



PLH (Barbuda) Ltd's Response to UN Allegations

An Analysis by the Global Legal Action Network

July 2022

1. On June 22, 2021, a group of United Nations Special Rapporteurs of the United Nations Office of the High Commissioner for Human Rights (“OHCHR”) issued a Joint Communication to the Government of Antigua and Barbuda, expressing deep concern about the development of a luxury resort called the Barbuda Ocean Club, owned by the US company PLH (Barbuda) Limited (hereafter “PLH”, an acronym for “Peace, Love and Happiness”).¹ The Joint Communication also expressed concern about the construction of a **new international airport** on Barbuda, which is linked to PLH as well.
2. On August 20, 2021, counsel for PLH issued a letter (hereafter “PLH letter”) in response to the Special Rapporteurs’ Joint Communication.²
3. On February 2, 2022, the same group of United Nations Special Rapporteurs issued a press release expressing concerns about the risks of PLH’s activities to “Barbuda’s fragile and biodiverse natural site of Palmetto Point” and the “serious human rights implications, due to the construction of the Barbudan Ocean Club resort”.³ PLH has not responded to date.
4. The Global Legal Action Network has been following PLH’s developments on Barbuda since 2018.⁴ It has recently come to our attention that PLH has commissioned a “Human Rights Impact Assessment” (HRIA) to provide a further response to the OHCHR. This *ex post facto* process highlights PLH’s failure to conduct a HRIA prior to commencing activities (as recommended by the United Nations Special Rapporteurs and required under international standards). PLH has not indicated that it will halt construction until the investigation is complete. We feel compelled at this stage to point out the major inaccuracies and omissions in PLH’s previous response letter, which serves as their latest and only official position on this matter at this stage.
5. We are disturbed by PLH’s dismissal of the Special Rapporteurs’ important concerns, including the disinformation provided in their response letter to the OHCHR and several key omissions from the letter’s account of the situation. **This document lists and fact checks the main claims made by PLH in their**

¹ OHCHR, Reference: AL ATG 1/2021. Mandates of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on the right to development; the Special Rapporteur on the right to food; and the Special Rapporteur on the human rights to safe drinking water and sanitation. 22 June 2021. Available here:

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26334>.

² Available here: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36512>.

³ OHCHR, Press release: “Antigua and Barbuda: Luxury resort put wetland and healthy environment at risk – UN experts”, 2 February 2022, <https://www.ohchr.org/en/press-releases/2022/02/antigua-and-barbuda-luxury-resort-puts-wetland-and-healthy-environment-risk>.

⁴ The Global Legal Action Network (GLAN) is an organisation of lawyers and academics which pursues innovative legal actions across borders to challenge the powerful actors involved in systemic human rights violations. For more information on our work on and beyond Barbuda, please visit www.glanlaw.org.



letter and flags the letter’s important omissions. This is an initial response and maybe be supplemented as more information becomes available.

- 6. In particular, this rebuttal letter addresses the following major inaccuracies and omissions in PLH’s letter (references are to page numbers in this document):

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A Key Omission: PLH’s Involvement in New International Airport

- 7. It is important to note that PLH’s letter only addresses their construction of Barbuda Ocean Club and neglects to address their involvement in the construction of the international airport on Barbuda. As a matter of fact, PLH is directly involved in the construction of the airport, which is an integral part of its plan for the ‘development’ of the island. Firstly, PLH’s lease for land in Palmetto Point gives it authority to negotiate an agreement for the design and schedule of a new international airport, developed with the aim of bringing foreign tourists to the new resorts. The lease specifies that the first \$5 million that PLH pays in rent (i.e. the first 80 years of rent) would be expensed on the airport’s construction.⁵
- 8. The constructions began in September 2017 without an environmental impact assessment (EIA), and without either the consent of the Barbudan people, or a licence from the Barbuda Council to clear the forest as required by the Barbudan Land Regulations, 2010 (“Land Regulations”).⁶ There is still no publicly available EIA for

⁵ Lease Between Barbuda Council, the Governor General of Antigua and Barbuda, and PLH Barbuda Ltd. (Feb. 22, 2017), Sec. A.1 (“The Lessee agrees to pay the sum of Five Million [USD], subject to the satisfaction of the conditions precedent in the Airport Escrow Agreement, dated the 22nd day of February, 2017 which the Lessor agrees shall be at all times treated as prepaid rent in respect of this Lease for the Initial Term.”)

