

OCL 009-20 Applicant Response to Respondent Submission

Re: respondent submissions regarding applicants request for the tribunal to appoint an independent valuer.

1. Background

1.1 No objection

1.2 application does not clearly outline dispute regarding site rent – dispute is in relation to the perceived lack of impartiality and independence of the valuer firm chosen by Palm Lake Pty Ltd and the objectivity of the market site rent assessment

1.3 applicant provides no rationale for tribunal to appoint an independent valuer- applicant requests tribunal to appoint independent valuer subject to s 70(5) (a) – (l) of the Manufactured Homes (Residential Parks) Act. Valuation undertaken in 2019 does not compare site rents at Palm Lake Resort Bargara with comparable sites in comparable parks within the locality of the park, or with comparable localities, no reference is made to CPI trends or market rents in the resort's locality.

The comparisons made to other Palm Lake Resort Pty Ltd owned properties place undue emphasis on the current site rent charged for new site agreements. Palm Lake Resort Pty Ltd imposes its own rent rates at the time of selling a home site to a home owner. The valuer indicated that this was a primary means of establishing a "market rate" i.e. the sale of a home site is the prima facie factor considered by the valuer to determine the market rent. Further we believe that market rent valuation should not factor in the operating costs or expenses of the park operator, as they are subject to a variety of operational and fiscal efficiencies with relevance to the market in general.

It should be noted that the case of Email v Robert Bray (Langwarrin) Pty Ltd distinguishes the House of Lords decision in Ponsford v HMS Aerosols Ltd.

In Ponsford v HMS Aerosols Ltd⁹, a rent review clause that provided that the rent to be assessed on review was to be "a reasonable rent for the premises" was held, by a majority, to require a review of the rent based on market value without reference to the particular parties or how the premises were built and paid for

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We further submit that the rent review failed to adequately take into account local factors, values, conditions and services.

The distinction between 'market rent' and 'fair rent' was examined by Malcolm CJ in *Ricciardello v Caltex Oil (Australia) Pty Ltd*:

"In the former case the rent is determined on the basis of the rent the premises would bring on the open market, having regard to the rents paid for comparable premises in the same or a comparable area. The test is objective. In the latter case the rent is determined on the basis of the rent which it would be fair for the particular landlord and the particular tenant to have agreed under the lease in question having regard to all the circumstances relevant to any negotiations between them of a new rent from the review date. The test is largely subjective."

The reality of the current "site rent" scenario is that the park owner sets a site fee, at the time of sale, which is not negotiable. This methodology is applied across many of the park owner's resorts. To some degree this also circumvents the protection offered to homeowners under the Act as market rent reviews no longer apply as a contractually imposed fixed annualised increase site fee is levied.

Current site fees for all new homeowners is \$381.81, with a fixed annual increase of 3.5% (with no review). To use or reference this site fee as a factor or comparison in determining a "market rent" for those sites not subject to the new 3.5% contracts is neither independent, fair nor valid.

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2. Tribunal request to appoint an independent valuer

2.1 - 2.4 No objection – timing of notifications is not in dispute

2.5 ***proposed increase is in line with market valuation*** - The independence of the valuation objectivity by the valuer is fundamental to the dispute. We submit that site rent has predominantly been evaluated against current rental charges set by Palm Lake Pty Ltd.

2.6 ***reasonable review*** - The valuation company engaged by the park owner undertakes significant additional valuation work for the Palm Lake Resort Group. The scope of that work includes evaluating other resorts, projects and properties owned and managed by Palm Lake Resort Pty Ltd. We have reasonable concern regarding the methodology and independence of the review undertaken.

A “reasonable independent review” needs to be both perceived and seen as being an actual independent review of all relevant circumstances and not just an apparent independent assessment based mainly on information provided by the park owner. An independent review cannot and should not simply be adopted or influenced by the resort owner’s information, pricing policies or operational costs. The resort operator’s profits, efficiencies or the lack thereof should not be a factor in determining an independent “market rent”

3. Other considerations

3.1 ***respondent has already paid for professional services*** - irrelevant to the issue of perceived independence and objectivity of the valuation

3.2 ***time lapse between MSRA and submission*** - Market site rent assessment was provided to Homeowners and the Residents Association on 15 May 2019, and concern regarding the independence and objectivity of valuer was immediately challenged.

Affected residents were provided with individual copies of the MSRA only after Residents Association notified management that this was a legal requirement.

Following a General meeting of residents on May 20, Committee attempted to negotiate a reduction in site rent increase, with Chief Executive Officer, who made a series of offers across the range of site rent agreements, not just those subject to market rent assessment in 2019.

These offers were conveyed to residents at a General meeting on 30 May 2019.

PLR subsequently imposed minimum uptake numbers on the offers once residents began to accept them.

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Formal dispute resolution process was commenced on 6 June, 2019 when a Form 11 Dispute Negotiation Notice was served on Palm Lake Resort Pty Ltd.

The dispute has been ongoing since that date.

- No resolution achieved at mandatory meeting on 26 June 2019
- Form 3 Dispute Notice for Referral to Mediation lodged 27 July 2019
- Mediation hearing held 23 September 2019 – no resolution reached.
- Applicants advised mediator that dispute would proceed to Tribunal Hearing, but Mediator failed to advise that additional form was required. Applicant thought that process was automatic, so delay ensued in furthering the process
- Form 31 Application for Tribunal Hearing lodged 14 January 2020

Current Covid-19 environment is irrelevant to the matters in dispute

Respondent Submissions

1.2 Site comprises 381 manufactured homes, not 393 as stated by Respondent; Sites 16, 345, 351-359 & 373 do not exist. There is currently a planned and approved mid-year expansion of the resort for a further 130 home sites.

1.3 No objection

1.4 Independence and objectivity of valuation is at issue. Knight Frank conducts all Palm Lake Resort Pty Ltd's valuations, including assessing investment returns on proposed new developments. When questioned whether the time spent at the resort was sufficient for a genuine evaluation, the Valuer stated that he is "very familiar" with PLR Bargara, having been there "many times previously". We dispute that this is a truly objective and substantive approach to a fair and just evaluation.

1.6 Tag G homeowner's nett site fee increase for 2019 was 11.36%, while Tag I homeowners was 2.5%. On 21 May 2019, in a meeting with the Residents Association, Manuel Lang, CEO of Palm Lake Pty Ltd, stated that "rent harmonisation" is the goal of management.

Note : A copy of Market Site Rent Assessment was not provided to homeowners with their notices of site rent increase. It was not until Residents Association pointed out that this was a legal requirement that individual copies were distributed.

2 – 2.6 Legislation restatement of provision of Manufactured Homes (Residential Parks) Act - no dispute

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3 Applicants request for Tribunal to appoint independent valuer

3.1 Applicants dispute the independence and objectivity of valuer. Only Palm Lake Resorts owned resorts were effectively selected as basis for comparisons. As Palm Lake Resort Pty Ltd. sets the site rents and annual increase percentages, we submit that the valuers use of these as benchmarks for establishing "market rent", brings into question the independence and objectivity of the MSRA and whether the stated "rent harmonisation" goal of resort management may have influenced the valuation

3.2 Tribunals request to appoint an independent valuer

(i) (ii) (iii) (iv) no objection

(v) *Market valuation does not reflect a reasonable market review* – We submit that;

a) based on the significant other work undertaken by the valuers and his employing company on behalf of Palm Lake Resort Pty Ltd and

b) the short time spent by the valuer at properly evaluating the resort and

c) the valuers stated pre-determined familiarity with the resort as a result of his many previous visits,

raises questions as to the reasonableness, objectivity and independence of the review undertaken.

3.3 -3.5 No objection

3.6 Reasonable review Respondent claims that *methodology of the valuation is clear and "outcome is clearly in line with market"*. In his market comparisons, the valuer has mainly relied on a comparison of site rents and locations of residential home parks operated by Palm Lake Pty Ltd. Applicant contends that such a limited comparison is not indicative of "the market" or a valid independent review.

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3.7 Other considerations *requirement for respondent to pay additional costs ... is onerous and defeats the purpose of providing a professional valuation in the first instance*". Applicant disputes the independence and objectivity of the valuation. If a genuine arms-length valuation had been provided "in the first instance", no additional costs would have been necessary. *Time lapse issue* has already been dealt with above. The original formal dispute resolution process was commenced within the 28-day limit from issue of General Increase Notice and the dispute has been ongoing ever since.

Formal dispute resolution process was commenced on 6 June 2019, when a Form 11 Dispute Negotiation Notice was served on Palm Lake Resort Pty Ltd. The dispute has been ongoing since that date.

- No resolution was achieved at a mandatory meeting on 26 June 2019
- Form 3 Dispute Notice for Referral to Mediation was lodged 27 July 2019
- Mediation hearing held 23 September 2019 failed to reach a resolution.
- Applicants advised mediator that dispute should proceed to a Tribunal Hearing, The Mediator advise that he would be submitting a report regarding the outcome mediation and advise further.
- Subsequent enquiry to QCAT regarding the delay in processing the dispute elicited information that an additional application form and fee was required. Applicant believed that progress to resolving the issue was automatic, this caused further delay in having the matter determined.
- Form 31 Application for Tribunal Hearing lodged 14 January 2020

The Applicants further submit that current Covid-19 environment is irrelevant to the matters in dispute

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4 Foptel

4.1 – 4.3 No objection

4.4 Interest in the package was not enough Palm Lake Pty Ltd required 100% uptake of the offer, or no-one would have the service. When it was pointed out to management, that already more than 30 homes had private pay-TV services, the CEO advised that the Company would carry the cost of 5 homes. He stated that he expected many residents would cancel their existing 40+ channel services to swap over to the inferior 12 channel offering from Palm Lake. When pressed, he relented and said that maybe he would wear the cost of up to 8 villas, but certainly not as many as 10. Applicant believes that on this basis, the offer of 12 -channel service was never a realistic offer. Residents should not be obliged to make decisions based on what their neighbours may elect to do.

4.5 site fee reduction of \$2.50 offered "even though there was no requirement for the respondent to do so" Applicant contends that the Respondent has never stopped charging for the service that was originally introduced in July 2012, and each year that charge has been indexed upwards with annual increases in site rent fees.

4.6 Applicantsclaiming they should be entitled to site fee reduction of \$6.00 per fortnight. Applicants claim they should be entitled to a site fee reduction for the **actual amount** paid for the service. When originally introduced, the fee was \$2.00 per villa per week for early adopters who signed on by 18 January 18. For those who signed on beyond that date, the weekly fee was \$3.00 (ie \$6.00 per fortnight). According to the original terms outlined by Garrie Love, Property Asset Manager of Walter Elliott Holdings (now Palm Lake Pty Ltd), the Austar fee was to become part of site rent and would be indexed upwards each year on General Increase Date by CPI.

