



SUBMISSION

IN RESPONSE TO THE IPART

REVIEW OF THE

LOCAL GOVERNMENT RATING SYSTEM

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RESPONSE TO IPART DRAFT RECOMMENDATIONS

Thank you for the opportunity to make a submission in response to the IPART review of the Local Government Rating System.

We acknowledge and support the submissions already made by the Uniting Church in Australia, Synod of NSW & ACT and Aged and Community Services Association of NSW & ACT. We also acknowledge the Tribunal's aims to enhance Councils' ability to implement sustainable and equitable fiscal policy.

Uniting is a Public Benevolent Institution (PBI) operating within the framework of the Uniting Church in Australia, Synod of NSW & ACT. It conducts its activities on a not-for-profit (NFP) basis.

This paper is submitted in response to the questions raised for comment, insofar as they hold relevance to Uniting and its activities, and with regard to:

- the appropriateness, or otherwise, of current exemptions, specifically:

10. Are the land uses currently exempt from paying council rates appropriate? If a current exemption should be changed, how should it be changed? For example, should it be removed or more narrowly defined, should the level of government responsible for providing the exemption be changed, or should councils be given discretion over the level of exemption?

and to,

- the draft recommendations presented in respect of the amendment of exemption provisions of the *Local Government Act NSW (1993)*.

As expressed in the Synod submission *"many of those we serve are socially and or financially disadvantaged. We receive significant government funding in order to provide services to the community as part of our mission activities and/or part of specific government program and are held to account for our use of these funds."*

We support the view expressed by the Uniting Church NSW & ACT Synod that the tribunal has appropriately identified the challenges of reform, however, we express our concern at the less than holistic view adopted in the draft report with regard to the benefits that public benevolent institutions in particular provide to individual local communities and to Australian society.

The role of the Not-For-Profit sector is complementary and vital to the health of the local government area.

Successive state and federal governments have historically approached and supported church-based and public benevolent institutions to take best advantage of their substantial community networks and infrastructure as an effective means of funding and implementing social benefit initiatives across a broad spectrum of community activities.

The interpretations expressed in the draft report on land use fail to recognise the public benefits currently provided through church, charitable and public benevolent institutions and, if implemented without supplemental compensatory funding, may result in transfers of responsibility for delivery of services back to state and federal governments.

About Uniting

Uniting is a Public Benevolent Institution (PBI) of the Uniting Church in Australia, Synod of NSW & ACT. As a PBI it is a not-for-profit (NFP) charitable entity.

Services offered by Uniting

Uniting is a significant contributor to providing care and support services for the aged, disabled, children and families, and other community groups.

As the largest provider of Aged Care services and the third largest provider of children's services in NSW, Uniting is committed to promoting choice, wellbeing and quality of life for the disadvantaged and marginalised.

Uniting services include:

- 76 Residential Aged Care services
 - 5,325 aged persons accommodated
 - 2,375 of these places (44.6%) are currently occupied by financially vulnerable aged persons with support from Federal Government through modest concessional accommodation subsidy funding.
- 80 Independent Living and Affordable Housing communities
 - 2,621 Independent and Supported Living units, comprising:
 - 1,721 Independent Living Units
 - 900 units (33.7%) provided for vulnerable aged persons in financial hardship or at risk of homelessness – being;
 - 722 Affordable and Supported Housing places
 - 20 Social (community) housing dwellings
 - 158 National Rental Affordability Scheme places
- 10 National Rental Affordability Scheme developments
- 1 Rehabilitation Hospital (funded by NSW Dep't of Health through the South East Sydney Local Health District)
- 1 Medically Supervised Injecting Centre
(funded by NSW Department of Treasury from the proceeds of crime)
- 60 Child Care centres
- 4 Youth Out of Home Care houses
- 24 Centre-based Day Care centres
- Disability services
- 2 Aged Care respite houses

Public Benefit

Services provided by Uniting are for the public benefit consistent with its status as a public benevolent institution (PBI). We support the vulnerable and the disadvantaged and do not generate a normal commercial return. The business models of each service are designed to provide the highest level of community benefit possible and still maintain viability.