⁶ Barbuda Land Regulations (S.I. No. 17 of 2010), Article 6.

the airport. Construction to date has led to widely documented harm to the environment and to internationally recognised cultural heritage sites, and will result in a significant increase in GHG emissions resulting from the incoming and outgoing flights.⁷ A case is currently pending before the Judicial Committee of the Privy Council relating to the lack of an adequate environmental impact assessment for this project.⁸

9. The following satellite images show the construction of the airstrip, with Figure 1 (June 2016) showing pristine forest before construction began, and Figure 2 (October 2021) showing a significant area of forest cleared with space for an airstrip constructed.

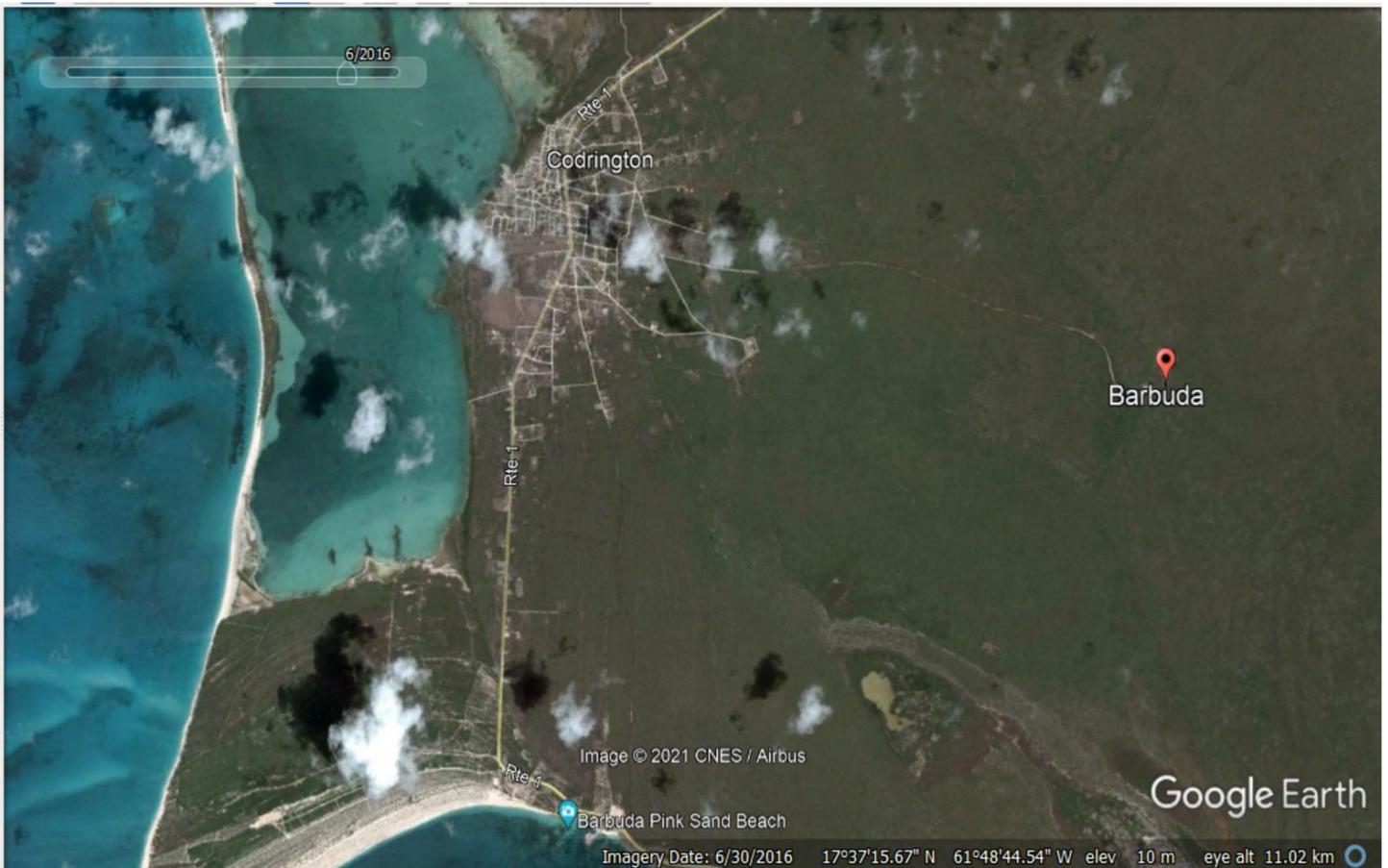


Figure 1: Satellite imagery taken June 2016, showing the future location for the new international airstrip on Barbuda, before construction began. Source: Google Earth