4.7 Respondent wrote to residents about Austar service

Respondent **Appendix F** includes only page 1 of this letter, page 2 details other conditions .. "The cost will become part of your site fee and we will give you this guarantee that this part of the site fee will only ever be increased by CPI annually when your site rent is increased and will only go into the higher level of \$3.00 per week plus CPI when you sell your home...."

4.8 Value of 4 channels in 2012 is not the same as the value of 4 channels in 2019 Competition and pricing in the pay TV market is not at issue: Dispute relates to the amount that Palm Lake charged residents for the 4-channel service, including annual indexation.

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4.9 Austar charge clearly outlined as a separate item on their site fee statement
Residents at Palm Lake Resort Bargara do not receive, and have never received site fee statements from the Park Owner. Site fees are paid by direct debit from residents' bank accounts and no receipts are issued.

4.10 2015 market rent review was conducted by Garrie Love., no allowance made for Foxtel. "Market" rent review of 2015 was conducted by Garrie Love, an employee of Palm Lake Resort. There was no indication that an allowance made for Foxtel is not at issue. All residents (except two who refused to pay from the outset), continued to receive the service and continued to pay the fee which was absorbed into their site rent.

4.11 It was determined that respondent would cease charging for Foxtel
No resident has ever been notified that Foxtel charge has been cancelled and no rents have been reduced by the amounts historically charged for the service.

4.12 No resident has been charged for Foxtel since 25 June 2015. Respondent has provided no evidence to prove this contention. Applicant claims that the absorption of Foxtel fee into site rent and elimination of a line item in the respondent's rent records, does not constitute cessation of fee charging.

4.13 Respondent contends that site fee reduced before application of 2015 "market" rent review. No resident was ever advised that Foxtel charge had ceased.

4.14 Respondent contentions (i) to (vi) go to the heart of the dispute. Applicant rejects these claims

5. Site fee increase

5.1 Applicant has not made clear what dispute is or remedy sought regarding site fee increase of 1 July 2019. Applicant disputes the independence and objectivity of valuation, given the valuer and his company are also engaged in conducting other business with and on behalf of Palm Lake Resorts, and

5.2 Further, site rents in effect at other Palm Lake Resorts were used as a comparison of "market rent". Palm Lake Resorts set the initial contract price for site rent at all its resorts at the time of sale to a homeowner. This rent rate is not indicative of the market as a whole and is an arbitrary value set by the resort owner. Applicant requests that the site rent increase of 2019 be set aside and a genuine arms-length valuation be undertaken, taking into consideration all of the factors outlined in section 70 of the Manufactured Homes (Residential Parks) Act 2003

5.3 Only applicants who have had site fees increased in line with the MSRA are in Tags G & I According to the Valuer's schedule residents in Tags C, F, I & L were subject to MSRA in 2019. Tag G residents were NOT subject to MSRA in 2019

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5.3 (a) range of site rents charged for comparable sites in comparable locations in the locality of the park. Palm Lake Resort Toowoomba is in Queensland's 6th largest regional town (population 149,500 according to 2016 census); Hervey Bay is a thriving tourism hub (population 53,000) Bargara (population 7,485) is semi-rural, no hospital facilities; and approximately 15 km from the nearest regional centre of Bundaberg. The two comparison resorts can hardly be considered comparable locations and neither is in the locality of the park, being respectively 420 km (or approximately 5 hours' drive) and 121km (1.5 hours' drive)

5.4(b) if it impracticable to obtain data for the range of site rents in paragraph (a) ... range of rents usually charged for comparable sites in comparable residential parks in comparable localities to the locality the park is in. No local comparisons were made by the valuer, no consideration was given to any park other than those owned and operated by Palm Lake. While several parks in the Maryborough/Hervey Bay region were initially listed, they were deemed to be "inferior to subject" and excluded from consideration in the direct comparison finally undertaken. There are various other residential parks and retirement villages in the Bargara-Bundaberg area, but none were mentioned in the valuer report.

5.5 (c) if it is impracticable to obtain data for the range of site rents mentioned in paragraph (a) or (b),..... general trends in rent for residential accommodation in the locality the park is in. Respondents claim that MSRA provides suitable comparisons and a range of site rents in comparable parks is a circular argument. The independence and objectivity of a valuation performed by a firm that is so closely bound up with Palm Lake Resort Pty Ltd, is based on parks that are nowhere near the locality of Palm Lake Resort Bargara, and that selectively uses only data obtained from other Palm Lake parks, goes to the very heart of the dispute. No consideration was given to general trends in rent for residential accommodation in the locality of the park.

A large retirement village (Carlyle Gardens) located approx. 1 km North East of this resort currently charges a resident \$98.00 per week for a duplex unit. While this is in no way indicative of Palm Lake Resort Bargara facility offerings it does reflect on the quantum of residential rents in the region.

5.6 (d) increased rent compared to the previous site rent. Figures and rent Tags provided by the Respondent are incorrect.

The increase which was effective from 1 July 2019, was in fact **\$377.00** per fortnight according to the valuer's report, not \$374.50, as claimed by the Respondent. For residents in Tags C, F, & L this represents an increase of 4.04% on their previous rent of \$362.36 per fortnight, and for residents in Tag I an increase of 3.9% on previous rent of \$376.72.

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Although the Respondent allowed an offset of \$2.50 per fortnight for the withdrawal of the Foxtel service, which was backdated to 1 July, this did not come into effect until August 2019. In the interim, Palm Lake continued to charge affected residents \$377.00 per fortnight by direct debit, as is its requirement for all fees and charges payable.

5.7 – 5.8 No dispute

5.9 (g) the amenity or standard of the common areas and communal facilities.

Respondent claims that standard of common areas and communal facilities has remained constant and has provided historical photographs in evidence. Applicants submit current photographs to counter this contention.

In fact, there has been a considerable decline in standards of both common areas and communal facilities, and this was the subject of a meeting on May 21 2019 between the Residents Committee and the CEO of Palm Lake Resort Pty Ltd. Since that time, maintenance has declined still further, necessary repairs have not been carried out and facilities are unavailable for resident use because they are "closed for repair". Spas, sauna, gym facilities, street lighting, entry gates have been out of action for months on end awaiting repair because Palm Lake Pty Ltd will not approve expenditure for repairs. Roads and walkways are cracked and crumbling, walls in the clubhouse are cracked, communal gardens are dead and dying for lack of care and water. These were issues in 2019 and they continue to this date.

5.10 (h) any withdrawal of communal facility or service previously provided at the park.

Respondent claims that Foxtel service was complimentary and that a fee reduction of \$2.50 per fortnight was provided from August 2019. Applicants refute the claim that service was complimentary, and contend that fee reduction provided was inadequate. The Foxtel service was provided to homeowners at the time they entered into a site lease agreement with the park owner and as such was a facility/service provided by the park owner. The withdrawal or termination of that service has a value. In this case as identified by the park owner of \$3.00 per week. The withdrawal/cessation of the service is a reduction of the homeowners access to a facility previously provided. The assertion that the service was complimentary is a moot point. The fact is that the park owner no longer provides a facility that was factored in to the homeowners conditions of acceptance at the time of purchase/ownership of the site. The assertion that the service was complimentary does not negate the fact that there was a reduction in facility access and use.

Standards of resort maintenance are in general not being sustained at the level expected by homeowners, or to the level displayed at the time of purchase. Services, which residents were promised formed part of resort lifestyle at the time of purchase, are deteriorating in quality, withdrawn or replaced with inferior alternatives. Once again, the resort operator's claims that these provisions/services are complimentary and can be adjusted or withdrawn at the discretion of the resort operator, fails to address the fact that homeowners' decisions to purchase a property are based on the marketing promises promoted by Palm Lake Resort.

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The park owner's increasing use of the term "complimentary" in respect of services as a justification for reducing standards, increasing charges or withdrawing services is unfair, unethical and deceptive.

5.11 (i) any addition of a communal facility or service not previously provided at the park No dispute

5.12 (j) any increase in the park owner's operating costs for the park during the previous site rent period. Applicant does not dispute the capital items expenditure, but does point out that over the time frame since the last market rent review, the resort has expanded considerably in size, so additional capital items would be required for the increase in population. Furthermore, the park owner's operating costs should not influence, or be a factor in an independent market rent assessment.

An independent market rent review is subject to the market and not the operational efficiencies, deficiencies, profit or otherwise of the park owner.

Appendix P notes operating expenses have increased. No mention is made that over the period under review, the resort has expanded by another 155 homes, (67% increase in percentage terms), with commensurate increase in rental income.

When this fact is taken into account, operating expenses as a proportion of income, have in fact declined, demonstrating the declining standards of maintenance and repair.

5.13 (k) whether the increase is fair and equitable in all the circumstances of the case. Respondent relies on knowledge and expertise of the valuer and the MSRA commissioned. Applicants dispute the independence and objectivity of the valuer and thus the reliability of the MSRA, and further contends that in all of the circumstances, given the general decline in standards, a rent increase is not justified. In fact, fairness and equity considerations could be used to argue a case for a rent reduction across the board for all residents, as everyone is adversely affected by the general downgrading of facility standards within the resort. Palm Lake Resort sets the site rent for all incoming homeowners, so amounts charged to residents purchasing preowned homes is irrelevant to the matter. These residents have no option but to pay the amount Palm Lake Resort decrees. Purchasers are not informed of other site agreements and site rents charged to other residents or that they have an option of transferring a site lease.

Respondent's reference to current pension rates, rental assistance provided by the Commonwealth Government and housing affordability statistics are entirely irrelevant to the matter at hand; many homeowners are self-funded retirees and subject to market conditions and fluctuations in respect of their investments. Homeowners at Palm Lake Resort Bargara are not renters, they purchase and maintain their own homes and pay a site rent for access to the amenities of the park.

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5.14 (l) *anything else the tribunal considers relevant.* Respondent is entitled to a fair return on its commercial investment. Applicant points out that in the current economic climate (also applicable between 2016- 2019), interest rates are at historically low levels, wages are stable, Council rates likewise, CPI is low. An efficient park owner should be able to maintain a fair return on investment in this environment. As this park owner has experienced at least a 67% increase in revenue since the last market review, it is unreasonable and inequitable to impose site rent increases merely in an effort to bring existing residents' site fees up to match those of incoming new residents. The fairness and reasonableness of those new fees is another matter.

6. Remedies sought

6.1 *Applicants seek orders to set aside the site fee increases on 1 July 2019; and reduce site fees by \$6.00 per fortnight.* Applicants seek site fees be reduced by the amount actually paid by residents. Foxtel charges have been subject to normal site fee increases each year since they were introduced – see attached table for present-day value as at July 2019

Additionally, they have requested an independent valuer be appointed. Applicants reaffirm that they request the Tribunal to appoint an independent valuer. The applicant believes that insufficient attention and consideration was applied to the valuation process

6.2 *Respondent requests that the tribunal dismiss the request for site fees to be reduced... Foxtel has been complimentary since 25 June 2015 and only a handful of applicants ever actually paid for the service between July 2012 and July 2015.*

Applicant contends Foxtel service was not complimentary during this time. Palm Lake has never provided notification to residents of any cessation of charges for the service from the date alleged.