The IPART draft paper implies that all retirement village and child care services are commercial activities (Table 6.1). On the contrary, we exist, with the support of governments and the community, to meet the special care needs of varying community groups, including children, families in crisis, the elderly, the disabled, the disadvantaged and the marginalised. In so doing, for example, we may charge a market rate in one of our child care services to allow us to offer places for children with special needs who may not otherwise receive child care from a commercial operator.

Deloitte Access Economics Review

In May, 2013 Deloitte Access Economics (Deloitte) produced a comprehensive report, commissioned by Local Government NSW (LGNSW) “to conduct an analysis of the current local government rating exemptions in New South Wales and, based on the findings of this analysis, make recommendations for reform.”

In Section 5 of their report, Deloitte focussed on the impacts of the current exemptions. Included within that section was a specific case study, 5.1.1 “Retirement Villages operated by charitable institutions”, to which we refer later in this submission.

Section 6 contained Deloitte’s “Findings and conclusions”:

As a guide to future exemption considerations, for rating exemption to be justified it must be demonstrated, firstly, that there is a legitimate case for rate relief of some form; secondly, that exemption is the most appropriate form for this relief to take; and, thirdly, that an exemption can be specified in legislation in a manner that upholds its intent.

- *In relation to the former, the critical considerations continue to be in relation to equity; especially capacity to pay. In this respect, genuine charitable activities; activities with a public, social or community contribution; and intergovernmental agreements will provide the primary bases.*

The exemption reform recommendations contained in Table 6.3 of Section 6.1.2 of the Deloitte report (extract follows) as they relate to land used for religious and for charitable purposes are:

Table 6.3: Overall Recommendations (EXTRACT)

Group	Land Use Category	Recommendation and reform considerations
4	Land used for certain religious purposes	Refine <ul style="list-style-type: none">• Religious institutions and charitable institutions should be treated equivalently.• Consider amending the legislation to allow for a minimum rebate on applicable rates. Additional rebates could be granted at council discretion, provided that there is a demonstrable community benefit.
5	Land used for charitable purposes	Refine <ul style="list-style-type: none">• Religious institutions and charitable institutions should be treated equivalently.• Establish stricter qualification criteria to ensure that exempt land is not used for commercial purposes.• Consider amending the legislation to allow for a minimum rebate on applicable rates. Additional rebates could be granted at council discretion, provided that there is a demonstrable community benefit

Commercial Activity definition

The IPART draft report focusses on the application of exemption from rates based on land use over ownership.

The draft report identifies that an activity is considered to be a commercial activity if it:

- involves the selling of goods and/or services
- is provided at more than a nominal consideration¹
- is undertaken on an ongoing basis
- is not the provision of a public service

The suggestion is that all of these criteria need to be met in order for an operation to be regarded as commercial. For example, it appears that an entity providing a public service charging more than a nominal consideration (50%) would be commercial. This is unreasonable as not for profits need to be viable and providing services for less than a nominal value is not sustainable.

It is also noted that the IPART public service criteria is broader than the Deloitte proposal of demonstrable community benefit.

Whilst providers may charge above nominal rates for certain activities, these charges fund other benefits to the community. They do not exist to generate profits for distribution to the benefit of individuals.

Our services provide financial value to Local Government

In engaging in activities that directly benefit the community, Public Benevolent Institutions provide financial relief to governments – local, state, and federal, and to taxpayers as they provide, maintain, and build properties and infrastructure to support service provision.

These benefits include attracting residents and employees, creating local supplier and employment opportunities, rental and housing demand, financial benefits for shopping centres, and retail outlets, as well as providing much needed services locally for the immediate benefit of the community. In NSW, Uniting employs over 8,000 people.

