



specialist aged care

# Submission

**June 2018**

## **Inquiry into the Financial and Tax Practices of For-Profit Aged Care Providers**

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On 10 May 2018, the Senate referred an inquiry into the financial and tax practices of for-profit aged care providers to the Senate Economics References Committee for inquiry and report by 14 August 2018.

This submission is made on behalf of Opal Aged Care.

## Introduction

Opal is one of Australia's largest residential aged care operators, caring for over 6,000 residents across 72 homes and employing over 7,000 staff. Since 2013, Opal has invested over \$450 million in developing, upgrading and extending current homes and maintaining its existing homes for the benefit of our residents and employees.

In addition, from 2018 to 2023, Opal is planning to invest significant capital in building, expanding and refurbishing 22 new and existing homes, increasing the market supply of places available for future residents by more than 2,500.

Opal takes its tax compliance responsibilities seriously and we have an open and transparent relationship with the Australian Tax Office (**ATO**). Over the past five financial years, from 2013 to 2017 inclusive, Opal has paid more than \$100m in taxes comprised of income tax, fringe benefits tax, payroll tax, stamp duty and land tax.

## About Opal Aged Care

Opal is an approved provider<sup>1</sup> of residential aged care in Australia. Opal has been an operator of residential aged care since 2007. Forty three percent (43%) of our residents are government supported, i.e. full or part pensioners.

Our mission is to deliver the highest quality care and services to our residents and their families at an important time in their lives. We are very aware of the responsibility that is placed upon us to care for our residents and strongly believe that our financial returns will depend upon the sound value that we create for older Australians in need of support.

Opal conducts its operations through a registered nurse led model which means that our clinical leadership at all our homes is led by a qualified registered nurse. We believe this is a critical enabler for the delivery of the high quality care expected by our residents and their families. Opal supports the Government's recent announcements regarding the further strengthening of accreditation and compliance standards, the establishment of a single Aged Care Quality and Safety Commission and improvements to market transparency. We believe the industry benefits from a well-regulated residential aged care sector.

## Opal's owners

Opal is owned by several AMP Capital managed investment funds and G.K. Goh Holdings Limited, a SGX-listed company, via its Australian subsidiary, Allium Holdings Pty Limited. AMP has been an active investor in Australian residential aged care since 1999. Allium Holdings Pty Limited has been a shareholder of Opal since 2013.

## Opal's investment in the sector

Opal has made significant investment in the Australian residential aged care industry to support the

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<sup>1</sup> "Approved provider" has its meaning defined under Part 2.1 of the *Aged Care Act 1997*.

growth in operational places to meet the Government's medium term bed supply targets. We believe that private aged care providers play an important role in meeting the current and future aged care needs of Australians while delivering choice and driving innovation.

Since 2013, Opal has invested over \$450 million in developing new residential aged care homes, upgrading and extending current homes and maintaining its existing homes for the benefit of our residents and employees. This investment has resulted in a net increase of over 780 residential aged care places over the past five years.

Our investment in the residential aged care sector over the past five years has resulted in Opal employing more than 1,000 additional workers to care for our residents. We anticipate that our planned investment in the next five years will grow our workforce by at least 3,000 residential aged care workers, providing meaningful jobs growth for Australia. Furthermore, included within our portfolio are 15 homes in regional locations which care for over 1,000 residents and provide employment to over 1,300 staff residing in our rural communities.

Over the next five years, from 2018 to 2023, Opal is planning to invest significant capital in building, expanding and refurbishing 22 new and existing homes, increasing the market supply of places available for future residents by more than 2,500. We expect this investment pipeline to grow with the anticipated allocation of residential places in the Government's annual Aged Care Approvals Round process.

### **Opal's commitment to social responsibility**

Since 2017, Opal has been a founding member of the Shared Value Project, the not-for-profit peak practice organisation working with its members in Australian corporations, large NGOs and the Commonwealth on business-led responses to social needs in Australia, and in our region. Opal's shared value approach starts with identifying unmet social needs, and mapping those needs against our capacity to address them. Opal has recently begun a program to identify and understand the unmet needs of communities local to our facilities, in coordination with service providers and local government.