6.3 *Additionally, whilst the respondent had no obligation to do so, a site fee adjustment was made effective from 1 July 2019 of \$2.50 per fortnight.*

Applicant disputes that Respondent was under "no obligation to do so". Site fee adjustment was not applied to site fees until August 2019, although it was backdated to 1 July 2019. Applicant further disputes amount of adjustment as inadequate, given amounts actually charged over the time.

6.4 *Respondent requests the tribunal make an order to confirm site rent at \$377.00 per fortnight, minus the \$2.50 reduction for discontinuation of Foxtel.*

Applicant requests the tribunal to set aside the rent increase and make an order to appoint an independent valuer to establish a fair and equitable site rent and further, to reduce site rent by the present-day value of amounts actually charged for the loss of the Foxtel service.

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Respondent's Appendices & Applicant Responses

APPENDIX A

Additional Applicants were in response to Direction #2 in QCAT Notice of 3 March, requesting that Karen Honey file a schedule in the form of Attachment A, setting out the names of all residents who wish to be joined as applicants.

Invalid – no signature on application these applicants were on the original list of joint applicants submitted with Form 3 on 27 July 2019. At the time of preparing Attachment A, in March 2020 names and villa numbers of the original signatories were listed numerically, but some residents were away from the resort and could not be contacted for signature.

No longer an applicant

Villas 17, 55, 160 & 291 were all on original application from outset of dispute, but have subsequently sold and left resort.

Villa 56, 79, 220 & 222 were all original applicants – 56 in hospital and widows of 79 & 222 both recently bereaved; 220 away from resort - did not sign Attachment A

Villas 88 & 217 were on original application and also Attachment A – Respondent submission is erroneous

Applicant Original list and Attachment A extracts overleaf

No.	Name	Signature
17	NIGHT + 4000 ROAD	[Signature]
18	WILLIAMSON + 12.000 BAR/GRILL	[Signature]
19	GRAND + 10000 BAR/GRILL	[Signature]
20	GRAND + 10000 BAR/GRILL	[Signature]
21	GRAND + 10000 BAR/GRILL	[Signature]
22	GRAND + 10000 BAR/GRILL	[Signature]
23	GRAND + 10000 BAR/GRILL	[Signature]
24	GRAND + 10000 BAR/GRILL	[Signature]
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96	GRAND + 10000 BAR/GRILL	[Signature]
97	GRAND + 10000 BAR/GRILL	[Signature]
98	GRAND + 10000 BAR/GRILL	[Signature]
99	GRAND + 10000 BAR/GRILL	[Signature]
100	GRAND + 10000 BAR/GRILL	[Signature]

Villa No.	Name	Signature
131	Allan Colman	[Signature]
115	PAI POTTER	[Signature]
145	PAM HUGHES	[Signature]
127	Pauline DOWD	[Signature]
56	ALBERT SPOONER	[Signature]
88	Kate Ma	[Signature]
64	JEFF DOWD	[Signature]
64	Pauline DOWD	[Signature]
139	ALAN COLMAN	[Signature]
136	ALAN COLMAN	[Signature]
143	SYLVIA ROBERT	[Signature]
170	MARION ROBERT	[Signature]
200	DAVE SIMONS	[Signature]
306	RETTI FARMLEY	[Signature]
272	BOB JENSEN	[Signature]
68	F LANKESTER	[Signature]
38	R.D. Hill	[Signature]
38	G.M. Hill	[Signature]
362	HARVEY PINEA	[Signature]
362	JENNY PINEA	[Signature]
246	BAUCE COOPER	[Signature]
346	Sue SMART	[Signature]
44	HILLIARY DILLI	[Signature]
111	KERRY BILLY	[Signature]
241	MARTIN TAYLOR	[Signature]
191	Cheryl Taylor	[Signature]

Villa No	Name	Signature
50	JOHN FRASER	
50	STEPHANIE FRASER	
46.5	COLIN CORBE	
45	DOREEN CORBE	
42	BOB ROE	
42	PAUL ROE	
40	ERIC WILLIAMS	
39	BILL KIRBY	
39	JAN KIRBY	
5	Virginia Lante	
7	JENNY ADAMSON	
9	MERV BRADFORD	
15	MARILYN POWER	
15	WALTER POWER	
11	LUCY COLUP	
20	CAZZIE SLOTT	
20	GLEN SCOTT	
54	Margaret Hopkins	
54	GEOFF HOPKINS	
53	Max Perry	
181	Howard Lane	
32	WALLY WAUGH	
78	E Earl	
145	IA WARD	
350	I.M. NICHOLS	
155	12 M HYLARD	
155	JEANNETTE HYLARD	
164	Joy Williams	
164	BURGY (ANDREW) WILLIAMS	
158	CAROLYN BEST	
148	GRAEME HUTCHINSON	
148	KEAN HUTCHINSON	
152	Lynn & Carie McCall	
162	Antonette & Pete	
78	ENIS EARL	
117	RUTH TEVLEN	
219	JOAN LEMBCKE	
232	SANDRA MARSHALL	
266	KEN GALVIN	
338	JOHN & Pam Andrew	
338	PAM ANDREW	
116	JANE BARKER	
1	Shirley Flanagan	
88	VIC JONES	
88	SUDILA JONES	
163	VIAN DARGUSH	
163	ROZ DARGUSH	

Villa No.	Name	Signature
117	ANUSI SUBVAT	[Signature]
118	HEATHER KNEHA	[Signature]
119	BRENDA REED	[Signature]
113	ANANDA MURDIE	[Signature]
120	PERONA HELEN	[Signature]
247	KEVIN PINE	[Signature]
136	Lynne GARDER	[Signature]
25	Jean - [unclear]	[Signature]
26	SANDRA BILLEN	[Signature]
915	CAROL JENNINS	[Signature]
31	LESLIE TAYLOR	[Signature]
215	JOAN - LEWIS FISH	[Signature]
220	[unclear]	[Signature]
223	[unclear]	[Signature]
27	[unclear]	[Signature]
274	THELMA BROWN	[Signature]
44	MICHAEL + CHRISTINE WHITE	[Signature]
54	MICHAEL WHITE	[Signature]
61	SANDRA + IAN WHITE	[Signature]
61	[unclear]	[Signature]
617	[unclear]	[Signature]
741	[unclear]	[Signature]
34	[unclear]	[Signature]
216	ANANDA MURDIE	[Signature]
79	BRIAN GARRETT	[Signature]

Villa No	Name	Signature
131	Vicki Collins	Vicki Collins
132	Helen Murphy	Helen Murphy
135	Christine Oliver	C. Oliver
136	Lynne Cooper	L. Cooper
139	Baden Lovering	
139	Brenda Lovering	
145	Irene Ward	I. Ward
153	Carmel Baynton	C. Baynton
154	Theo Van Gool	T. Van Gool
154	Robyn Van Gool	R. Van Gool
156	Ray Brabon	R. Brabon
156	Barbara Brabon	B. Brabon
158	Carolyn Best	C. Best
165	Pam Hughes	P. Hughes
165	Barry Hughes	B. Hughes
166	Mary Valery	M. Valery
168	Warren O'Keefe	W. O'Keefe
178	Rosemary Price	R. Price
178	Graham Price	G. Price
183	Mick Muscat	M. Muscat
184	Marg Smith	M. Smith
184	Terry Smith	T. Smith
193	Sylvia Roberts	S. Roberts
194	Kay Mason	K. Mason
195	Lynette Testa	L. Testa
197	Allan Schultz	A. Schultz
197	Kay Schultz	K. Schultz
198	Ros Gordon	R. Gordon
200	Karen Duncan	K. Duncan
200	Dale Duncan	D. Duncan
201	Susan Faulks	S. Faulks
201	Laurie Faulks	L. Faulks
203	Barbara Charters	B. Charters
214	Jill Fauser	J. Fauser
216	Norman Robb	N. Robb
216	Betty Robb	B. Robb
217	Gloria Shaw	G. Shaw
217	Nev Shaw	N. Shaw
217	Gloria Shaw	
217	Nev Shaw	
219	Gwenda Parker	G. Parker
229	Paul Donnan	P. Donnan

APPENDIX B – Market Site Rent Assessment from Knight Frank

Note that first line of 3, Financial Analysis (page 8) begins “We have been provided with a copy of the current Site Agreement. As stipulated in the current Site Agreement the site rent is \$185.66/week (\$371.31/fortnight), with annual site rent reviews on 1 July increasing by 3.5%. The agreement does not include provisions for market reviews.” Applicants contend that the prominence given to current site rent agreements indicates that this is the primary indicator and that a genuine “market” review should not be based on the park owner’s price setting mechanism.

See page 8 for Table of Site Agreement Tags referred to by Respondent in submission and Applicant in response.

Note that 5 Market Rent Assessment and Rationale (page 14) ONLY Palm Lake Resort owned resorts were used in direct comparison – para 1 “Of the above included MHRPs, we consider that Palm Lake Resort Hervey Bay and Palm Lake Resort Toowoomba are the most appropriate to consider for assessment purposes.”

and para 3 “Often, the best site rental evidence to consider is that recently achieved for sites within the Property.... As such we note that passing site rent of \$185.66/week for the Type M agreementis reasonable evidence to consider for assessment purposes”

This statement further indicates the Valuer’s reliance on prices set by the park owner, rather than independent market evidence.

Relevant pages mentioned above included overleaf

3. Financial Analysis

We have been provided with a copy of the current Site Agreement. As stipulated in the current Site Agreement, the site rent is \$185.66/week (\$371.31/fortnight) per site, with annual site rent reviews on 1 July increasing by 3.5%. The agreement does not include provisions for market reviews.

We have been provided with a current site rental schedule for the Property as at March 2019, which we summarise as follows:

Agreement Type	No. of Sites	Passing Weekly Site Rent	Comments	July 2019 Review Type
A	151	\$182.54	Annually by 2.5%, 5 yearly market review	2.5%
B	1	\$212.54	Annually by 2.5%, 5 yearly market review	2.5%
C	14	\$181.18	Annually by CPI, 3 yearly market review	Market Review
D	2	\$169.28	Annually by CPI, Negotiated special review every 3 years	Section 71
E	1	\$167.20	Annually by CPI	CPI
F	2	\$181.18	Annually by CPI, Negotiated 3 yearly market review	Market Review
G	4	\$169.28	Annually by CPI, Negotiated special review every 3 years	Section 71
H	2	\$181.11	Annually by CPI, Negotiated 3 yearly market review	CPI
I	83	\$183.86	Annually by CPI, 3 yearly market review	Market Review
J			Annually by CPI, Negotiated special review every 3 years	Section 71
K	1	\$167.20	Annually by CPI, 3 yearly market review	Market Review
L	2	\$181.18	Greater of CPI or 3.5%, no market review	Market Review
M	88	\$185.66		Greater of CPI or 3.5%

We understand the agreements subject to a market review are Agreement Types C (14 sites), F (2 sites), I (83 sites) and L (2 sites), whilst we interpret that Agreement Types D, G and K are subject to a review undertaken in accordance with Section 71 of the Act as advised to have been negotiated in 2016 by special agreement. In between market and special review periods, these agreements are all advised to increase annually by CPI. We have been supplied with a sample executed copy of the subject site agreements for review as part of this assessment.