Through our benevolent activity, extended to the communities we serve as part of our religious purpose, we provide financial benefits to local residents by way of wages and salaries, and to local commerce by way of goods and services.

As such, we see it as appropriate for all relevant providers, regardless of their charitable status, that there is some recognition, through rate differentiation or exemption, of the public benefit of these services to the community.

¹ The ATO GST benchmark is proposed as the basis for normal consideration (50% of market value, {75% for accommodation}).

Residential Aged Care Services

Aged care facilities (including facilities formerly known as Nursing Homes) should not be regarded as either places of accommodation or purely commercial activities. Their primary existence is one of direct public benefit, no different to a hospital, in the constant care and support of the elderly who cannot take appropriate care for themselves or whose care needs cannot be provided adequately by their immediate family.

Not-for-profit providers deliver 65% of residential age care places in NSW, predominantly through small residential aged care facilities. This sector has a particular focus on the disadvantaged members of the community, reflecting its status as a benevolent service provision sector, rather than a profit-making sector.

We refer the Tribunal to page 4 of the Aged and Community Services Association's submission for the key features of aged care services. A delicate tension exists between hospital care and residential aged care. Aged care residents rated as high care receive clinical supports that could be provided at a much higher cost in a hospital setting.

On the basis of the principles contained in box 6.1, we believe that aged care facilities operated by organisations with PBI status should continue to be exempt. They provide a public benefit, just like hospitals.

If the proposed amendments to S.156(1) of the Local Governments Act 1993 (NSW) in respect of land used by private hospitals are to be adopted then these should also be broadened to specifically include Aged Care services.

Retirement Villages

Approximately 40% of retirement villages in NSW are operated by not-for-profit organisations who ensure their accommodation is more accessible to people with low to moderate incomes requiring lower upfront fees and offering a proportion on an affordable weekly rental basis.

Uniting is not an operator of exclusive or expensive resort-style communities for seniors living in the same sense as many emerging retirement living offerings. It is important to emphasise the principal of equity raised by Deloitte and to recognise the fact that not all retirement communities are for the wealthy.

Whilst independent living units are an accommodation choice for some, our units are occupied by many people of low means and are not available to people under retirement age.

One third of Uniting's units are occupied by socially and financially disadvantaged seniors. These are supplied at substantially lower cost than market rental rates. In FY2016-17 Uniting will apply almost \$10 million to support the continuing operation of independent living communities as a direct result of its commitment to provide social and affordable housing to those in need. The proposal to remove the rate exemption will increase the amount required to support these operations.

The socially and financially disadvantaged seniors are eligible for social housing. The IPART review (6.3.1 and 6.3.2) proposes that private hospitals and schools be exempt from rates on the basis of significant public benefits (despite charging for services at considerably higher than nominal rates). This is a variance to the commercial activity criteria set out in the IPART draft review.

Independent Living communities can be categorised as ‘a community of interest’ consistent with the definition in the draft report, and as set out in box 5.1:

An area would have a different ‘community of interest’ if it is within a contiguous urban development, and it has different access to, demand for, or costs of providing council services and infrastructure (when compared to other areas in that development).

Retirement villages should be regarded as a “community of interest”. The residents already pay for waste removal through their recurrent charges and most village communities are self-contained in terms of having as a minimum, their own community rooms, library facilities, gardens, BBQ areas and road infrastructure. Some have more elaborate community facilities such as pools and fitness centres. Provision of these communal facilities reduces the burden on Council provided facilities and in many cases, members of the public are also able to make use of these services.

If exemption status is to be removed, as a minimum, a lower rate should be determined, and, as any rate cost incurred will be passed on to residents, that there be an exemption provided for those social and affordable placements within each independent living community.

As it is legitimate for retirement village operators to recover any rates charged from the residents, a full rate levy would put retirement community residents who receive an aged pension at a disadvantage when compared to people living in the community and entitled to apply to council for rate exemptions (often home owners). It is estimated that over 80% of Uniting’s retirement community residents are entitled to receive the aged pension. It would not be equitable for seniors, largely entitled to the aged pension, to bear such financial burdens when already paying privately for the communal infrastructure they use.

