Gmail

Frank Zipfinger <frank.zipfinger@gmail.com>

SLOPES: 2020-21 MSU Leaseholder Charges Invoicing - Summer operation of lodges W+K correction - Wildfire insurance in California

SLOPES <slopes.au@gmail.com> 6 November 2020 at 15:08
Bcc: frank.zipfinger@gmail.com

Dear SLOPES Members and Associates

This email updates you on:

1. **2020-21 MSU Leaseholder Charges Invoicing**

SLOPES has received the advice from NPWS set out below.

As previously advised SLOPES and the Perisher Chamber of Commerce have approached the local member, John Barilaro, seeking relief in respect of MSU charges.

See: https://slopes.org.au/wp/wp-content/uploads/2020/09/941-SLOPES-email-29-9-20-various-topics.pdf

A response is still awaited.

2. **COVID-19 - Summer operation of lodges - W+K - Correction**

Our email of 2 November 2020 attached an advice from Wotton + Kearney in relation to this topic.

See: https://slopes.org.au/wp/wp-content/uploads/2020/11/956-SLOPES-email-2-11-20-copy.pdf

A Club has queried the references in paragraphs 2.7 and 2.8 of the letter to "1.5 square metres".

Wotton + Kearney have responded:

My apologies there is a typographical error in those sentences.
The word "square" should not appear after "1.5 metres."
The sentence should be a reference to 1.5 metre rule not the 1.5 square metre rule.

The amended W+K letter is attached.

3. **Insurance - Bushfire coverage - California**

As previously advised:

To ensure that SLOPES participants are getting the best possible insurance at the best price we have retained an insurance consultant, Barrack Broking, to undertake an independent review of the Marsh insurance program.

See: https://slopes.org.au/wp/wp-content/uploads/2020/08/931-SLOPES-email-28-8-20.pdf

In that context the attached article from the New York Times is of interest titled *California bars Insurers From Dropping Policies in Wildfire Areas.*

The article is here online: https://www.nytimes.com/2020/11/05/climate/california-wildfire-insurance.html?action=click&module=Latest&pgtype=Homepage

Regards

Frank Zipfinger
President
SLOPES

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NPWS - 2020-21 MSU LEASEHOLDER CHARGES

From: **Karen Field** <Karen.Field@environment.nsw.gov.au>
Date: Thu, 5 Nov 2020 at 12:05
Subject: 2020-21 MSU Leaseholder Charges Invoicing
To:

Dear Frank

I advise that NPWS will issue MSU invoices shortly to all lessees for Fixed Water and Sewer Charges for the period January to June 2021 and water and sewer usage charges for the period May to October 2020.

The fixed charges are payable on 1 January 2021 and the usage charges are payable on 14 January 2021.

As previously informed MSU charges are not covered by the Retail and Other Commercial Leases (COVID-19) Regulation 2020.

NPWS will not be issuing a broadcast email to lessees.

Further information regarding the current charges can be found at the link below:

https://2020-21 Leaseholder Charges Perisher Range Resorts

regards

Karen

Karen Field

Senior Property Officer

Property and Commercial Branch
NSW National Parks & Wildlife Service

49 Kosciuszko Rd, Jindabyne 2627

PO Box 2228, Jindabyne 2627
T 02 6450 5502 **M** 0421 275 955
W nationalparks.nsw.gov.au

W+K letter 6-10-20.pdf
194K

Our ref: CHM 9001083 CHM
Your ref: SLOPES

6 November 2020

wotton kearney

Frank Zipfinger
President
Ski Lodges of Perisher, Smiggins and Guthega
Level 1, 156 Edgecliff Road
WOOLLAHRA NSW 2025

By email: slopes.au@gmail.com

cc: Roland Everingham
By email: roland.everingham@wottonkearney.com.au

Dear Frank

Summer Operations of Lodges

1. Thank you for your recent email in relation to our advices of 13 October 2020.

2. The following are our points of clarification in respect to the operation of the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No.5) 2020* (**the "Order"**) in relation to our advices of 13 October 2020:

   2.1 Point 3 is a reference to our advices of 26 August 2020 (copy **enclosed**) particularly paragraph 9. You will note our comments that pursuant the *Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No.4) 2020* the only legislative requirement that Clubs were required to comply with was the *"4 square metre rule."* This continues to be the case under the most recent Public Health Order;

   2.2 In relation to our comments in paragraph 7(b) the phrase *"that are open to the public"* is best interpreted by having regard to all areas which are assessable to those patrons with confirmed accommodation bookings (eg common areas, hallways, bedroom). Staff only areas would be excluded from that definition; and

   2.3 We refer to the example of a dining room which is 55 square metres. The question is:

   > *"Does the Club have to restrict dining patrons to 13 people (ie 55 square metres divided by 4 square metres gives a maximum capacity of 13 people) or is the Club entitled to take into account the entire size of the premises like hallways/stairwells in calculating the number of dining patrons allowed in the dining room. For example, if taking into account the hallway/stairwells the entire size is 20 square metres does that allow the Club to have 18 people in the dining room (ie 75 square metres divided by 4 square metres equal 18 persons)?"*

   2.4 Clause 8 of the Order provides that it is the *"size of the premises"* which is considered and not individual rooms, spaces or parts of the premises. This can be contrasted with other jurisdictions like Queensland which has orders which specifically mandate that individual spaces or rooms must be used for the purposes of the calculation.

   2.5 Accordingly, in the example given above the Club could allow 18 people into the dining room without breaching the Order.