We note that we have not sighted nor have we been provided with individual site agreements and lease agreements for all sites subject to this market review, and have therefore relied on the supplied data, sample site agreements and template current site agreement in good faith.

In addition to providing onsite caretaking and management, maintenance and repair of communal facilities, the general/common area electricity costs, Council Rates and charges, and general administration costs, the site rent covers for mowing services to the front lawn/streetscape only. The agreements allow for 2 permanent residents per site. Other utility services consumed directly by the Home Owner such as water, gas, electricity and telephone, are advised to be billed directly to the Home Owner.

5 Market Rent Assessment and Rationale *(cont)*

MHRP	Site Rate (\$/week)	Water Included in Site Rate	Est. Water Rates Incl. (\$/week)	Site Rate Excl. Water Rates
The Anchorage	195.00 – s 205.00 – p	No	0.00	195.00 – s 205.00 – p
Palm Lake Resort Toowoomba	179.50	No	0.00	179.50
Palm Lake Resort Bargara	185.66	No	0.00	185.66

Note: (s) – standard site; (p) – premium site; *estimated based on CPI review mechanism

Of the above included MHRPs, we consider that Palm Lake Resort Hervey Bay and Palm Lake Resort Toowoomba are the most appropriate to consider for assessment purposes. This is due to being of a reasonable and/or similar sized MHRP and generally providing a similar amount/level of communal facilities. Excluding a water usage allowance, the analysed site rents reflect a general range of \$180/week to \$190/week.

Notwithstanding the above comments, Palm Lake Resort Hervey Bay is considered to be slightly inferior to the Subject. Palm Lake Resort Toowoomba however, is similar to the Subject due to providing a comparable amount of community facilities, but is situated within a superior location. Additionally, it is located within a competitive catchment area that has a number of competing new MHRP projects which arguably places downward pressure on the site rental, unlike the Subject which has no equivalent competition in the Bundaberg area.

Often, the best site rental evidence to consider is that recently achieved for sites within the Property, subject to the size of the MHRP and/or volume of recent new Home Owners. As such we note that passing site rent of \$185.66/week for the Type M agreement (introduced on 1 July 2017 at \$179.38/week and increasing organically on 1 July 2019 to be \$192.15/week) is reasonable evidence to consider for assessment purposes and has been evidenced as being acceptable to the market with 88 new Home Owners having entered the Property during this time.

As stated, the current site rent will escalate at the noted review mechanism of 3.5% on 1 July 2019 to be \$192.15/week. Alternatively, had the annual review mechanism been CPI increases (Brisbane Index Rate), the current passing site rent would be around \$182.47/week (CPI at 30 June 2018 for Brisbane 1.7%) and projected site rent from 1 July 2019 being around \$185.16/week (using Brisbane CPI rate at 31 December 2018 of 1.5%).

We interpret from the supplied information that there has been an agreed history of negotiated site rental increases by 2.5% per annum however, at the time of historic market reviews being undertaken for other site agreements (Types A, B and H in 2015 and Type I more recently in 2016). This historically negotiated escalation rate sits around the middle of CPI (1.5% at 31 December 2018) and the current site agreement review rate of 3.5% and is considered reasonable to utilise for assessment purposes. Escalating the above Type M commencing site rent at 1 July 2017 by 2.5% for 2 years, provides a projected site rent of \$188.46/week from 1 July 2019.

This general escalated range of \$185/week to \$192/week based on the above varied increase approaches, is consistent with the two earlier noted comparison MHRPs site rents which sit at around \$180/week and \$190/week.

Based on the information provided, assumptions outlined earlier and current market evidence, we are of the opinion that an appropriate Market Site Rent Assessment for the Property as at 28 March 2019, would sit within a range of \$185.00/week to \$195.00/week.

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX C – General Increase Notices in accordance with MHRP Act – *no dispute with procedural correctness of issue of documents.*

APPENDIX D – New Foxtel offer of 29 March 2019 – Note that on page 2 - **Considerations** offer is conditional upon 100% acceptance by all home owners within the resort.

- *Foxtel integrated service pricing is based on all villas within the resort receiving the premium channels*
- *This means that all homeowners must agree to proceed*

Applicants contend that it is unreasonable to expect homeowners to make decisions based on what their neighbours may or may not want.

Applicants further contend that conditional offer was never genuine in the first instance because Respondent knew that almost 10% of home owners already had private pay TV arrangements

Extract of Respondent Letter of 29 March 2019 to homeowners committee overleaf

In order to provide the premium channels, there needs to be an expenditure of approximately \$50k to replace existing analogue modulators with digital modulators. This should also improve the definition and quality of the picture you receive. This expenditure will be done without cost to Home Owners.

Cost

Regular Foxtel pricing is available on their website <https://www.foxtel.com.au/channel-packs.html> When looking at comparisons, you will see that as a single user a sports package alone would be \$29 per month, plus connection fees.

Streaming services costing varies; for example, Kayo @ \$25 per month, Netflix @ \$10 per month. The Foxtel premium channels allow for all the sports you love, with the variety of other channels providing lifestyle, comedy and movies.

Palm Lake have been able to obtain preferential rates with Foxtel, due to our ongoing expansion and investment in the Lifestyle Resorts sector.

Foxtel charge per fortnight	\$7.50 (equates to \$0.625 per channel per fortnight)
Palm Lake contribution	(-\$2.50 for four channels already being received by Home Owners)
Total payable by Home Owner	\$5.00 per fortnight

This will be payable as a deduction at the same time as site fees, however remains a separate charge.

Scott has also advised that he will offer an **Early Bird discount** for Home Owners who sign up by Friday 10 May 2019. The discount of \$1.00 per fortnight will apply for the full 3 year term, reducing the amount payable by the Home Owner to **\$4.00** per fortnight.

Considerations

- The current Foxtel arrangements within the Resort are unable to be continued.
- **Foxtels' Integrated Service Pricing is based on all villas within the Resort receiving the premium channels.** The network is unable to support termination of transmission of Foxtel to selected villas as an "opt out" arrangement.
- **This means that all Home Owners must agree to proceed** with the Foxtel premium channels.
- Home Owners cannot add or deduct channels to change pricing – it is a package arrangement.
- The commitment to this arrangement for Home Owners is for 36 months.

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX E – Offer of \$2.50 compensation for loss of Foxtel services. Applicants contend amount of compensation is inadequate, given amounts historically charged for the service.

TAG A site agreement for site No 1 dates back to 2010

TAG D site agreement for site 127 dates back to 2007

Both agreements pre-date the introduction of the original Austar service, so are irrelevant to the matter at hand

- **Respondent letter of 24 June 2019 advising cancellation of Foxtel service and offer of \$2.50 compensation**

&

- **Applicant calculation worksheet showing present-day value of historic Foxtel charges - overleaf**

24 June 2019

PLR Bargara

Dear Home Owner,

We wrote to your Committee on 29 March 2019, advising that our current arrangement with Foxtel was coming to an end, and outlining the new package being offered to Home Owners.

The package pricing was only available under certain conditions, one of which was that we required all villas to agree to purchase the Foxtel package. This requirement was based on Foxtel's pricing basis to Palm Lake @ 8 resorts x full site capacity.

Whilst we were able to accept that some villas may not take it up, we really required at least a 95% take up for the offer to be viable. Unfortunately, whilst there was interest by Home Owners, there was *not enough for the offer to proceed*. Therefore, the Foxtel will be discontinued within the Resort effective from 30 June 2019.

Palm Lake Resort Bargara has had the complimentary benefit of 4 Foxtel channels. As it has always been complimentary, it is therefore not outlined as part of your Site Agreement. However, we are agreeable to a **site fee reduction** as compensation for the loss of 4 Foxtel channels @ \$0.625 per channel, which totals **\$2.50 per fortnight**. This deduction will not appear until the first site fee roll in August, however will be backdated to 1 July 2019.

We will continue to review alternative options, as there are many newcomers to the market who may be able to offer our Home Owners preferential pricing.

Yours sincerely,



Manuel Lang
CEO

Residents who signed up for Austar offer on 18 Jan 2012 at \$2.00 per week, still in same villa with CPI & MRR					Signed up 18 Jan 2012, same villa, MRR & 2.5% annual increase from 1/7/16		
Date	Uplift basis	% increase	\$ per week	\$ per fortnight	Uplift basis	\$ per week	\$ per fortnight
18-Jan-12			2.00	4.00		2.00	4.00
1-Jul-12			2.00	4.00		2.00	4.00
1-Jul-13	CPI	2.10%	2.05	4.10	CPI	2.05	4.10
1-Jul-14	CPI	3.10%	2.12	4.24	CPI	2.12	4.24
1-Jul-15	MRR	12.50%	2.39	4.78	MRR	2.39	4.78
1-Jul-16	CPI	1.40%	2.43	4.86	2.50%	2.45	4.90
1-Jul-17	CPI	1.80%	2.48	4.96	2.50%	2.52	5.04
1-Jul-18	CPI	1.90%	2.53	5.06	2.50%	2.59	5.18

Residents who came into resort after 18 Jan 2012 at \$3.00 per week, CPI & MRR, then 2.5% pa from 1/7/16					Signed up post-January 2012 @ \$3.00 per week & 3.5% from 1/7/17		
Date	Uplift basis	% increase	\$ per week	\$ per fortnight	Uplift basis	\$ per week	\$ per fortnight
18-Jan-12			3.00	6.00		3.00	6.00
1-Jul-12			3.00	6.00		3.00	6.00
1-Jul-13	CPI	2.10%	3.07	6.14	CPI	3.07	6.14
1-Jul-14	CPI	3.10%	3.17	6.34	CPI	3.17	6.34
1-Jul-15	MRR	12.50%	3.57	7.14	MRR	3.57	7.14
1-Jul-16	Fixed	2.50%	3.66	7.32	2.50%	3.66	7.32
1-Jul-17	Fixed	2.50%	3.76	7.52	3.50%	3.79	7.58
1-Jul-18	Fixed	2.50%	3.86	7.72	3.50%	3.93	7.86

Present-day value of Foxtel charges included in site rent fees

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX F – Austar offer letter from Garry Love dated 18 January 2012 Only page 1 submitted in evidence;

Note that para 2 states " The Austar connection would become a community facility and new residents would have the fee included in their site fee. There would be no say in the matter for a new agreement."

page 2 contains additional conditions attached to offer " The cost will become part of your site fee and we will give you this guarantee that this part of the site fee will only ever be increased by CPI annually when your site rent is increased and will only go onto the higher level of \$3.00 per week plus CPI when you sell your home."