If Uniting were required to apply to each individual council for consideration of rate exemption for the 77 communities we provide in NSW, this would place a huge administrative burden on the organisation. In such circumstances, clear rate exemption criteria should be mandated so that the process was as free from discretion as possible in order to streamline the decisions.

It is proposed that equity would require the commercial activity criteria be amended to read “significant public benefits”.

Respite Cottages and Centre-based Day Care Centres

Uniting provides services funded through Commonwealth Home Support and National Disability Service initiatives to clients and carers.

The day centres provide activities and services, including social outings, information services and counselling, health checks, physical activities, rehabilitation and other care services to disabled and elderly clients.

Respite homes offer short term accommodation and care typically for between one and three nights per occasion.

All funding is provided by government and requires the delivery of agreed and measured service outcomes. The funding is fixed by way of grant or regulated fee for service. Any contribution that can be asked of the client is also usually regulated. Grant programs are breakeven with any aggregate surplus funds (including client contributions) required to be returned to the government or rolled over into a future funding period, if approved.

Uniting is of the view that these do not constitute a commercial activity in the normal sense, as there is no opportunity for profit taking. Furthermore, many of these services are subsidised directly by Uniting from its investment income as current government funding is inadequate to operate many of the programs.

Respite and centre-based activities are for the benefit of special needs groups within the community and should not be considered as a commercial activity. Such activities provide a public benefit and should be exempted.

Child Care Centres

Our childcare centres provide a significant public benefit. In addition to providing support to children with special needs (thereby requiring additional staffing) the centres provide early intervention to children and families for social and developmental issues that would require additional expenditure by the State health or social services systems if left to later in life.

Administration and Support Operations

Many of the support functions required to support the service delivery operations of Uniting are located on Church properties. These activities are not commercial activities in so much as that they do not generate an income.

It is unclear as to how a determination on the applicability or otherwise of rates would be made or whether these will be exempt.

Many of the Church buildings and community halls are used by the general public to enable a range of activities.

All of the activities that Uniting conducts are undertaken as a part of the religious activity and social justice mission of the Uniting Church in Australia and for the public benefit. An exemption from rates should be applied to all support activities.

Other matters

Beyond the views we have expressed within this submission, which are of particular interest to Uniting, we offer the following for general consideration.

Continuation of the pensioner concession scheme

Pensioners who have managed to own their own homes are often asset rich but have very limited disposable income, and no way to increase that income. They don't have surplus funds to pay full council rates without experiencing hardship.

Placing what amounts to an encumbrance on their residential property is unsatisfactory. It will necessitate additional bureaucracy, requiring calculation, billing, record-keeping systems and administration, and customer service support. These additional costs will in all likelihood outweigh the current cost to council of the existing concession scheme.

We note that the LGNSW submission supports retaining pensioner concessions.

"LGNSW supports pensioner concessions and has advocated that they be increased to more realistic levels. However, as a welfare measure these concessions should be fully funded by other spheres of government with a broader taxation base. Currently, councils fund about 45% of the rebate with the remainder funded by the NSW Government. The NSW Government is the only state government that does not fully fund mandatory pensioner rate rebates."

Impact of exemption removal

As stated in the Uniting Church in Australia, Synod of NSW & ACT submission:

“Our activities support the local communities through services provided, access to facilities, training and employment. The consequence of eliminating the current rates exemption would be increased costs. This would necessitate a closure of some operations, a reduction in activities or the introduction of [where possible] additional, or increased charges to the beneficiaries of our activities.”

Most of the services Uniting provides are subsidised by proceeds generated from investment activities. A few forms of service generate a surplus that represents a return to capital lower than the current term deposit rates. The increased burden created by the removal of rate exemptions will necessitate a review of financial capability, which will result in the withdrawal of some services to the community. This outcome is not in the best interests of local government.