

# Submission by Fraser Island Retreat Pty Ltd

## ABN 59153792306

### Productivity Commission draft report 'Remote Area Tax Concessions and Payments'

We refer to the Productivity Commission invitation to consult on the draft report 'Remote Area Tax Concessions and Payments' which was released on 4 September 2019.

#### Background

Fraser Island Retreat Pty Ltd ("FIR" and "the Retreat") operates the business known as Fraser Island Retreat in the township of Happy Valley on K'gari / Fraser Island.

FIR provides a general store, fuel, alcohol, accommodation, and meals.

As there are guests on the premises all of the day, responsible persons are required to be on the premises at all times.

The township of Happy Valley has only one commercial property - the Retreat (including the staff accommodation). The township of Happy Valley comprises approximately 50 places of accommodation that are used for either holiday lettings, retained for private use, or as a permanent residence.

In the case of the last category (permanent living) just four places of accommodation are occupied in this manner - two by the Qld Ambulance Service officers, one by a property maintenance manager and one by a caretaker for a group of units.

Each property must supply all of its own services and manage its own waste. There is no supply of town water, no supply of electricity, no sewerage services, and no rubbish collection service. The local government does supply a transfer station within the town reserve - rubbish must be transported to the transfer station by the residents and visitors.

There are no properties available for long term rental.

Russell Postle (a director of FIR) is the author of this submission, and has part owned a holiday letting property in Happy Valley since 1989. During this time (30 years) it has been nigh impossible to secure long term rental accommodation. Hence why Qld Ambulance Service and the business providing the property maintenance manager had to purchase places of accommodation.

FIR employs approximately 10 staff including shop support, chefs, wait staff, bar staff, housekeeping staff, maintenance team etc.

FIR provides accommodation for the staff in quarters within the Retreat property. All FIR staff have a place on the mainland that is their place of residence.

It is not practical for FIR staff to be able to travel from other locations to the FIR property on a daily basis. The nearest town is Hervey Bay.

To reach Happy Valley requires the options of:

- Air Fraser arriving on the island about 7.30am at Eurong, another township on the island but about 30 minutes each way travel by car on the beach at low tide. Air Fraser departs the island between 3pm and 3.30pm in the afternoon. In poor weather, and extreme tides, Air Fraser will not operate flights. During and after poor weather and at high tides, the beach can be impassable between Eurong and Happy Valley
- Barges travel three times a day from River Heads, about 30 minutes travel from Hervey Bay for the one to one and one half hour barge travel to the island. A four wheel drive is required to travel from the barge landing for approximately one to one and one half hours on the inland tracks and surf beach to reach Happy Valley. So with wait times required by the barge operator, almost four hours travel each way.

The Retreat staff work shifts of a number of days on shift and a number off. Whilst on shift they stay at the staff quarters of the Retreat. For their break staff usually return to their place of residence on the mainland. At the end of a shift it is feasible to devote the three to four hours of travel to return to their place of residence.

Fraser Island is a World Heritage wilderness area subject to Native Title management. There is no opportunity for additional land to become available, for commercial or residential purposes.

Consequently there is no prospect of new accommodation at any time in the future.

Services available on Fraser Island are limited / non-existent -

- There are no schools
- There are no supermarkets for groceries
- Other than a single ambulance station, there are no medical services available
- With sand tracks and paths, disabled access is restricted

It is not a location suitable for families to raise children.

Consequently, families must live on the mainland and the working member of the family travel to the island to work.

#### Single persons

It is more difficult to establish the place of residence of a single person who may ordinarily otherwise reside still with their parents but who stays on Fraser Island at the FIR provided accommodation in order to perform their employment duties.

Taxation case law has often considered that the parents' home is no longer the principal place of residence of a single person, and in the absence of any other address, the FIR provided accommodation may be treated for tax

#### Comparison to other locations

Many agricultural organisations have a similar set of circumstances - the property is too far from a location where there is long term (as distinct from holiday) accommodation and the only practical option is the accommodation provided by the employer on the agricultural property.