2.6 Furthermore, it is likely that a gathering of people for the purposes of preparing and eating food would be a gathering within the meaning of Paragraph 12, Schedule 2 of the Order which is exempted from the application of the 4 square metre rule.

2.7 Clubs need to be mindful that they also need to comply with their obligations under the *Work Health and Safety Act*. The requirement for people to keep 1.5 metres apart has never been a legislative requirement. However, if the Club allowed or was complicit in a situation where people were allowed to gather in a space where they could not keep 1.5 metres apart this would expose a Club to risks both under the *Work Health and Safety Act* and/or occupier's negligence in the event a patron contracted coronavirus.

2.8 Even though it is not an express legislative obligation we recommend that Clubs ensure as best they can that individual rooms (excluding bedrooms) are not occupied so people cannot remain 1.5 metres apart.

3. The exemption for *"gatherings at hotel, motel and accommodation facilities that are necessary for the operation of the accommodation services"* would unlikely be interpreted to give a blanket exemption to Clubs for the entire operations. It would be more likely that the reference to *"gatherings"* would be those gatherings that are necessary like the preparation and consumption of food.

4. Again, it is important to remember the requirements in Public Health Orders cannot be read in isolation from the Club's obligations under the *Work Health and Safety Act*. An example of this can be found in Victoria were aged care facilities are facing potential prosecution not for breaching Public Health Orders but for breaches of the *Occupational Health and Safety Act* and the new Victorian Industrial Manslaughter Laws.

5. Accordingly, even though the 1.5 metre social distancing rule is not part of the legislative requirements in the Order we recommend that the Clubs continue to apply it.

6. If you have any questions, please do not hesitate to contact us.

Yours sincerely

Chris Mossman

Chris Mossman
Partner
D: +61 2 8273 9806
E: Chris.Mossman@wottonkearney.com.au

The New York Times https://nyti.ms/3p8JNtl

California Bars Insurers From Dropping Policies in Wildfire A

The new one-year freeze is a sign of the growing financial burden caused by climate change.

By Christopher Flavelle

Nov. 5, 2020 Updated 4:07 p.m. ET

As California reels from this year's record wildfires, the state announced on Thursday that it would prevent insurance companies from dropping homeowners for one year in many parts of the state, a sign of the growing financial turmoil caused by climate change.

The measure, which applies to almost one-fifth of the state's residential insurance market, prohibits companies from canceling or refusing to renew insurance policies for 2.1 million households in or near areas hit by this year's wildfires.

The announcement reflects the increasing strain that climate change has placed on California, which had imposed a similar moratorium once before, at a smaller scale. As rising temperatures and longer droughts make wildfires more devastating, some insurers have responded to enormous financial losses by leaving fire-prone communities. That threatens the economies of those areas, because homes that can't easily be insured are harder to sell, and nearly impossible to rebuild after a fire.

California's struggles are a preview of the threat that climate change poses to the long-term economic health of communities around the country. Insurers have begun pulling back from fire-prone areas in other states across the West. And in communities near oceans or rivers, the increasing cost of flood insurance poses a similar risk, driving down home values and make them harder to sell.

In response to growing climate risks, state officials have intervened to stop insurers from leaving high-risk areas. In December, California's insurance commissioner, Ricardo Lara, for the first time imposed a similar one-year moratorium on insurers dropping coverage for more than 1 million policyholders in or near areas affected by wildfires.

Mr. Lara's office declined to make him available for an interview. In a statement, he said the new policy "gives millions of Californians breathing room and hits the pause button on insurance non-renewals while we take additional steps to expand our competitive market."

Still, the state's ability to shield homeowners from the consequences of climate change is limited. The moratorium cannot be extended, which means that insurers who want to stop offering coverage in high-risk areas will eventually be able to do so.

Insurers have said that if the state wants them to keep doing business in those areas, officials must make it easier to allow insurance companies to charge higher premiums, reflecting what they say is the true risk from wildfires.

A bill that would have allowed insurers to take those steps, including justifying rate increases using computer models that predict future risk, failed to pass the state legislature this year after consumer groups said it would impose an unfair burden on homeowners.

In a statement, two groups that represent insurers, the American Property Casualty Insurance Association and the Personal Insurance Federation of California, did not take a position on the moratorium. The groups said that more frequent wildfires bring a higher risk of property damage, "and we need to adapt to this new reality."

"It is important that we work together on solutions that increase insurance availability in high-fire risk areas and protect against insurer insolvency," the statement added.

People who lose access to private insurance can still buy coverage from a high-risk state program called the Fair Access to Insurance Requirements plan. But that coverage is typically more expensive and covers fewer types of damage.

The state's longer-term strategy involves encouraging local officials to reduce exposure and vulnerability to wildfire, through tougher building codes or rules about managing the vegetation around homes.

"If we don't want to be in this position every year, we have to reduce the risk to lives and homes," Mr. Lara said.

But the most promising changes tend to be restrictions on home construction in vulnerable areas. And those restrictions provoke strong pushback in California, where high housing prices have left many people struggling to find homes they can afford, creating pressure to keep building in high-risk areas.

Carolyn Kousky, executive director of the Wharton Risk Center at the University of Pennsylvania, described the new moratorium as a temporary measure that would not solve the underlying problem of growing climate risk.

"This problem's not going to go away. That raises a lot of questions about how we're building and where we're building," Dr. Kousky said. "Clearly the market needs something much beyond this."