⁷ Dr. Adelle Blair, *Assessment of the Damage to Five Springs, Barbuda – near new PLH/BOC Airstrip 2* (Aug. 23, 2021) (on file). See also Environmental Justice Atlas, *New airport on the island of Barbuda, Antigua and Barbuda* (Online), <https://ejatlas.org/conflict/barbuda-new-airport>.

⁸ Garden Court Chambers, *Barbudans take legal action against Government of Antigua and Barbuda for unlawful development of an international airport* (2 August 2018), <https://www.gardencourtchambers.co.uk/news/barbudans-take-legal-action-against-government-of-antigua-and-barbuda-for-unlawful-development-of-an-international-airport>.



Figure 2: Satellite imagery taken October 2021, showing significant clearing of forest for an airstrip. Source: Google Earth

10. In 2019, two years into the operations, PLH commissioned Deborah Brosnan and Associates to conduct an Environmental Assessment for the airport.⁹ The company thus manifested its intention to step in the construction. This was done, without having informed the local population, and planned to execute the transfer of the concession for the airport without the approval of the Council/people. Brosnan & Associates issued the Environmental Assessment in August 2019. To date, the file has not been made public. Multiple UN Special Rapporteurs have sought information about the fencing works around the airport from the developers and Bahamas (as the state representing one of the developers), all to no avail.
11. Members of the PLH Partnership have publicly confirmed and praised the realisation of the airstrip. In a 2021 Instagram post (Figure 3) shared by Michael Chandler of the Barbuda Ocean Club, an image is shown of the airstrip and Chandler writes, “New 6100ft runway in Barbuda finishing up. Crazy to watch this place come alive.”

⁹Deborah Brosnan and Associates, Comprehensive Environmental Assessment, Studies & Mitigation Action Report For the BARBUDA AIRSTRIP, Prepared at the request of Peace, Love & Happiness (PLH) Barbuda Ocean Club (BOC), August 2019 (on file).



Figure 3: An Instagram post shared publicly by @michaelleechandler, whose profile identified the account as belonging to Michael Chandler of the Barbuda Ocean Club. The account has since been made private.

PLH Claim 1: The leases for land at Palmetto Point are lawful and never been challenged

Claim 1a: The leases and any titles, rights and benefits obtained from them are lawful and valid

12. PLH claims its lease agreements with the government and the Barbuda Council (“Council”), “follow[ed] all requirements and approvals under the Barbuda Land Act”.¹⁰ Regarding the leases for land on Palmetto Point, PLH claims that “[o]n November 7, 2016, Barbuda convened a vote and the participants overwhelmingly approved the project”¹¹ in accordance with the requirements of the Barbuda Land Act 2007 (“Land Act”) and Land Regulations.
13. **Contrary to their claim, PLH did not fully comply with legal requirements for requesting the land’s lease from the Barbuda Council, as evidenced by the following actions and inactions.**
- a. **Community consent for the lease of land at Palmetto Point was not obtained in accordance with applicable law.** Articles 10(2)-(5) of the Land Regulations state that any meeting of the people of Barbuda to approve a major development “shall be announced through the electronic and print media [and by posting a Notice] at the Post Office, Airport, Council Hall, Council Administration Building and Police Station.”¹² The time, location and “proposal to be discussed” at the meeting must be posted 15 days in advance, otherwise the proposal “shall not be discussed.”¹³ PLH hosted a meeting with members of the community on November 7, 2016, but Barbudans maintain that **they were not fully informed of the scope of the PLH project prior to the meeting.**¹⁴ During the meeting, the exact plot of land that PLH wished to lease was not shared, nor key details about the project.
 - b. **The Barbuda Council’s certification of the vote on the PLH development was not delivered to the central government in accordance with the law.** Land Regulations Article 10 specifies that “a Certificate *signed by the Chairman or the Deputy Chairman and Secretary of the Council* certifying the result of the votes ... shall be conclusive evidence of the decision of the people of Barbuda on the proposal before it” (emphasis added). The certificate sent to the government on November 14, 2016, was signed by Amy George, the Barbuda Council Deputy Secretary.¹⁵ It is therefore not “conclusive evidence” of a vote.
 - c. **PLH has failed to establish that the leased land on which it operates a resort at Coco Point was transferred to PLH in accordance with the Land Act.** The 2007 Land Act specifies that

¹⁰ PLH letter, p.6.