Site agreement site 40 – labelled Tag J This site agreement Tag type does not exist in table of agreement types on page 8 of valuer 's report. If Respondent intends to demonstrate that there is no mention of Austar/Foxtel in site agreement, refer to letter from Garrie Love of 18 January 2012 that "... new residents would have the fee included in their site fee. There would be no say in the matter for a new agreement." This agreement dates back to 2016.

Ditto the two other site agreements Tag M and Tag I

Walter Elliott Holdings (now Palm Lake Resort P/L) letter of 18 January 2012 overleaf

APPENDIX F



ACN 005 277 038
ABN 77 915 457 991
39 Wearing Road,
BARGARA QLD 4670
Ph: (07) 4150 5191 Fax: (07) 4130 5553

18 January 2012

Mr & Mrs Fisher
Palm Lake Resort Bargara
128/39 Wearing Road
Bargara QLD 4670

Dear, Terence & Dorothy

Re: Austar Service.

Firstly I would like to thank you for the tremendous roll up at the residents' meeting of 17 January 2012. It is encouraging to see such an active village involvement with nearly all residents on site attending the meeting.

As most of you would be aware there has been mixed feelings in relation to the Austar pay TV proposal within the village. Originally, Austar gave us a deal that involved a minimum of 50 residents from the total number of residents at that time paying a prescribed monthly access fee. As more homes were sold and occupied the fee would rise accordingly. The Austar connection would become a village facility and new residents would have the fee included in their site fee. There would be no say in the matter for a new agreement.

For various reasons this system is not working and I have had to explore other alternatives. The one alternative that I do not want to impose is going back to a connection in the hall only and not having the connection to each individual home in the village.

The alternative I have come up with will be a much reduced cost to all residents (except those with their own private Austar connection). The cost that I propose will be;

\$1.00 per week for all existing single occupant residents,

\$2.00 per week for all existing couple residents and

\$3.00 per week will be included as part of the site fee for all new agreements from today forwards.

The cost will become part of your site fee and we will give this guarantee that this part of the site fee will only ever be increased by CPI annually when your site rent is increased and will only go onto the higher level of \$3.00 per week plus CPI when you sell your home. Even at \$3.00 per week the cost of the service is unbelievably cheap.

For those of you who receive government rental assistance, the full increase would be subject to the rebate. We also believe that this will be a bonus to the village in respect to sales and resales. The village rents inclusive of the added benefit from Astar are still considered by us to be below the rental levels of similar quality resorts.

These rental increases must be agreed by you as the owner of a tenancy agreement. We cannot at this juncture impose the new rental on to you, but if we do not get full support the Astar facility will not be a viable proposition.

I would ask that every resident give me their support for this benefit and please return the attached slip to the caretakers. As previously promised, we would not commence charging for the facility until 01 July 2012. Can those of you that have an existing private Astar connection please return the slip with those details.

Yours faithfully,

Garrie R Love
Property Asset Manager
Walter Elliott Group
Direct Ph: 07 555 21313
Mob: 0411 411 839

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX G – Rent receipt records for site 128 showing indexation of Austar charges between July 2012 and June 2015

- a) Site fees including Foxtel charges are paid as an aggregated amount by direct debit from residents' bank accounts. No receipts are issued by the Respondent
- b) From July 2015 respondent has bundled Foxtel charges into site fees as per original letter from Garry Love (Appendix I) and applicants contend that omission of a separate line item in Respondent's receipts records does not constitute evidence of cessation charging for the service

APPENDIX H – Notice of increase in site rent 2015 That Respondent notes there is no mention of Foxtel in valuation performed by a Company employee, is immaterial to the matter at hand.

APPENDIX I – Recollections of Garrie Love re charges and review process for 2015 rent review is based on that person's memory of an event 4 years in the past so is unreliable evidence, thus immaterial to the matter at hand. Refer to Garrie Love's statement in Appendix F that, "... new residents would have the fee included in their site fee. There would be no say in the matter for a new agreement." Given that statement, why would "valuer" consider Foxtel, when residents were already paying for the service in their fortnightly site fees

APPENDIX J – Rent receipts for Villa 19 These residents arrived after the 18 January 2012 uptake date, and were told that the Foxtel fee was embedded in their site rent as per Garrie Love's statement in his letter at Appendix F "... new residents would have the fee included in their site fee. There would be no say in the matter for a new agreement."

APPENDIX K – Resident committee challenge to valuers' report to 2015

Applicants point to the date of this document (15 May 2019) as the commencement of this dispute.

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX L – Valuers’ response to committee challenge Shows that no real consideration was given to residents’ concerns. Note however, point #3 on page 2 *“regarding my time spent on site, I note that in addition to the 1 hour meeting with the HOC, I spent close to a further 2 hours inspecting the community generally, the communal facilities and the development area either by myself or with the caretakers. This is considered to be more than reasonable noting that we have undertaken numerous inspections of the Property previously.”*

Applicants contend that:

- a) Most of the valuer’s time on site was spent conducting a compliance audit of the construction area, and
- b) “... we have undertaken numerous inspections ... previously” is hardly indicative of an objective and substantive approach to a genuinely independent market valuation

Relevant page of Valuer’s letter overleaf

The inclusion of the two MHRPs underdevelopment has merely been done for completeness, with no regard had to the site rent information. They do not form as competition until such time that all communal facilities are in place as a minimum. Further we are aware of the proposed two communities at Burnett Heads and Innes Park. Similarly, with development yet to commence little regard has been had to them as market acceptance of the projects needs to be established. There remains a significant degree of development risk associated with all these projects still.

MHRPs, especially those which are purpose built, are very much specialised assets and as a result of targeted marketing, have appeal to a particular segment of the community. One major part of a MHRP are the communal facilities offered. In this regard, due to the limited number of comparable sized MHRPs and/or MHRPs which offer a similar amount of community facilities as compared to PLR Bargara outside of the metropolitan South East Queensland area i.e. Brisbane, Ipswich, Gold and Sunshine Coast areas, it is considered reasonable to include PLR Toowoomba as evidence.

We acknowledged within our report that Toowoomba was a superior locality and this has been taken into consideration. However, the communal facility offering is comparable to that at the subject, is available for use and intended to support a large community on completion.

Additionally, we have observed in recent years that Palm Lake Group have added further facilities at PLR Bargara which includes the freestanding gym with inground lap pool and also built a covering structure over the original lawn bowls green. These additions are an extra investment in the community and further cement its position as the premium MHRP community in the region. This has all been taken into consideration within our assessment.

2. As noted in the report, the water rate applied was obtained from Fraser Coast Council as the appropriate water rate charging authority for the locality which the comparison parks are situated in. Due to confidentiality we cannot always obtain property specific information from either Council or Park Owners, so the standard residential water usage rate was applied. The use of the rates amount is to enable effective comparison for all advised site rents on a "like for like" basis i.e. net of water usage costs. By not adjusting those site rents which include a water consumption allowance, the risk of inappropriate comparison/use is increased which could result in an overstated market assessment.
3. Regarding my time spent on site, I note that in addition to the 1 hour meeting with the HOC, I spent close to a further 2 hours inspecting the community generally, the communal facilities and the development area either by myself or with the caretakers. This is considered to be more than reasonable noting that we have undertaken numerous inspections of the Property previously.
4. I refer this query to PLG. However, we note that it is common practice for us to receive a sample of each site agreement subject to the relevant market review only. We are not auditors and this exercise is not to audit every single site agreement.
5. To be correct, the assessed rate within our report for the 2018 PLR Hervey Bay site rent review exercise was actually \$195.00/site/week. A market range of \$180/site/week to \$210/site/week reflecting market conditions and applicable evidence at that time was derived.

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX M - Table of historical rent charges by site rent agreement tag
Respondent Lists Tags A, D, E, H, G, I, J, M & N. (no mention of B, C, F, K, L)

The valuer's report shows agreement types A, B, C, D, E, F, G, H, I, K, L, M (Tags for J & N do not exist)

Applicants contend that over time, new site rent figures have been set at, or slightly above existing rents, including the Foxtel charge, demonstrating that the charge was embedded in site fee per Garrie Love's letter of 18 January 2012, and was never removed. Respondent has provided no evidence and no residents has ever been advised of removal of Foxtel fee until discontinuance of service on 1 July 2019.

**Discrepancies between identified rent tags on respective documents
overleaf**

APPENDIX 3

	Tag A	Tag D - CPI Only Lifestyle Resident	Tag E - CPI Only Lifestyle Resident	Tag H	Tag G	Tag I	Tag J (accepted rent offer)	Tag M	Tag N
2009	\$ 259.25	\$ 259.25	\$ 259.25	\$ 259.25	\$ 259.25				\$ 259.25
2010	\$ 267.03	\$ 267.03	\$ 267.03	\$ 267.03	\$ 267.03				\$ 267.03
2011	\$ 276.64	\$ 276.64	\$ 276.64	\$ 276.64	\$ 276.64				\$ 276.64
2012	\$ 280.24	\$ 280.24	\$ 280.24	\$ 280.24	\$ 280.24				\$ 280.24
2013	\$ 286.13	\$ 286.13	\$ 286.13	\$ 286.13	\$ 286.13				\$ 286.13
2014	\$ 295.00	\$ 295.00	\$ 295.00	\$ 295.00	\$ 295.00				\$ 295.00
2015	\$ 339.00	\$ 303.40	\$ 299.13	\$ 339.00	\$ 303.40	\$ 339.00	\$ 339.00		\$ 303.40
2016	\$ 347.48	\$ 327.00	\$ 323.00	\$ 347.48	\$ 327.00	\$ 350.00	\$ 350.00		\$ 327.00
2017	\$ 356.17	\$ 332.89	\$ 328.81	\$ 356.17	\$ 332.89	\$ 358.75	\$ 358.75	\$ 358.75	\$ 332.89
2018	\$ 365.07	\$ 338.55	\$ 334.40	\$ 362.22	\$ 338.55	\$ 367.72	\$ 367.72	\$ 371.31	\$ 338.55
2019	\$ 371.70	\$ 341.13	\$ 336.92	\$ 365.15	\$ 374.50	\$ 374.50	\$ 372.50	\$ 381.81	\$ 347.90

3 Financial Analysis

We have been provided with a copy of the current Site Agreement. As stipulated in the current Site Agreement, the site rent is \$185.66/week (\$371.31/fortnight) per site, with annual site rent reviews on 1 July increasing by 3.5%. The agreement does not include provisions for market reviews.

