



# *The Fifth Wheelers Network Inc*

Registered Number: A0047125Z

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*Sharing a Lifestyle*

## Local Government Division

# Review of Council Recreational Vehicle Overnight-Camping Services

### **PREAMBLE**

Following the receipt of four complaints from caravan park owners regarding free camping offered by Councils, the Office of the Tasmanian Economic Regulator found that the Councils were in breach of competitive neutrality principles under National Competition Policy that government organisations are required to follow.

Members of the Fifth Wheeler Network Inc (FWN) who travel in caravans larger than average and which are universally self contained are seriously affected by these findings. The adverse result for the Tasmanian economy is that many members (and numerous other caravan and motorhome owners) will no longer view Tasmania as a suitable, affordable destination for their travels.

In order that the FWN fully understand the process resulting in the Council operated free camping no longer being available, one of its Consultant members, Frans Hamer, undertook independent research in order to prepare this submission.

Mr Hamer (see attached CV), has significant experience in regional economic development issues, particularly in North and Regional Queensland and has an understanding of the workings and the requirements of government, having been a Director of various government Corporations, Councils and Committees for over 25 years, many involving regional economic development.

Mr Hamer has been travelling Australia full time for the past 5 years, and has been to every State and Territory as a visitor/tourist. This has afforded the opportunity to compare individual States' performance in attracting and accommodating the requirements of CCM (Caravan and Camping Market) travellers, and in particular, the needs of our members of the Fifth Wheeler Network Inc.

### **CONCLUSIONS - RESULTS OF RESEARCH**

The result of the independent research has led the Fifth Wheelers Network (FWN) to the conclusion that there has been significant errors made.

The decision by the Office of the Tasmanian Economic Regulator to declare the provision of the free camps in question as "*in breach of competitive neutrality principles under National Competition Policy*":

1. is completely out of step with the decisions of other states;
2. appears to be in breach of *The Economic Regulator Act 2009*;
3. does not appear to conform with the Tasmanian Government Policy "*Significant Business Activities and Local Government in Tasmania, April 2004*;
4. does not fully take into account the affected market;
5. does not take into account the travel patterns of RV travellers;
6. will substantially increase the cost of visiting Tasmania to the advantage of the other States;
7. will not increase the turnover of the caravan parks making the complaints, while, at the same time...
8. ...is not in the best interest of the businesses in the towns involved, and;
9. will reduce the number of visitors to Tasmania at the expense of the Tasmanian economy;
10. will damage the Tasmanian economy in the order of up to \$40 million per year for the questionable benefit to only a handful of caravan parks.

## RECOMMENDATION

The findings can lead to only one principal recommendation.

**It is recommended that following the receipt of all comments and submissions to the Directions Paper, the Minister requests the Regulator to review the Regulator's decision. The review should take into account the contents of all the submissions and new information including the apparent anomalies in making the decision, listed below in this submission. The Regulator then issues a report to the Minister accordingly.**

**Should the Regulator not reverse the decision, then on receipt of that report, the Minister should, under *Section 59 of the Economic Regulator Act* provide the Regulator and the Complainant written notice that the Minister intends taking no action on the complaint.**

**Alternatively, the Minister should advise the Complainant, the four Councils and the Regulator that based on further information received during this public consultation period, he will reverse his previous decision under *Section 59 of the Economic Regulator Act* and will now take no further action on the complaint.**

**To do otherwise is against the best interests of the Tasmanian economy, will have a significant adverse effect on numerous small businesses directly affected, and risks causing a substantial downturn in Tasmania's CCM traveller market, compounding the already reduced preferences of Tasmania as a destination.**

It must be noted that the decision to take this high risk path where the consequence will undoubtedly be an adverse effect specifically on the economy of a number of towns and generally on the Tasmanian economy was made by the Minister for Local Government and not the Regulator. To be fair, the Minister acted on information from the Regulator which we consider was incomplete.

Under *Section 59 of the Economic Regulator Act*, following receipt of the report from the Regulator, "the Portfolio Minister is to provide the Regulator and the complainant with written notice of any action he or she has taken or intends to take as a result of receiving that report".

This action also includes taking no action which would appear to have been the prudent decision.

The Directions Paper should be immediately withdrawn because proceeding with the elimination of free Council camping is against Tasmania's best interests.