¹¹ PLH letter, p.5.

¹² Barbuda Land Regulations (S.I. No. 17 of 2010), Articles 10(2)-(4).

¹³ Ibid.

¹⁴ Telephone interview with John Mussington, Principal, Sir McChesney George Secondary School, Barbuda (March. 8, 2021); Telephone interview with Trevor Walker, Barbudan Member of Parliament (Apr. 2 2021); Interview with Kendra Beazer, former Barbuda Councilmember (Jan. 26, 2022).

¹⁵ Letter from Amy George, Deputy Secretary, Barbuda Council to Secretary to the Cabinet, Cabinet Secretary, Prime Minister Office (Nov. 15, 2016).

“[l]eases of land in Barbuda may only be assigned or sublet with the approval of the Council except in the case of leases for major development where the approval of the Cabinet shall also be obtained.”¹⁶ Current members of the Barbuda Council are unaware when the lease for land at Coco Point was transferred to PLH. PLH’s website currently advertises the Coco Point development as including upwards of 70 luxury estates, a spa and wellness center, “sports courts and fields, and a future golf amenity.”¹⁷

- d. **PLH has also failed to establish that the leased land on Palmetto Point which formerly housed the Beach House property was transferred to PLH in accordance with the Land Act.** PLH provides the lease for this land in Exhibit 1 of the letter, but the lease, signed on September 11, 2018, is signed between PLH and the Government of Antigua and Barbuda.¹⁸ The Barbuda Council is not a signatory, and current Council members have expressed being unaware of the lease.
- e. During the interviews that were realized for this study, some **allegations of corruption and bribery throughout the process were raised.** An attendee witnessed direct handovers of cash to at least two individuals: “I saw the prime minister paying people, with my two eyes. And I confronted him ... I saw him when I was on my way to the meeting. He went into a particular person’s yard. And I saw him when he handed \$100 to the lady and \$50 to the son. I saw it. God be my witness.”¹⁹ There were also smaller inducements such as “all different kinds of things to eat and drink to seduce the people”. The Barbudan political party, the Barbuda People’s Movement (BPM), published a statement days after the meeting, on November 11, 2016, denouncing the vote on the basis that “information regarding the details of the schemes being proposed is often withheld or is inadequate. The atmosphere of intolerance encouraged at such meetings is designed to stifle dissent and in fact, the conditions before and during the meeting is influenced so as to ensure a particular outcome ... The BPM represents Barbudans who refuse to be bribed and we will continue to stay away from these fraudulent meetings.”²⁰

Claim 1b: The leases have never been challenged

14. PLH claims that “[t]o date, neither the Government of Antigua or Barbuda nor the Barbuda Council nor any inhabitant of Barbuda have filed any claim to revoke, rescind or cancel the Lease Agreements.”²¹ However:
 - a. **The Barbuda People’s Movement publicly and immediately challenged** the sufficiency of the public participation process conducted for the leases in the village meeting on November 7, 2016. On November 11, 2016, the BPM published a press release regarding the November 7 meeting, stating **that the PLH Palmetto Point development “is not supported by the majority of Barbudans.**

¹⁶ Barbuda Land Act, 2007 (S.I. No. 23 of 2007), Article 23.

¹⁷ *Coco Point Map*, Barbuda Ocean Club, <https://welcome.barbudaoceanclub.com/map/?map=coco> (last visited July 14, 2022).

¹⁸ PLH letter, Exhibit 1.

¹⁹ *Id.*

²⁰ “Press Release,” Barbuda People’s Movement (Nov. 11, 2016) (on file with authors).

²¹ PLH letter, p.6.