We have been provided with a current site rental schedule for the Property as at March 2019, which we summarise as follows:

Agreement Type	No. of Sites	Passing Weekly Site Rent	Comments	July 2018 Review Type
A	151	\$182.54	Annually by 2.5%, 5 yearly market review	2.5%
B	1	\$212.54	Annually by 2.5%, 5 yearly market review	2.5%
C	14	\$181.18	Annually by CPI, 3 yearly market review	Market Review
D	2	\$169.28	Annually by CPI, Negotiated special review every 3 years	Section 71
E	1	\$167.20	Annually by CPI	CPI
F	2	\$181.18	Annually by CPI, Negotiated 3 yearly market review	Market Review
G	4	\$169.28	Annually by CPI, Negotiated special review every 3 years	Section 71
H	2	\$181.11	Annually by CPI, Negotiated 3 yearly market review	CPI
I	83	\$183.86	Annually by CPI, 3 yearly market review	Market Review
J			Annually by CPI, Negotiated special review every 3 years	Section 71
K	1	\$167.20	Annually by CPI, 3 yearly market review	Market Review
L	2	\$181.18	Greater of CPI or 3.5%, no market review	Greater of CPI or 3.5%
M	88	\$185.66		

We understand the agreements subject to a market review are Agreement Types C (14 sites), F (2 sites), I (83 sites) and L (2 sites), whilst we interpret that Agreement Types D, G and K are subject to a review undertaken in accordance with Section 71 of the Act as advised to have been negotiated in 2016 by special agreement. In between market and special review periods, these agreements are all advised to increase annually by CPI. We have been supplied with a sample executed copy of the subject site agreements for review as part of this assessment.

We note that we have not sighted nor have we been provided with individual site agreements and lease agreements for all sites subject to this market review, and have therefore relied on the supplied data, sample site agreements and template current site agreement in good faith.

In addition to providing onsite caretaking and management, maintenance and repair of communal facilities, the general/common area electricity costs, Council Rates and charges, and general administration costs, the site rent covers for mowing services to the front lawn/streetscape only. The agreements allow for 2 permanent residents per site. Other utility services consumed directly by the Home Owner such as water, gas, electricity and telephone, are advised to be billed directly to the Home Owner.

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX N – Historic photos of resort amenities and communal facilities showing pristine appearance; *compare with present day photos provided by Applicants showing lack of maintenance and general disrepair*

Images numbered 3, 12, 13, 22 provided by applicant were taken by Karen Honey in May 2019. All other images were taken by another resident, Julie Thompson of Villa 375 in early 2020

Index to photographs

1. Spa in indoor heated pool – “closed for maintenance” – a frequent occurrence which usually lasts for several weeks at a time. Currently closed again post-Covid-19 closures because necessary repairs were not carried out during shut down period due to lack of funding approval.
2. Sauna in indoor pool – frequently closed because funding for repair not approved by PLR
3. Cracks in ceiling of SeaBreeze clubhouse above pool tables. This is just one of many ceiling cracks
4. Rusty chairs and table and unsightly cleaning equipment outside craft room between library and putting green
5. Rusty bike racks outside tennis courts
6. Dying hedges and garden beds at putting green
7. Rusty bike rack outside SeaBreeze clubhouse behind indoor pool
8. Dirt and grime at rear doorway of Ocean Breeze clubhouse – poor cleaning standards during 2019.
9. Cracking and damage to fascia above rear door of Ocean Breeze clubhouse
10. Portico and road in front of SeaBreeze clubhouse – note dead pot plant at main entrance and damaged road surfaces – marked in 2019, and still not repaired
11. Cracked and crumbling roadway at south-western end of SeaBreeze clubhouse. Yellow marks indicating needed repairs were done in May 2019.
12. Cracks in ceiling of SeaBreeze Clubhouse dining area
13. More cracks in ceiling of SeaBreeze clubhouse dining area
14. Resort pool in 2019 – note filth in pool and rusting handrail, which has still not been replaced
15. Outdoor spa – closed for maintenance – still out of action in 2020, crumbling floors and filthy edging bricks
16. Shower at resort pool – closed for repair in 2019; still not fixed
17. -19. Thatching on Bali huts at resort pool– reported as needing repair/replacement in 2018; still not fixed

OCL 009-20 Applicant Response to Respondent Submission

20. Mould on link brick wall outside workshop, unsightly rubble and ugly hot water service exposed
21. Mould on link brick retaining wall around gardens between main bowls green and workshop
22. Ripped and faded cushions on seats around bowls greens
23. Caravan storage area – note unmown weed growth
24. Wash bay – crumbling and broken road surface
25. Mould and staining on floor in wash bay area
26. Mouldy, cracked and crumbling guttering and kerbing in visitor carpark opposite bowls green. This is typical of roads generally throughout the resort
27. Gate 1 letterboxes – ugly, unsightly phone books left on top of boxes, cleaning equipment and signs left on display
28. Gate 1 letterboxes – more phone books and cleaning equipment on other side
29. Mould on planter boxes at Gate 1
30. Damaged roads and kerbs near Gate 1
31. Road damage – Eastern side of resort
32. Mould on link brick walls in pedestrian walkway on East side of resort
33. Road damage Western side of resort – this section is less than 3 years old
34. Road damage Western side of resort – this is barely two years old
35. Filthy and corroded ceiling fan in Western BBQ area – barely one year old
36. Gate 2 letterbox area. No downpipe fitted so water pours out of guttering
37. Gate 2 – mechanism was out of order for over 3 months last year and is constantly breaking down
38. Western end dog run – weed-infested, neglected and never watered

OCL 009-20 Applicant Response to Respondent Submission

In evidence of the fact that the maintenance issues in question are of long-standing, and have previously been reported to Management, Applicant also submits copies of:

- List of items for discussion with CEO Manuel Lang, created 15/5/2019, referring to "photo file of hundreds of items". Images 3,12,13,22 referred to above are taken from this file
- Record of Committee meeting with CEO Manuel Lang, specifically page 2 "Following the meeting... USB stick containing photos of maintenance issue to forward to Manuel"
- Email to Reegan Chapman dated 10 March 2020 and attachment
 - Issues to raise with Management
- Email from Amanda Clements dated 13 March 2020 expressing disappointment with issues raised and cancelling scheduled 1st April 2020 meeting with Management
- Email to Amanda Clements dated 17 March 2020 and attachments
 - Issues for discussion with Manuel 2019, highlighting issues reported and discussed in 2019 and still not addressed in 2020

We would also like to raise some other issues for discussion with Manuel next Tuesday

1. There **are concerns** from residents of **services that used to be offered** but have now been either withdrawn completely or have declined significantly in quality ** See attached list
2. Many of our **residents are concerned** that now that the Resort is all but complete, **maintenance standards will fall.**
 - Already we are seeing delays in needed repairs and general maintenance.
 - The **Resort simply doesn't look as sparkling** as it did when we were negotiating to buy our homes.
 - **Light globes are not replaced promptly** when they fail, leaving areas in darkness at night, which is a significant OHS issue.
 - **Our Caretaker, Christine is very efficient** at following up repairs and maintenance, but she is constrained by budgetary limitations.
 - **Roads and kerbings** are cracked and disintegrating all over the Resort
 - The wall behind a power point at Gate 1 (used for the fountain pumps), is corroded and breaking up. This could be a serious hazard, given the proximity of water and electricity.
 - **Seats, flooring and stairs in gazebo** all need sanding and resurfacing.
 - **Upholstery on a cushion** on one of the bench seats at the main bowling green is ripped and falling apart.
 - I have a **photo file of hundreds of areas around the resort** (mainly roads) that will show to Manuel in Tuesday when he is here.
3. Also, when Manuel visits, can he please arrange for us to have the **breakdown of the power metered to the common/general areas.** We have six months of PLR Bargara invoices from Momentum Energy, but we need explanations of the various sub-categories of the bills eg. Network charges; Demand Type Other Industry Charges.
 - We are not disputing the calculation of the average kw/hr rate but we need to know exactly how much of the invoice applies to and is paid by Palm Lake Resort.
4. We also need **clarification of how our site fees are determined** - what do they include. The valuer's report quite clearly states that there are charges included to cover Council Rates, Caretaking and Management, Maintenance and Repair of Communal Facilities, General/common Area Electricity Costs. We really do need clarification of exactly what our site fees cover.
5. **Water charges** Valuer's report allows Bundaberg Council rate of \$1.16 per kL in adjusting site rent to exclude water consumption charges. PLRG charges residents \$1.90 per kL for water consumed. Having checked with Council (20/5/2019) current rate is \$1.16 for first 150kL per site per half year. Council Rates Dept assures us that Palm Lake properties never exceed the 150kL per half-year, so PRG is rated at the lower level. Manufactured Homes Act (2003) states that park owners are not permitted to charge more than actual cost of utilities charged by providers.

6. **Solar Panels** Letter from M Lang 20/12/2018 says that a community-wide protection relay is scheduled for completion in 2019, which "may allow ... partial export of excess solar generation from each villa" and that "we will work with PLR to maximise use of this power to reduce overall consumption..." what is completion date and when can we expect reduction in our power bills?
7. **Acoustics** in both clubhouses are appalling and the problem is getting worse as resident numbers have increased – we need a resolution to this ongoing issue.
8. **Tables and chairs in Ocean Breeze** clubhouse too heavy – need to be replaced
9. **Bar in SeaBreeze Clubhouse.** PLR Bargara has outgrown facilities in Ocean Breeze Clubhouse and needs a bar in the newer clubhouse
10. Library is at capacity and shelving is inappropriate and unsafe for residents. We need proper library shelving to house the book stock and to ensure resident safety.
11. **Emergency vehicle access to the Resort. Sections 87 & 87A of the Act specify that access must be available at all times. We need to ensure the safety and wellbeing of our residents.**
12. **Why** do we receive no acknowledgement of emails sent to management?



Palm Lake Resort Bargara Residents Association Inc.

345/39 Wearing Road, Bargara, Queensland 4670

Special Meeting with Manuel Lang re Market rent Review & Foxtel offer

Date: 21 May 2019

Time: 10.00am

Location: Meeting Room Ocean Breeze Clubhouse

Attendance: Mary-Anne Harris, Mick Muscat, Karen Honey, Susan DePaul, Pam Gehrmann, Bernadette Gibbs, Eva Kajtar, Geoff Patterson
Caretakers Christine & John Titmus, CEO Palm Lake Resorts Group Manuel Lang

Apology: Norm Tenthly

Manuel opened the meeting by asking about residents' response to the Market Rent Review and discount offer for those who agree to amend their site agreements to 3.5% ongoing annual rent increases from 21 July 2020. Mick explained that the discount of \$2.00 per fortnight appears miserly and not an inducement to change to the new rent structure.

