

[REDACTED]  
Person with Management or Control  
Telopea Park School Parents and Citizens Association Incorporated  
RE: Telopea Park P&C School Age Care Program

Email: [REDACTED]

Dear [REDACTED]

**Decision to issue Administrative Action RE: NOT-40795280**

1. As you may be aware, Authorised Officers of the ACT Regulatory Authority (the Authority), also known as Children’s Education and Care Assurance, recently assessed a Notification of Incident (NOT-40795280) relating to the operation of Telopea Park P&C School Age Care Program SE-00009710 (the Service) operated by Telopea Park School Parents and Citizens Association Incorporated PR-00005871 (the Provider).
2. The notification of incident advised that a child, known as [REDACTED] was found outside of the Service by a parent.
3. The Authority is satisfied that the Provider did not comply with the provisions of the *Education and Care Services National Law Act (ACT)* (the Law) and the *Education and Care Services National Regulations (the Regulations)* in this instance. Web addresses to the Law and the Regulations are provided for your convenience at the end of this Decision.

**Facts**

4. On 18 November 2022, a notification of incident (NOT-40795280) was submitted to the Authority by the Provider advising that on 18 November 2022 at 3:52pm, a child known as [REDACTED] was found outside of the school grounds by a parent who notified a Building Services Officer (BSO) who in turn, notified an educator. Refer copy of the Notice (minus attachments due to size) at Attachment A. Please note that attachments can be provided again upon request.
5. On 29 November 2022, the Authority received a response for information from the Provider. Refer copy of the Provider’s response at Attachment B.

**Law**

6. The Notification and Notice engaged the following provisions of the Law:

**Section 165(1) of Law - Offence to inadequately supervise children**

The Approved Provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Penalty: \$10 000, in the case of an individual  
\$50 000, in any other case.

**Section 167(1) of the *Law* - Offence relating to protection of children from harm and hazards**

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Penalty: \$10 000, in the case of an individual  
\$50 000, in any other case.

**Decision**

7. The Authority has considered all the information supplied by the Provider and is satisfied that there is sufficient evidence to ground an offence under section 165 of the *Law*, engaging an offence under section 167 of the *Law* in this instance.
8. In relation to section 165 of the *Law*, the Authority is satisfied, on the balance of probabilities, that the Provider did not ensure adequate supervision at all times on 18 November 2022. This resulted in [REDACTED] being outside of the school grounds until a parent and BSO brought this to the attention of an educator at 3:52pm.
9. Furthermore, the Authority is satisfied, on balance of probabilities, that the Provider failed to ensure all reasonable precautions were undertaken to protect children, by not ensuring adequate supervision of [REDACTED], and by not having sufficient processes in place to ensure that children booked into the Service are notified and collected after school, in contravention of section 167(1).
10. The Authority notes that this incident did not follow the transition plan between the Service and the School. The transition plan is required as per schedule 1, section 1.4(b) Transitioning Between School and Out of Hours Care of the Services Deed dated 29/03/2022. The Services Deed states Education and Care Committee must agree on and implement a transition plan that supports the daily transitions of children between the Service and the School.
11. The very nature of the incident, admissions to the incident occurring as detailed and the Provider's management of matter supports the contravention being determined.
12. The *Law* outlines a range of statutory actions which may be taken by the Authority in response to non-compliance. The Authority has the flexibility to choose the most appropriate action to support you to achieve compliance and improve outcomes for children.
13. Considering the evidence, the objectives and guiding principles of the *Law*, the compliance history of the Service, and the demonstrated steps taken by the Provider to mitigate risk of a similar

incident, the Authority has decided to issue this administrative action rather than statutory compliance actions to address the non-compliances.

14. In relation to substantiated breaches engage by the Provider under section 165 and 167 of the *Law*, the Authority requests the Provider to submit the following evidence to support risk mitigation actions have been undertaken:
  - a. Provide evidence of sufficient procedures in place for children transitioning to the Service after school.
15. Requested information outlined in paragraph 14 can be submitted to Authorised Officer Vittorio Colosimo at [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au). The Authority requests this to occur within 14 days of receipt of this decision.
16. This Decision is intended to bring to your attention the need to ensure that the Provider meets its obligations under the *Law*, in particular the obligation to ensure adequate supervision of children being educated and cared for by the approved Service and that children being educated and cared for by an approved Service are protected from harms and hazards.
17. This Decision will be recorded on the Service's file and may be considered in any future applications for approvals, amendments or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or associated Regulations be found.

### **Legislation**

18. The *Law* applies to you as a provider and any service you operate. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011* <http://www.legislation.act.gov.au/a/2011-42/default.asp> . The *Law* and *Regulations* can be viewed at: <http://www.acecqa.gov.au/national-law> , and <http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>.
19. Should you have any questions about this Decision please contact Authorised Officer Vittorio Colosimo at [Vittorio.Colosimo@act.gov.au](mailto:Vittorio.Colosimo@act.gov.au).

Yours Sincerely,



Jo Williams  
Director  
Children's Education and Care Assurance  
Education and Care Regulation and Support  
ACT Education Directorate

8 February 2023