One area of Opal's shared value work is creating healthy lives: physically, mentally and socially. We provide support and care for our residents and staff and offer leadership to the community in the process of ageing and life's most significant transitions. Two examples of which are the long-standing partnerships Opal has with Dementia Australia and LifeCircle, which address two of the key areas in residential aged care, namely dementia and end of life care. Opal has worked closely with Dementia Australia to train staff in better care practices for the more than 40% of residents who have a diagnosis of dementia, improving the quality of life for all involved. LifeCircle and Opal have been running a pilot program to improve the end of life conversations for carers, residents and families by providing education and awareness on health and ageing at this difficult stage of life.

We see consumer directed care as an opportunity to drive innovation and improvement: to keep adapting to the needs of the communities we support. We work hard to attribute fair value to services, achieving a balance between investment in our people, accommodation and technology, while keeping care affordable. This approach to Opal's operational and financial performance has assisted the

company to adjust to the reduced ACFI funding allocation while continuing to deliver high quality aged care.

### **Response to the Report**

As a private aged care operator, Opal is required to pay corporate income tax and indirect taxes. On the other hand, not-for-profit aged care providers are exempt from income tax and concessions apply in relation to GST, FBT and indirect taxes.

Over the past four financial years, from 2014 to 2017 inclusive, Opal has paid more than \$100m in taxes comprised of income tax, fringe benefits tax, payroll tax, stamp duty and land tax. Of this amount, over \$40m relates to Opal's combined income taxes paid.

We were disappointed with the recently released report commissioned by the Australian Nursing and Midwifery Foundation and prepared by Jason Ward from the University of Tasmania titled "Tax Avoidance by For-Profit Aged Care Companies: Profit Shifting on Public Funds" (the **Report**). This report was deficient in its analysis of Opal's state of tax affairs in the 2014, 2015 and 2016 financial years and misrepresented Opal's strong commitment to Australian corporate income tax compliance by not providing appropriate context behind the level of corporate income tax paid by Opal in those years.

The Report also failed to recognise that during those years, Opal's corporate income tax paid was reduced due to its lawful utilisation of carry forward tax losses in determining the taxable income for its tax paying entities. These carry forward tax losses were attributable to losses incurred in the normal course of business and external debt refinancing activities. The losses primarily related to a period of difficult trading conditions following the acquisition of Domain Aged Care in 2008 and the ensuing Global Financial Crisis. Some of these losses were utilised to offset against the taxable income in those abovementioned years.

Following the utilisation of these prior year tax losses, Opal paid \$20m of income tax in respect of the 2016 financial year on taxable income of \$66.6m. It is expected that the income tax payable for the 2017 financial year, once the tax returns are finalised and lodged in mid-July, will be comparable, albeit reduced from the 2016 financial year due to difficult trading conditions in the sector as a result of reduced funding.

The Report also made reference to related party loans to the Opal group and "repayment of subordinated related party loan" of \$88 million in the 2015 financial year and \$83 million in the 2016 financial year by DAC Finance Pty Limited. We note that the Opal group has no borrowing arrangements with any offshore (related or unrelated) entities. During the abovementioned years, its related party borrowings were from Australian entities that were subject to the prevailing corporate tax rate.

Opal takes its tax compliance responsibilities seriously. We are committed to acting with integrity and transparency in relation to all tax matters. In this regard, we would like to advise the Committee for their reference that the ATO is currently undertaking a review of our corporate tax affairs as part of their normal tax assurance engagement with taxpayers.

### **Accountability and disclosure**

Opal complies in all regards with its extensive accountability and reporting requirements. The extent of these requirements is referenced in the Stewart Brown submission to this Inquiry and incorporates both Department of Health and Accounting Standard requirements.

### **Sustainability of the sector**

The financial sustainability of the sector is challenged following recent reductions in the funding for residential aged care. Opal's profitability fell in the 2017 financial year and is forecast to reduce again in 2018. More effective indexing of subsidies and the implementation of a number of recommendations from the Tune Review would assist in improving the financial viability of the sector, ensuring care standards are met and the forecast future expansion of places, including those provided by Opal, are achieved.

### **Conclusion**

Opal takes great pride in our contribution to the Australian residential aged care industry. Most importantly we are proud of the care and services we provide to our residents and the contribution we make to their lives every day.

### **Contact**

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