In fact, our Party has made a decision not to attend any such [community] meetings regarding the alienation of Barbuda's lands.”²² As noted above, the release noted that inadequate information was provided and the outcome was improperly influenced.²³

PLH Claim 2: Information on the PLH development is public, and EIAs for the development were carried out in accordance with applicable law and scientific best practice

Claim 2a: Information on PLH's development is public

15. PLH writes that its “environmental studies are public, and it is conducting regular environmental assessments”.²⁴ **Contrary to this claim, PLH has failed to make public the relevant environmental impact assessment (EIA) for its developments at Palmetto Point and Coco Point.**
- a. **A public EIA is not known to exist for the PLH development at Coco Point**, which is required by the Physical Planning Act, 2003. Section 23 of the Physical Planning Act, 2003 states that an EIA “shall be required” for any hotel or resort complex.²⁵
 - b. GLAN has been able to obtain a copy of the executive summary of what is potentially the EIA for Coco Point, however PLH and its scientists have refused to release the full EIA – if it exists. The lack of a publicly available full EIA is particularly concerning given the large scale of the Coco Point development. The PLH website states the new development will include upwards of 70 luxury estates, a spa and wellness center, “sports courts and fields, and a future golf amenity.”²⁶ A publicly accessible EIA is necessary for the public to understand how a development of PLH’s unprecedented size will impact Coco Point. The executive summary of the EIA already uncovers that PLH intends to **develop “97 total units on 164 acres”** (own emphasis).
 - c. Deborah Brosnan & Associates conducted an EIA for PLH’s development at Palmetto Point, of which a one-page summary is available on Brosnan & Associates’ website.²⁷ However, **the Palmetto Point EIA itself is not publicly available on the website of the Government of Antigua and Barbuda, of Deborah Brosnan & Associates, or elsewhere.**²⁸ The Environmental Protection and Management Act, 2019 requires that any EIA received be posted on the Department of Environment “website and [made] available at its offices for public inspection for at least two weeks after its

²² Barbuda People’s Movement, Press Release (Nov. 11, 2016) (on file with the authors).

²³ Ibid.

²⁴ PLH letter, p.3.

²⁵ The Physical Planning Act, 2003 (S.I. No. 6 of 2003), Section 23, Article 10.

²⁶ *Coco Point Map*, Barbuda Ocean Club, <https://welcome.barbudaclub.com/map/?map=coco> (last visited July 14, 2022).

²⁷ Deborah Brosnan & Associates, Barbuda Preserve: Environmental Assessment and EIA (last visited July 14, 2022), www.deborahbrosnan.com/uploads/4/8/6/7/4867822/barbuda_preserve_eia_overview_1.pdf.

²⁸ The absence of a publicly available EIA for the Palmetto Point development is additionally concerning because of its location within the protected Codrington Lagoon National Park (CLNP), which was designated as a Wetland of International Importance under the Ramsar Convention in 2005.



receipt.”²⁹ To the knowledge of the Barbuda Council, the Palmetto Point EIA was not posted in this manner after being first delivered to the Government of Antigua and Barbuda on January 29, 2018. Further, the Global Legal Action Network (GLAN) directly asked Deborah Brosnan & Associates for a copy of the EIA on multiple occasions, but each of these requests was denied.³⁰

16. PLH also purports to have conducted further environmental studies, as produced in Exhibits 4.1-4.6 to its letter, covering issues such as vegetation survey and mapping, but **PLH’s environmental studies are not publicly available**. It is noteworthy that the executive summary of the Coco Point EIA, which GLAN was able to obtain, states that “PLH has invested in a comprehensive and unprecedented state of the art set of scientific studies using the highest standards. By making the results of the studies available, the PLH facilitates the Barbuda Council and citizens to make scientifically-informed decisions to create a more resilient society and navigate environmental and sea level rise changes.” Yet none of these environmental studies, nor the EIAs, are publicly available.

Claim 2b: EIAs were carried out in accordance with applicable law

17. PLH contends that the EIA for Palmetto Point “was developed through a lengthy, independent, detailed and professional process. It was drafted and finalized after conducting a comprehensive review of existing literature, the completion of several site visits, and thorough consultation with the people and with the Government of Antigua and Barbuda”.³¹ They describe the process of local consultation as follows: “Dr. Brosnan met with members of the Barbuda Council and members of the community to gather their input on the environmental history and cultural use of the area. She conducted additional field visits, accompanied by members of the community”.³²
 - a. Contrary to this claim, the EIA for Palmetto Point was not developed through an independent process, nor **conducted by an independent third party**. Dr. Deborah Brosnan, the President and Founder of Deborah Brosnan & Associates, has a significant personal stake in the PLH development and is therefore not an independent party. She is listed on the PLH website as a member of the PLH core team³³ and, as shown in Figure 4 below, the development will include a “Brosnan School of the Environment.”