Committee agreed and reported that the tone of Residents' Meeting on 20 May 2019 was generally not in favour of the offer.

Committee requested a breakdown of site rent inclusions, specifically electricity charges. Manuel would not disclose amounts, merely stating that site rent covers operating costs, liability repayments and profit for the owner.

Manuel agreed to review the rent offer and get back to committee by Wednesday 22 May. He further explained that the company would prefer rent harmonization so that everyone has the same increase factor per year. He also stated that no-one is under any obligation to change their site agreement. PLRG has not legal right to change agreements unilaterally and residents can exercise their legal rights to object to rent increases they consider unfair or unreasonable.

Discussion then followed on Foxtel offer, with committee offering documents provided by residents to demonstrate that the initial \$4 per fortnight was embedded in site rent fees from 1 July 2012, then increased annually by the

President: Norm Tenthly V385 – **Vice President:** Mary-Anne Harris V321 – **Secretary:** Karen Honey V360 –

Treasurer: Mick Muscat V183

Committee: Geoff Patterson – V265 * Pam Gehrmann – V51 * Eva Kajtar – V256

* Bernadette Gibbs – V 320 * Susan DePaul – V 322

Web: www.plrbar.atwebpages.com

email: residentsassociation.plrb@gmail.com

relevant percentage specified in the site agreement. Committee gave Manuel the spreadsheets previously provided to residents, showing effect of the increases over time and the value now included in site rent for the 4-channel Austar service.

Manuel disagreed with committee regarding current value, instead contending that, because Foxtel prices have reduced over time, to buy that service now would be about \$2.50 per fortnight, hence the reduction offered to residents. He refused to reconsider the offer. PLRG requires near-100% uptake of the new offer because the agreement with Foxtel is for all homes within the Resort.

There followed considerable discussion of other issues, including:

- Resale of existing homes
- Acoustics problems in both clubhouses
- Water rates charged to residents- are they greater than council charges?
- Electricity consumption and billing for communal areas and street lighting
- Tables and chairs in Ocean Breeze Clubhouse are too heavy
- Residents' concerns that now the Resort is virtually complete, that maintenance will deteriorate
- Library step stools are dangerous and top shelves too high to reach from floor level for many residents

Committee gave Manuel a list of items for follow up.

Meeting closed at 11 30 am

Following the meeting, the Caretakers took Manuel on a tour of the Resort to check condition of roads and facilities for himself. Committee has given Christine a USB stick containing photos of maintenance issues to forward to Manuel.

Post-script Manuel emailed another rent offer at 10:00pm on Tuesday night. Committee has produced projections showing financial outcomes and comparisons with staying with existing agreements, as well as a counter-offer to present to Management

President: Norm Tenthly V385 – **Vice President:** Mary-Anne Harris V321 – **Secretary:** Karen Honey V360 – **Treasurer:** Mick Muscat V183

Committee: Geoff Patterson – V265 * Pam Gehrmann – V51 * Eva Kajtar – V256

* Bernadette Gibbs – V 320 * Susan DePaul – V 322


Web: www.plrbar.atwebpages.com

email: residentsassociation.plrb@gmail.com

Begin forwarded message:

From: PLRB Residents Association <residentsassociation.plrb@gmail.com>
Date: 10 March 2020 at 11:31:03 pm AEST
To: Reegan Chapman <reeganr@palmlake.com.au>
Cc: Manuel Lang <Manuell.@palmlake.com.au>, Scott Elliott <ScottE@palmlake.com.au>
Subject: Visit to PLR Bargara April 1

[Quoted text hidden]

 **Issues to raise with Management.docx**
32K



Palm Lake Resort Bargara Residents Association Inc.

IA 36330

345/39 Wearing Road, Bargara, Queensland 4670

Issues to raise with Manuel & Scott

- Declining standards generally – not getting what we were led to believe were standard items when we were buying in
- No consultation from management regarding new facilities
- No response to suggestions made by email re new facilities
- Residents feel ignored and treated with contempt by management
 - *Residents send emails to management and receive no reply*
- Why is there no preventative maintenance plan for the resort – the same items keep breaking down because repairs are not properly carried out – bandaied attitude applies from management
- Why is management so reluctant to spend any money on maintaining existing assets, while continually opening new resorts
- Residents feel they are not getting value for money
- Delays in repairs
- Dreadful coffee
- Friday bistro survey **conducted by Committee** - results to be discussed
 - *Generally residents are bored with frozen fish and chips of Fridays and want more variety of menu choices*
- Chairs & tables in Ocean Breeze too heavy & uncomfortable -raised with ML in May 2019
- Need TV in OBCH
- Entrance Gates - supplement keypad with fob reader
- Retaining blocks around garden at main entrance to Sea Breeze are an eye sore
 - *There are no capping stones, so cavities of link blocks fill with soil and debris, then weeds grow, thus appearing unsightly*
- Lack of storage revisit facilitating and accessing storage underneath theatre seating area
 - *A previous Residents Committee discussed with management, replacing timber framing under tiered seating in cinema with metal supports, so the area could be used for storing the Res Assoc props and decorations for our many functions, including Sales Info Days*
- Plans if any for refurbishment of Ocean Breeze Club?
- What, if any, green space allotted for new development stage
- CCTV operations or lack thereof to address anti social issues- committee has offered to view footage to identify perpetrators so caretaker can take action
- Extreme delays in refurbishing Bali hut thatching
- Air-conditioning issues in Gym – delays in fixing and no fans provided in interim
- Gate 2 keypad – has been out of action since before Christmas 2019; was fixed for a short time then disabled again – why?
- Tiles in gym showers are too slippery when wet – DHS issue
- Residents used to be able to access security cameras on their TVs – now unavailable – why?



Palm Lake Resort Bargara Residents Association Inc.

IA 36330

345/39 Wearing Road, Bargara, Queensland 4670

- When will the fobs be activated so residents can access facilities electronically; this will solve many issues with early/late access and some residents refusing to surrender keys previously provided
- Water pooling along fence near bowling green and under deck chairs following rain in the lap pool area
- Leak in roof of main bowling green – light fell down recently
- Table tennis area is too small – any provision in new clubhouse?
- Seepage into villas from property along southern boundary of resort- PLR dumped massive amounts of fill onto this area during most recent construction stage
 - *In the recent rains, water seeped under the fences along the southern boundary of the resort in the areas of Villas 374 – 379*
- Cracks in walls of SeaBreeze clubhouse

Visit to PLR Bargara April 1

Amanda Clements <AmandaC@palmlake.com.au>

13 March 2020 at 16:12

To: "residentsassociation plrb@gmail.com" <residentsassociation.plrb@gmail.com>

Cc: Manuel Lang <Manuell,@palmlake.com.au>

Good afternoon Karen,

It was extremely disappointing to read this list of "issues". Many items are not properly defined, and some items are completely irrelevant. Items such as "Residents feel ignored and treated with contempt by management" are purely antagonistic and we will not be providing comment on, or entering into discussions about these type of complaints.

Keith Arnfield will be in Bargara next week, and we have asked him to review some items you have put forward. Other items will require submissions from the HOC that are both detailed and factual. I will put together a list and send through to you early next week.

Given the combative nature of the list provided, I do not believe there would be any benefit for Manuel and Scott to attend the resort and meet with the HOC at this point. Therefore, they will not be attending PLR Bargara on 1 April. An alternative date may be considered at a later stage once there is a reasonable list of items to discuss.

Thanks,

Amanda Clements

Amanda Clements
Human Resources & Operations Manager

Palm Lake Group
M 0426 815 467 | P (07) 5552 1310
PO BOX 10479, Southport BC QLD 4215
amandac@palmlake.com.au
palmlake.com.au

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Visit to PLR Bargara April 1

PLRB ResidentsAssociation <residentsassociation.plrb@gmail.com>

17 March 2020 at 13:00

To: Amanda Clements <AmandaC@palllake.com.au>

Cc: PLR Bargara Norm Tenthly <norm10thy@gmail.com>, Bernadette Gibbs <bernadettegibbs2015@hotmail.com>, Julie Thompson <annamaginty@gmail.com>, Karen Honey <karenhoney78@gmail.com>, Mary-Anne Harris <mbar3373@gmail.com>, Mick Muscat <muzmp@hotmail.com>, Pam Gehrmann <pamandrainer@bigpond.com>, Susan DePaul <sadep2110@hotmail.com>

Hi Amanda,

In response to your request for more information, I have amended the original list, with some italicised explanations, which I hope will suffice.

With regard to the Friday Bistro Survey; as numbers of diners have been declining, the Residents Association decided to undertake a written survey to ascertain the reason. We wanted discuss results with Management, having already spoken to Caretakers here at Bargara.


I have also attached the list provided to Manuel when he last came here in May 2019, with updated comments about what has/has not happened

Regards,

Karen

[Quoted text hidden]

2 attachments

 **Issues to raise with Management.docx**
33K

 **Issues for discussion with Manuel 2019.docx**
18K

We would also like to raise some other issues for discussion with Manuel next Tuesday

1. There **are concerns** from residents of **services that used to be offered** but have now been either withdrawn completely or have declined significantly in quality ** See attached list
2. Many of our **residents are concerned** that now that the Resort is all but complete, **maintenance standards will fall.**
 - o Already we are seeing delays in needed repairs and general maintenance.
 - The **Resort simply doesn't look as sparkling** as it did when we were negotiating to buy our homes.
 - **Light globes are not replaced promptly** when they fall, leaving areas in darkness at night, which is a significant OHS issue.
 - **Our Caretaker, Christine is very efficient** at following up repairs and maintenance, but she is constrained by budgetary limitations.
 - **Roads and kerbings** are cracked and disintegrating all over the Resort
 - The wall behind a power point at Gate 1 (used for the fountain pumps) is corroded and breaking up. This could be a serious hazard, given the proximity of water and electricity.
 - **Seats, flooring and stairs in gazebo** all need sanding and resurfacing.
 - **Upholstery on a cushion** on one of the bench seats at the main bowling green is ripped and falling apart.

 - I have a **photo file of hundreds of areas around the resort** (mainly roads) that will show to Manuel in Tuesday when he is here.

All this still applies as at March 2020
3. Also, when Manuel visits, can he please arrange for us to have the **breakdown of the power metered to the common/general areas.** We have six months of PLR Bargara invoices from Momentum Energy, but we need explanations of the various sub-categories of the bills eg. Network charges; Demand Type Other Industry Charges.
 - o We are not disputing the calculation of the average kw/hr rate but we need to know exactly how much of the invoice applies to and is paid by Palm Lake Resort.
4. We also need **clarification of how our site fees are determined** - what do they include. The valuer's report quite clearly states that there are charges included to cover Council Rates, Caretaking and Management, Maintenance and Repair of Communal Facilities, General/common Area Electricity Costs. We really do need clarification of exactly what our site fees cover.
5. **Water charges** Valuer's report allows Bundaberg Council rate of \$1.16 per kL in adjusting site rent to exclude water consumption charges. PLRG charges residents \$1.90 per kL for water consumed. Having checked with Council (20/5/2019) current rate is \$1.16 for first 150kL per site per half year. Council Rates Dept assures us that Palm Lake properties never exceed the 150kL per half-year, so PRG is rated at the lower level. Manufactured Homes Act (2003) states that park owners are not permitted to charge more than actual cost of utilities charged by providers.