## THE ISSUES

Our review of the process and the decisions which has led to the Directions Paper has identified the issues which required further scrutiny as follows:

1. The Caravan Park complaints;
2. The Regulator declaring the freedom camps as "Significant Businesses";
3. The affected market ("Relevant Market");
4. The travelling patterns of the Caravan and Camping Market (CCM);
5. The resultant cost disadvantage of travelling to Tasmania compared to other destinations;
6. The likely economic loss to Tasmania.

### 1. THE CARAVAN PARK COMPLAINTS

It needs to be understood that the complaints by the four caravan parks in Tasmania is not just a Tasmanian issue but in fact is part of a concerted Australia-wide campaign by the Caravan Park Lobby (CPLobby) attacking freedom camping in different ways in various states in order to increase their profitability.

In particular, the caravan park lobby has been very successful in receiving government assistance in reducing competition and in effect receiving a monopoly position in many towns which has subsequently allowed them to increase their rates.

The campaign is initiated in each State by one or more caravan park owner making a complaint against the Local Authorities' provision of free camping or low cost camping in their showgrounds and reserves on the basis of Competitive Neutrality.

In **Queensland**, the Ombudsman correctly dismissed the Competitive Neutrality argument as not applying to caravan parks as they did not meet the criteria for a "Significant Business". The CPLobby then changed the attack to the use of the showgrounds under the Queensland Land Act. This has resulted in some caravan parks becoming a monopoly in some towns.

In **NSW**, the CPLobby is now taking the direction of using the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds And Moveable Dwellings) Regulation 2005* in order to close freedom and low cost camping supplied by the local authorities after the Competitive Neutrality argument was correctly not accepted.

The **Western Australian** recent Parliamentary Inquiry also did not consider the Competitive Neutrality argument and in fact, the Committee's report to Parliament made no mention of it. A result of that Inquiry has led to the commitment by the WA Government to repeal *Regulation 49* of the *Caravan Parks and Camping Grounds Act 1995 (WA)* which had offered protection and a degree of exclusivity for commercial caravan parks for the last 17 years.

So far, both the **Victorian** and the **South Australian** governments have not accepted the argument that Competitive Neutrality Principles apply to caravan parks.

A common thread throughout the nation-wide campaign is the statements that the viability of the industry is at risk or that caravan park profitability is reducing. Similar comments were made in a recent ABC 7:30Report program in Tasmania. These have been shown to be completely false. Contrary to these assertions:

- ✓ Our investigations did not find any caravan park in Tasmania closed due to a viability issue although a number have sold at high prices for re-development;
- ✓ Tourism Tasmania data show that there has been a 23.1% increase in motorhomes and campervans staying in caravan parks in the 12 months to June 2011. This is hardly falling on hard times;
- ✓ ABS data shows that nationwide, the number of powered and unpowered sites have been reducing while the number of cabins have increased by an average of 6.5% per year over ten years while the number of RVs has tripled over the 10 year period. This demonstrates that the industry is turning away from servicing the CCM travellers to competing with motels;
- ✓ The independent IBISWorld reports that caravan park industry's profitability at 17.9% compares with the tourist sector as a whole of 17.8%, so there is no viability issue as claimed;
- ✓ Mr Ben Yates, the CEO of CRVA, the national body for the industry, has stated that:

*"Our industry has proven that it's practically recession-proof," he said. "In the midst of shrinking revenue levels across the board in almost all our competitor markets, the caravanning and holiday park industry continues to boom."*

Consequently, Tasmania is the only State which has not seen the complaints for what they are – a part of an Australian wide cynical, misleading campaign without merit. Also, Tasmania is the only State interpreting the National Competition Policy in the curious, narrow, seemingly inappropriate manner in which the Regulator has, which is completely against the best interest of Tasmania.

It should be further noted that the Latrobe complainant has been happily operating the caravan park for the last 5 years while there has also been free camping. The fact that he made the complaint after 5 years and, (not coincidentally), at a time when the Caravan Park industry is embarking on a nation-wide campaign against free camping questions the validity of the complaint.

## **2. THE REGULATOR DECLARING THE FREEDOM CAMPS AS BUSINESSES AND AS “SIGNIFICANT BUSINESSES”;**

This submission does not dispute the fact that under Tasmania’s Policy *Significant Business Activities and Local Government in Tasmania, April 2004* the Economic Regulator has the ability to declare a Council run business as “a business”.

However, this does not make the decision for the free camping correct, logical or appropriate and appears to have been made without adequate research by the Regulator.