²⁹ Article 43(2), Barbuda Environmental Protection and Management Act, 2019.

³⁰ Emails between GLAN and Deborah Brosnan & Associates (on file with the authors).

³¹ PLH letter, p.8.

³² PLH letter, p.9.

³³ *The Team*, Barbuda Ocean Club, <https://barbuda1team1dream.com/about/#team> (last visited Apr. 1, 2022 – the site now seems to be down).



Figure 4: PLH Map of Development at Palmetto Point (2019).

- b. Further, the EIA did not involve “thorough consultation” with the people of Barbuda. In Appendix B of their letter, PLH outlines four instances where unidentified “local boatmen” and “members of the local community” (i.e. not government employees or business representatives) were allegedly involved in activities surrounding the EIA.³⁴ It is unclear from the document who these individuals were, how many they were, how they were selected, or how their input was solicited. Indeed, a thorough consultation was not possible at the time the company alleges to have conducted it, because in September 2017 the majority of the residents had evacuated the island due to Hurricane Irma, and only a handful of residents returned in October, while the majority remained displaced through much of 2018. As a result, for instance, the secondary school was reopened only in February 2018.

³⁴ PLH letter, Appendix B, pp.2-4. This document states that meetings prior to the EIA publication that involved local Barbudans took place on: October 20, 2017; October 21, 2017; October 22, 2017; and January 28, 2018.

- c. Since so few members of the Barbudan community were present on the island, the consultation cannot be properly considered as ‘thorough’ or valid as the company is required to do by law. Moreover, the input that PLH did receive from “members of the Barbudan community” about the EIA was allegedly obtained on January 28, 2018, the day before the document was submitted to the government.³⁵ Even if input on the plans was sought, it was highly unlikely to influence the contents of the assessment during this one-day period.

Claim 2c: EIAs were carried out in accordance with international standards of scientific best practice

18. As mentioned above, there is no publicly available EIA for the development taking place at Coco Point. If the project was developed without an EIA, it unequivocally violates international standards of scientific best practice, as well as local laws and regulations.³⁶ If a Coco Point EIA was conducted, the fact that it has not been made publicly accessible makes it impossible to determine whether or not it was conducted in line with scientific standards.
19. Although the Palmetto Point EIA has not been made publicly accessible, the authors of this report were able to obtain a copy. This was despite Brosnan & Associates repeated denials of GLAN’s requests for the EIAs over email.
20. PLH’s response to the UN reveals that the requisite scientific studies for Palmetto Point have not yet been completed, despite the continuation of construction.³⁷ The possibility that some of the requisite scientific studies have as yet been completed and may still be ongoing at the time of writing, raises serious concerns regarding the project’s compatibility with international scientific standards and environmental safety.

PLH Claim 3: There has been significant local participation in the project, and no local opposition to the project, except by proponents of sand mining

Claim 3a: Significant local participation and lack of local opposition

21. PLH states that “[s]ince late 2017, PLH has participated in dozens of meetings with the Barbuda community to keep them apprised of developments with the project and to address any and all concerns that have been raised.”³⁸ It notes that in-person meetings were held between April-May 2018 with unspecified “members of the Barbuda community” to discuss the BOC project.³⁹ However:
 - a. PLH’s meetings to discuss the project were held at Coco Point in a private property located a 30-minute drive by car only from Codrington, where most Barbudan residents reside. Since most

³⁵ PLH letter, p.8.

³⁶ See, for example, Article 43(2), Barbuda Environmental Protection and Management Act, 2019.

³⁷ PLH letter, p.6.

³⁸ PLH letter, p.2.