#### Remoteness

From an employment perspective, Fraser Island is remote. There are no opportunities for employees to live near the Retreat - the properties are not available for long term rental, there are

no new properties able to be built; there is no choice available to the employee to live near their place of employment.

This same circumstance will apply to many smaller communities throughout Australia.

This same circumstance will apply to most of the larger agricultural properties.

#### **Remote definition - separation by water**

In the case of Fraser Island, crossing the water body Hervey Bay from the town of Hervey Bay is a considerable challenge as it can only be done on a regular all weather basis using larger commercial vessels which are slower by nature.

The barrier that this presents should be properly recognised in the definition of remote.

The destination on Fraser Island for the barges from Hervey Bay will alternate between Wanggoolba Creek and Kingfisher Bay Resort.

In addition the destination on Fraser Island, Wanggoolba Creek has no infrastructure, nor parking facilities and is a significant distance from Kingfisher Bay Resort.

#### **Removal of FBT exemption on accommodation**

Fraser Island is remote. Every aspect of the FIR business involves a higher cost than if operating a similar service business on the mainland. An example is freight costs that add approximately 20% to the landed cost.

If the FBT exemption on accommodation is removed or replaced with a 50% exemption, the cost cannot be absorbed by the business.

Therefore the choices available include:

- Increase prices on all goods and services supplied to recover this cost;
- Reduce the number of employees so the overall cost of personnel remains similar;
- Require the employees to pay an after tax contribution to mitigate the cost to the employer.

FBT is levied at the top marginal rate. In the hospitality industry this is in effect a penalty rate. Based on salaries and wages paid, no employee of FIR derives sufficient income for their personal tax rate to approach the top marginal tax rate.

The average income tax rate of the employees will be approximately half of the FBT tax rate, so in effect any benefit of the 50% exemption is significantly compromised.

Similar circumstances will apply to those employed within the agricultural industries.

#### **Employee / recipient contributions**

If the report recommendation is to apply a 50%, there should be a further recommendation to ensure the manner in which employee contributions (from after tax income) are applied is equitable.

A comparable 50% FBT taxing process applies to meals provided to employees.

The taxable value of the fringe benefit is calculated as follows

	<u>Formula</u>	<u>\$\$</u>
• Gross taxable value of benefit provided	A	100
• Less employee contribution	B	50
• Taxable value net of contribution	A-B	50
• Less discount	50% of (A-B)	(25)
• FBT Taxable value	50% of (A-B)	(25)

As a consequence for employees on lower levels of income the employee contribution from after tax income is only 50% effective and takes the full contribution to eliminate the FBT taxable value.

If the 50% exemption is to be a genuine reduction, the 50% discount should be applied before the recipient contribution, namely

	<u>Formula</u>	<u>\$\$</u>
• Gross taxable value of benefit provided	A	100
• Less discount	50% of A	(50)
• Taxable value net of discount	C	50
• Less employee contribution	B	50
• Taxable value net of contribution	C-B	nil

### Terminology

As part of the FBT legislation to establish access to the FBT concession, one of the possible tests is that “it is customary in the industry”. It is submitted that this terminology is used so as to ensure that all employers are included in the concession including those that employ a small number of staff such as the FIR.

Access to the concession is not restricted to those employers who have specific Employee Agreements or Awards.

It would not be unreasonable to clarify this access definition but to do so in a manner that can include employers of all sizes.

### Reportable

If there is a requirement to include the value of any supposed benefit as a reportable benefit, this will introduce a significant administrative burden on the employer. Where the accommodation is in staff quarters, or on agricultural enterprises, the employer will need to substantiate the market value of the accommodation in order to ascertain the reportable amount.

Inclusion as a FBT Reportable benefit will mean that the employer will need to demonstrate the method of calculation to the employee and may be challenge by those employees who are impacted by the increase in their Adjusted Taxable Income as a consequence of the accommodation benefit.

Those employees who are required to pay Child Support will be particularly impacted as this is based on the Adjusted Taxable Income.

### Summary

FIR respectfully submits that the concession for employer provided accommodation should remain as an exempt benefit and should remain as not reportable.