It would appear that the Regulator has not considered the origin and purpose of the free camping provision. The free camping areas were established a considerable time ago not only as a promotion of the town to increase the income of the local businesses and the district’s economy, but also to attract visitors from the mainland by countering the additional high shipping cost.

It is obvious that the free camping is not a business as the only role played since its inception is a marketing and promotional tool to attract visitors to the area in order to generate additional economic benefit to both the businesses and the general community.

To use the Latrobe example, Latrobe offered free camping long before the caravan park was established. The free camping was situated at Bells Parade opposite the location of the caravan park proposed by the complainant. The Council supported the establishment of the caravan park and relocated the free camping and the dump point to a new location away from the proposed caravan park.

The complainant was made fully aware that free camping would be allowed at the new location.

Consequently there are **two issues where the Regulator’s decisions are in error.**

**Firstly**, Under Part 6, Section 51 *The Economic Regular Act 2009* the Regulator should refuse to conduct an investigation if:

(a) *that the complaint does not contain –*

(iii) *matter showing how the complainant has been adversely affected by an act of the prescribed body; or*

(c) *that there is no evidence that the complainant has been adversely affected by an act of the prescribed body;*

Quite obviously, the complainant has not been adversely affected as he established the business knowing full well that free camping was to continue to be provided and, additionally, he could therefore not provide evidence that he has been adversely affected. To prove he has been adversely affected he would need to compare his income before and after the free camping was established and this is not possible as he established his business knowing full well that the free camping would continue.

There are many cases where caravan parks have increased turnover when free camping has been established as part of CMCA’s RV Friendly Town scheme which attracts additional travelers some of whom also use the caravan park.

**Secondly**, the complainant, being fully aware of the Councils' promotional activity in continuing to provide free camping, took this into account in his business model when deciding to establish the caravan park. Therefore, he obviously considered that the free camping was not effective competition, and proceeded with the establishment of the caravan park.

A further test in the *Significant Business Activities and Local Government in Tasmania, April 2004* Policy is the following:

*"The fact that there is no competition, actual or potential, with other providers of the same goods or services does not automatically imply that an activity is not a business, as the Local Government body may be setting artificially low prices and so preventing potential competitors from entering the market."*

Again this demonstrates the error made by the Regulator in declaring the free camps a business because as defined in the Policy, it has not prevented potential competitors from entering the market, as evidenced by the fact the complainant did in fact enter the market.

These errors by the Regulator have been further compounded by defining the free camping as a "Significant Business". This decision appears to have been made without due consideration of the affected market as discussed below.

### **3. THE "RELEVANT MARKET"**

Under the Policy - *Significant Business Activities and Local Government in Tasmania, April 2004*, the Regulator must consider the following:

- *what is the relevant market?*
- *what is the size of the relevant market and of the Local Government body's activity compared to the whole market?*
- *what is the competitive impact (including the potential competitive impact) of the business activity in the relevant market? Is the business activity a major player in the overall market? If the business activity is the only local or regional provider of the service to the community, would competitors emerge if tenders were called?*

As shown above, there is no "competitive impact". Regardless of there being no "competitive impact", the Regulator has then taken a narrow view of the market being only the complainant caravan parks and then the Directions Paper applies this decision to all free camps regardless of whether or not all the caravan parks have an issue with their nearby free camp and regardless of whether or not there even is a caravan park nearby the town.

This is patently an absurd decision.

Evidence submitted to the Queensland Parliamentary Inquiry<sup>(1)</sup> (including the Barcaldine Case Study)<sup>(2)</sup> demonstrates that the caravan parks are not disadvantaged by freedom camps and in many cases benefit from their existence.

Therefore the size of the relevant market must include those businesses who benefit from tourism, not just the caravan park. To further consider the overall size of the relevant market, a comparison should be made of similar situations elsewhere which shows that the result of withdrawing freedom or inexpensive camping has had an adverse effect on the entire business community.

Again, the Barcaldine Case Study<sup>(2)</sup> is an excellent example where there was an outcry against the complainant caravan park owner by the business community after the showground camping price was increased to an unaffordable level. The consequence was the business activity steadily declining with the reducing number of CCM travellers staying in Barcaldine.

Consequently, at a minimum, the total business community benefiting from tourism in the town where the caravan park is located should be considered as the "Relevant Market".



In Tasmania's case, the "Relevant Market" should be considered the sum of all businesses deriving an income from tourism because all those businesses will be affected as Tasmania is no longer preferred as a destination over other States.