³⁹ PLH letter, e.g., p.2, p.13, inter alia.



residents do not have private cars and transportation was not provided to enable their attendance, **the meetings were inaccessible and not attended by most local Barbudan residents.**

22. PLH notes that in 2020 it “opened an office in the heart of Codrington ...for the members of the community to visit or call to ask questions or raise any concerns. No concerns or complaints have been received to date regarding the project or its impact on the environment and the community.”⁴⁰ However:

- a. PLH has never conducted any, let alone detailed discussions of their development plans with the Barbuda Council. Indeed, **at no point has PLH transparently shared the full details of their development plans with the local Barbudan community, so it is meaningless to say that no concerns or complaints have been made.**

23. PLH itself recognizes that the project has undergone several changes and modifications.

- a. Despite that, these **changes have not been adequately submitted to the people of Barbuda nor to the Barbuda Council.** This is in violation of the 2007 Barbuda Land Act, which regulates the PLH concession as recognized in the concession itself. For example, the land sought for development has significantly expanded since the original lease. Figure 5 below shows the original land marked for lease in 2017, and Figure 6 shows the original Development Plan that PLH submitted to the government later that year. Figures 7 and 8, sourced from PLH’s website in 2022, clearly show that the size of the land to be covered by development exceeds the original allocation, expanding right up to the shoreline in the Ramsar wetland.⁴¹

⁴⁰ PLH letter, p.13.

⁴¹ PLH letter, p.11.



Figure 5: 2017 map showing PLH's leased area, outlined in blue. Source: PLH's Lease Agreement (22 Feb 2017)

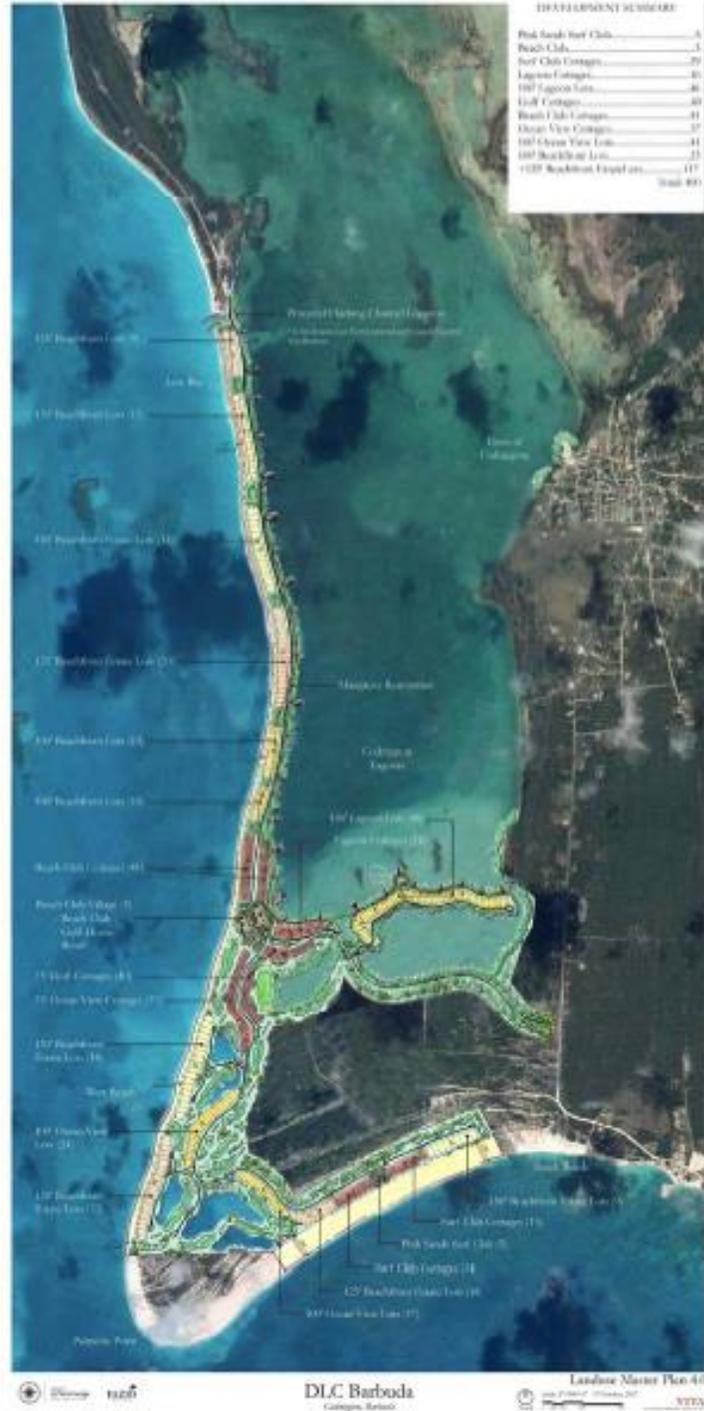


Figure 6: Development plan for Palmetto Point submitted by PLH to the Development Control Authority in 2016.
 Source: PLH's Memorandum of Agreement



