide further feedback.

We would like to thank you for the opportunity to review and comment on this proposal and as always, would welcome the chance to discuss any of our comments in person.

Please contact me on [redacted] should you have any questions.

Yours sincerely

ACT Executive Director