Therefore the decisions by the Regulator that freedom camping firstly is a business and then that it is Substantial Business Activity compared to this overall relevant market are patently incorrect and a misuse of the Competitive Neutrality Principles.

#### **4. THE TRAVELLING PATTERNS OF THE CARAVAN AND MOTORHOME TRAVELLER**

The Economic Regulator has appeared not to have considered the travelling patterns of the Caravan and Camping Market (CCM) traveller as part of his investigations. Consequently, the Regulator has totally ignored the needs of this market which is a significant contribution to the Tasmanian economy. To fully appreciate the requirements of the modern day traveller the following is an excerpt from a submission to the Qld Parliamentary Inquiry<sup>(1)</sup> and looks at the essential elements of the CCM traveller's facilities and needs:

4.1 Caravans, Motorhomes and in particular our members' Fifth Wheeler Caravans are increasingly becoming self sufficient with:

- ✓ on board toilets;
- ✓ shower;
- ✓ in built fresh water tanks;
- ✓ in built grey water tanks;
- ✓ in built black water tanks or cassettes;
- ✓ solar panels and battery storage for power;
- ✓ receptacles for household waste;

4.1.1 Owners of these vehicles do not need all of the caravan park facilities, and the caravan parks are not catering for these travellers who require only an area to park and security;

4.1.2 The grey nomads, which include the increasing number of baby boomers, with the increasing number of self contained vehicles have no need for the caravan parks' facilities such as;

- ✓ children's' playgrounds;
- ✓ swimming pool;
- ✓ bouncing pillow;
- ✓ camp kitchen;
- ✓ TV room;
- ✓ Barbecues;
- ✓ and certainly do not need the ever increasing cabin accommodation.

4.1.3 CCM travellers stay in caravan parks for only a small part of their travel:

- ✓ Approximately 30% from TRA Caravan or Camping in Australia Snapshot 2008;
- ✓ 28.9% according to CMCA 2008 Survey of Members;
- ✓ 26.7% according to a small CMCA survey of members at the 2009 Whyalla rally,

and will travel to a destination where alternative accommodation to caravan parks is available, bypassing the towns where this alternative accommodation is not available.

In the case of Tasmania, due to the high cost of shipping the vehicles from the mainland, the decision will increasingly be to visit other States instead.

To compound Tasmania's newly introduced problems, a significant number of parks do not allow pets, resulting in an even further reduced choice of accommodation for numerous CCM travellers.

Additionally, a significant number of caravan parks have not made any attempt to upgrade their sites and can not accommodate the modern larger caravans, motorhomes and fifth wheelers. Our members have encountered numerous occasions where the only suitable sites were at the free camps as the caravan parks are cramped with old fashioned, undersized sites.

The result will be that many prospective travellers with pets or the larger modern rigs will no longer consider Tasmania as a suitable destination or an affordable one. Already, there is widespread condemnation of the decision to no longer provide free camping on a number of travelling forums and social media sites with numerous people asserting they will not again visit Tasmania.

By ignoring these issues, the Regulator, the Minister for Local Government and the Minister for Tourism have ensured an ever reducing number of travellers to the Island to the detriment of the Tasmanian economy. The extent of this adverse effect to the Tasmanian economy will only be measured in time and at that point it will be extremely difficult to reverse the trend of travellers preferring to visit other States.

What appears to be lost in this exercise is that Tasmania is competing with the other States for the CCM traveller. That market, which Tasmania is trying to attract, will no longer see it a friendly destination and there is no doubt that Tasmania will continue to lose market share.

Rightly or wrongly, Tasmania will be seen as banning all free camping while there are well over 4,500 free camps to visit in the other States without the high cost of shipping the vehicles.

## **5. THE RESULTANT COST DISADVANTAGE AND LOSS TO TASMANIA**

Two important points which must be realised are:

1. The prices charged by the caravan parks will increase, making Tasmania even less affordable.

The campaign by the caravan park lobby is no different to the ones on the mainland over the past few years. The overall objective is to increase their profitability by forcing travellers to use their facilities. As the free or inexpensive camping is withdrawn, the local caravan park/s, with a new found monopoly, or simply with more facilities than a now expensive Council camp, will increase their prices. There are numerous examples of this occurring on the mainland. This will, in time, see Tasmania as even less a preferred destination.