These issues have never been satisfactorily resolved. The fact that PLR began averaging charges for water rates from June 2019, would tend to indicate that they have been overcharging for years!

6. **Solar Panels** Letter from M Lang 20/12/2018 says that a community-wide protection relay is scheduled for completion in 2019, which "may allow ... partial export of excess solar generation from each villa" and that "we will work with PLR to maximise use of this power to reduce overall consumption..." what is completion date and when can we expect reduction in our power bills?

Still hasn't happened March 2020

7. **Acoustics** in both clubhouses are appalling and the problem is getting worse as resident numbers have increased – we need a resolution to this ongoing issue

8. **Tables and chairs** in Ocean Breeze clubhouse too heavy – need to be replaced

9. **Bar in SeaBreeze Clubhouse**. PLR Bargara has outgrown facilities in Ocean Breeze Clubhouse and needs a bar in the newer clubhouse

Nothing has changed

10. **Library** is at capacity and shelving is inappropriate and unsafe for residents. We need proper library shelving to house the book stock and to ensure resident safety.

Manuel ordered a ladder with side rails to be purchased for library – still an OHS issue, although marginally less so than previous stools

11. **Emergency vehicle access to the Resort**. Sections 87 & 87A of the Act specify that access must be available at all times. We need to ensure the safety and wellbeing of our residents.

12. **Why do we receive no acknowledgement of emails sent to management?**

March 2020 – still an ongoing issue. If we ever do receive a reply (which isn't often), it's always about 28 days later

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX O – Expenditure on capital plant and equipment 2015 – 2019

Immaterial to the matter at hand; capital expenditure is essential to the lifestyle promoted. *Additional Appendix O page submitted 18 May 2020* is likewise immaterial to the proceedings, as:

- the cost of development is not a relevant consideration for the market rent review
- **BG-F-811 Bargara Central Shopping** – no relevance or benefit for home owners
- **BG-F-815 – Caravan Storage Bargara** – paid for by homeowners in addition to the site rent, so not a “benefit” provided by park owner
- **BG-F-816 Boat Storage Bargara** – paid for by homeowners in addition to the site rent, so not a “benefit” provided by park owner
- **BG-F-817 Hair Salon Bargara** park owner rent out this space to outside hairdresser, so not a “benefit” to homeowners
- **BG-F832 Manager’s Residence Bargara** – major portion is for benefit of park owner in attracting caretakers who reside on site

APPENDIX P – MHE Bargara costs FY 15 – FY 19 In nominal terms costs have increased over the timeframe, as would be expected with a 67% growth in the resort. An additional 155 villas have been added, with commensurate increase in income. Even allowing for economies of scale, it can readily be seen that costs as a percentage of revenue have reduced, reflecting the general lack of maintenance, repair and decline in standard of presentation throughout the resort. Of particular interest are:

- **Salaries, wages and on-costs**, which declined by 14.1% from 2017-18 to 2018-19, in spite of significant growth in resident numbers.
- **Electricity costs down to \$6,927 in 2018-19**. Such a dramatic reduction cannot be totally attributable to a change of supplier. To what extent are residents subsidising the park owner’s electricity operating costs?
- **Telecommunication figures are all negatives** – again what is resident contribution to owner’s operating costs, given that telecommunication costs are separately billed by park owner.
- **Repairs and maintenance costs are below 2016-17 levels**, explaining the declining standards generally throughout resort facilities
- **Resident meal costs are also down on a per capital basis**, explaining the decline in quality and quantity of meals served
- **Resort classes and activities costs** – Applicants request a breakdown of what is included in this category. External instructors for weekly Yoga, Pilates, Aquarobics, Tai Chi and Zumba group classes account for a total of perhaps 12-14 hours per week between them. Gym trainer attends one morning per week. None of these instructors are employees of Palm Lake Pty Ltd so there can be no additional on-costs. If they are unavailable to conduct a class, there is no substitute instructor, so the class does not run and the instructor receives no payment. Most instructors also work at nominal rates for the local YMCA, so are not elite class personal trainers commanding superior rates.

APPENDIX D

Palm Lake Works Pty Ltd.
Job Cost Summary
 18/05/15 until 18/05/20



	Budgets	Invoices	Forecast	Ordered	Inv - Bids	Contract	Claims	Forecast Profit	Markup on P/Coast	Profit on Sales
MHE Bargara										
BG-F-801 F- CLUBHOUSE/BOWLS GREEN	2,238,108	229,362	2,306,166	2,235,290	66,058	0	0	-2,306,166	-100%	
BG-F-805 F- POOL BARGARA	150,613	47,251	153,566	154,468	2,923	0	0	-153,566	-100%	
BG-F-806 F- SPA BARGARA	0	0	46	0	46	0	0	-46	-100%	
BG-F-808 F- BARBECUE/ENTERTAINMEN	2,929	82,241	83,080	83,080	80,161	0	0	-80,080	-100%	
BG-F-809 F- CRAFT ROOM BARGARA	314,381	38,467	319,368	314,381	4,318	0	0	-319,368	-100%	
BG-F-811 BARGARA CENTRAL SHOPPING	13,078	13,078	13,078	13,078	0	0	0	-13,078	-100%	
BG-F-813 F- TENNIS COURT BARGARA	211,434	60,688	212,708	211,434	1,274	0	0	-212,706	-100%	
BG-F-814 F- BOWLING GREEN BARGARA	1,178,066	289,265	1,214,514	1,192,400	36,478	0	0	-1,214,514	-100%	
BG-F-815 F- CABAYAN STORAGE BARGA	187,763	37,481	167,806	187,763	13	0	0	-167,806	-100%	
BG-F-816 F- BOAT STORAGE BARGARA	0	0	0	0	0	0	0	0		
BG-F-817 F- HAIR SALON BARGARA	2,084	0	2,084	2,084	0	0	0	-2,084	-100%	
BG-F-819 F- WORKSHOP BARGARA	303,252	305,109	346,911	303,252	45,659	0	0	-346,911	-100%	
BG-F-827 F- COUNTRY CLUB BARGARA	7,566	0	9,761	7,566	2,195	0	0	-9,761	-100%	
BG-F-828 F- MINI GOLF BARGARA	23,300	23,300	23,300	23,300	0	0	0	-23,300	-100%	
BG-F-832 F- MANAGERS RESIDENCE BAI	141,318	2,112	148,906	141,316	7,590	0	0	-148,906	-100%	
BG-F-833 F- RECREATION ROOM BARGA	985,343	948,568	984,795	982,975	-38,774	0	0	-984,785	-100%	
BG-F-835 F- EXISTING BOWLING GREEN	178,040	242,627	242,782	179,840	94,742	0	0	-242,782	-100%	
TOTAL MHE Bargara	5,937,316	2,340,625	6,250,654	6,042,229	276,640	0	0	-8,250,654	-100%	0%

GRAND TOTALS	5,937,316	2,340,625	6,250,654	6,042,229	276,640	0	0	-8,250,654	-100.00%	0
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Note: All amounts are net of GST unless specified

APPENDIX P

MHE Bargara Costs FY15-FY19

Expense	Actual Jul15-Jun16	Actual Jul16-Jun17	Actual Jul17-Jun18	Actual Jul18-Jun19	% change 2016 - 2019
Salaries, Wages & On-Costs	\$ 311,417	\$ 445,342	\$ 517,144	\$ 444,180	29.7%
Rates	\$ 31,630	\$ 57,009	\$ 31,389	\$ 32,053	
Sewerage	\$ 172,551	\$ 204,178	\$ 239,217	\$ 277,140	
Water	\$ 100,808	\$ 120,441	\$ 145,016	\$ 150,260	
Waste Disposal	\$ 74,320	\$ 68,427	\$ 107,911	\$ 124,916	
Subtotal (Rate+Water+Waste)	\$ 180,785	\$ 450,055	\$ 523,532	\$ 584,370	89.7%
Electricity	\$ 67,309	\$ 60,719	\$ 28,564	\$ 6,927	-99.4%
Telecommunications	\$ 7,570	\$ 52,032	\$ 28,809	\$ 28,168	39.6%
Repairs & Maintenance	\$ 63,006	\$ 69,649	\$ 53,555	\$ 66,418	4.9%
Resident Meals	\$ 58,192	\$ 67,531	\$ 78,420	\$ 89,166	45.9%
Resort Classes & Activities	\$ 60,247	\$ 59,554	\$ 60,202	\$ 103,351	72.4%
Other Operating Costs	\$ 29,569	\$ 36,828	\$ 38,030	\$ 43,440	37.7%
Total Expense	\$ 961,481	\$ 1,138,644	\$ 1,270,638	\$ 1,309,684	30.6%

Moved From AGL to Momentum

OCL 009-20 Applicant Response to Respondent Submission

APPENDIX Q – Pension rates and Government rent assistance are immaterial to the matter at hand. Many residents are self-funded retirees who do not qualify for government pensions or benefits.

INDEX TO ATTACHMENTS

Respondent Tab	DOCUMENT NAME	EVIDENCE
A	Applicant names	Original list & Applicant Attachment A
B	Respondent Appendix B Knight Frank Report	Extracts of valuer report
D	Respondent Appendix D Palm Lake Letter of 29 March 2019	Extract showing conditional offer re new Foxtel service
E	Respondent Appendix E Palm Lake Letter of 24 June 2019 Applicant calculation worksheet	Advising cancellation of Foxtel services and offer of \$2.50 per fortnight compensation Showing present-day value of historic Foxtel charges
F	Respondent Appendix F WEH (now Palm Lake) Letter of 18 January 2012 from Garrie Love	Complete letter showing other conditions of offer and inclusion of charge in site fee
L	Respondent Appendix B Knight Frank Report	Extract of valuer's report
M	Respondent Appendix M Table of rental charges by rent tag Knight Frank rent tags from valuer report	Discrepancies between identified rent tags

INDEX TO ATTACHMENTS

N	Applicant photographs of resort facilities and communal areas Copies of emails and attachments and record of meeting with CEO	Showing state of disrepair and decline in standards Evidencing long-standing nature of disputed repair items
O - P	Respondent Appendix O Capital expenditure Respondent Appendix P Listing actual expenses 2015-16 to 2018-2019 financial years	Capital items irrelevant to dispute Operating expenses declined as % of income, given growth of resort of the timeframe