2. Already, the popularity of Tasmania is declining and this free camping decision will accelerate that decline.

Surveys undertaken by CMCA<sup>(3)</sup> in 2008 and 2010 shows that as a preferred region or state destination, Tasmania has fallen from 9.1 to 7.8 on a scale of 1 to 10. This compares to the lowest score being 5.9, indicating a significant decline already.

The beneficiary of Tasmania's decline is Western Australia for which both the northern and southern regions now have a higher rating than Tasmania.

The withdrawing of the Councils' free camping in Tasmania will logically increase the appeal of WA as the cost of accommodation in Tasmania increases and WA has in the order of 1,000 free or cheap camps plus a significant number of National Parks campsites.

Depending on the size of the vehicle, and allowing for fuel, accommodation, availability of numerous free camps on the mainland and shipping cost in the case of Tasmania, the extra cost to travel to West Australia from Sydney and Melbourne is only in the order of \$450 to \$850.

It must be understood that the original concept of the free camping in Tasmania was, and still is, to attract travellers to those towns as well as to offset some of the costs of shipping the vehicles from the mainland because there is a significant cost disadvantage to visiting Tasmania compared to the other States.

## **6. THE LIKELY ECONOMIC LOSS TO TASMANIA**

The Directions Paper states that the average period of the visit of campervan/motor homes is 17 days.

The following table shows average costs, allowing for seasonal price rates, for the return costs to ship caravans to Tasmania and the daily average over those 17 days.

<u>Vehicle Combination</u>	<u>Cost</u>	<u>Equivalent Per Day</u>
19 foot van with Prado	\$1,033	\$61
23.5 foot van with Land Cruiser	\$1,502	\$88
27 foot 5 <sup>th</sup> wheeler with F250	\$1,346	\$79
31 foot 5 <sup>th</sup> wheeler with light truck	\$1,972	\$116

The same figures would apply to Motorhomes as the lengths are similar to the above, particularly as most tow a small vehicle or trailer with the resultant long overall lengths.

The above costs do not include the cost of a cabin which would be on average in the order of an additional \$385 each way.

Traditionally, the ability to somewhat offset this equivalent high daily cost for shipping with free camping at some towns while in Tasmania, has helped maintain it as an affordable destination. The loss of the free camping along with the already declining preference as a destination will inevitably lead to ever decreasing visitor numbers.

The Directions Paper states that 46,100 visitors come to Tasmania in motorhomes and campervans. This is not the total market affected by the free camping issue because this figure understates the effective market by not including caravans which have similar travel patterns as the motorhomes and campervans.

According to the data from Tourism Tasmania the number of visitors in motorhomes, campervans and caravans is 65,700.

The Directions Paper also states that the average spend is \$3,000 over an average of 17 days which is equivalent to \$176 per day.

Applying this spend to the 65,700 visitors means that the erroneous decisions made by the Regulator and the relevant Ministers will jeopardise an industry segment which has a **value in the order of \$197 million per year to the broader business community**.

The question then is what is the return for this risk to Tasmania's businesses? Based on the experience in other States where free or inexpensive camping has been withdrawn, there will not be a return, as the caravan parks will also experience a drop in turnover as the number of CCM travellers to Tasmania reduce.

Experience in other States tend to indicate that as a minimum, there will be not be a continuation of the growth in numbers which, over a two year period will be a loss to the Tasmanian economy will be in the order of \$25 million per year. The most likely estimate is a 10% drop which will result in a loss to the Tasmanian economy in the order of \$40 million over the next 2 years and much of this will be at the expense of small businesses in the towns.

The decision to cease Council free camping is therefore a classic lose-lose situation for Tasmania and a win for other States such as Western Australia.

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## References

- (1) Submission 57 Inquiry into Developing Queensland's Rural and Regional Communities Through grey Nomad Tourism  
<http://www.parliament.qld.gov.au/en/work-of-committees/former-committees/EDC/inquiries/past-inquiries/grey-nomad>  
or  
[http://5thwheelers.net.au/Frans\\_Hamer\\_Submissions/](http://5thwheelers.net.au/Frans_Hamer_Submissions/)
- (2) Barcaldine Case Study, submission to Inquiry into Developing Queensland's Rural and Regional Communities Through grey Nomad Tourism  
[http://5thwheelers.net.au/Frans\\_Hamer\\_Submissions/](http://5thwheelers.net.au/Frans_Hamer_Submissions/)
- (3) CMCA Member Surveys 2008 and 2010