Figure 7: Map of the Barbuda Ocean Club at Palmetto Point. Source: barbudaoceanclub.com (retrieved 11 July 2022)



Figure 8: Rendering of PLH's proposed developments on the south of Palmetto Point. Source: barbudaoceanclub.com

- b. Additionally, the original proposal to the Barbudan people and the Barbuda Council included a 150-room boutique hotel. No hotel has since been built, only private residences that will generate significantly less consistent employment for local people.
24. It is again also crucial to note that in the **'agreement' PLH made with the community, there is no reference to the airport**, even though the State included the land and plans for the airport in its concession agreement with PLH. As PLH took over the concession under this agreement, everything in that agreement should have become the object of the EIA.
25. There is **no evidence to suggest that the details of the plans or agreements have ever been communicated to the communities**, let alone that their authorization of these was properly sought and obtained. PLH mentions the airport as an obligation of the State, but the airport became a project of PLH, and therefore requires requisite approval by the Barbuda Council.

Claim 3b: No local opposition, except by proponents of sand mining

26. PLH states “[t]he development of the Barbuda Ocean Club has been from its inception overwhelmingly positive, with one exception. Namely, there is a small group of islanders who oppose the project because it sits on land where sand mining operations were historically conducted. This group insists on and is determined to continue conducting sand mining operations.”⁴² The letter further asserts that “[t]he only voices that have raised concerns are those of a limited number of individuals who are determined to eviscerate the environment by continuing to conduct sand mining.”⁴³

- a. Contrary to this claim, **there has been significant opposition from both local constituencies and groups and international actors to this project**. In Barbuda, public opposition to PLH has been expressed by the Barbudan people, elected members of the Barbuda Council, civil society and political groups.⁴⁴

⁴² PLH letter, p.1.

⁴³ PLH letter, p.13.

⁴⁴ See, for example:

- Facebook group “Barbuda Silent No More”, <https://www.facebook.com/barbudasilentnomore/>.
- See also local newspaper **The Antigua Observer**, [Environmentalists blasts PM's climate change fight as 'hypocritical'](#) (4 January 2022); [Barbuda Council asks PLH to halt operations for 14 days](#) (11 February 2021); [PLH accused of 'greenwashing amid environmental destruction](#) (27 January 2021); [Fury over plans for luxury homes in Barbuda national park](#) (30 November 2020); [Barbuda Council fights on to halt work at Palmetto Point](#) (16 July 2020), inter alia.
- International media: **National Geographic**, [A tight-knit island hopes to rebuild while preserving "the Barbudan way"](#) (11 August 2021); **The Independent**, [Residents of hurricane-ravaged Barbuda hopeful as UN body signals 'deep concern' over resort for uber-rich](#) (16 July 2021); **The Guardian**, [Barbudans 'fight for survival' as resort project threatens islanders' way of life](#) (14

- b. **On December 4, 2019, after meeting in a Formal Session, the Barbuda Council wrote to PLH to express that the Council made “a majority vote to halt and decelerate all work order or progress in the Palmetto Point ... until the Barbuda Council and Community would have deliberated [the project] going forward.”**⁴⁵
- c. **On February 11, 2020, the Barbuda Council wrote to the central government to request a stop order on the project works.** The letter based this request on deficiencies in PLH’s EIA, arguing that “the socio-cultural impacts addressed ... did not include any surveys of the Barbuda people” and the analysis did not account for “serious social impacts when the population increases by approximately 50% over the project, not including residents.”⁴⁶ The Council also noted in detail evidence of environmental harm caused by construction efforts, including “removal of mangroves, non-observance of setbacks, damage to habitats of protected flora and fauna.”⁴⁷
- d. **Local opposition has not focused on the sand mining, but instead is a reaction to environmental destruction and human rights violations, in particular the unregulated manner in which the project has been initiated and is being conducted: on the basis of fraudulently conveyed rights to control and use the land, without proper authorisation from local authorities, without consultation with affected local communities, manifestly unlawful disregard for the obligations of the companies to safeguard the environment through proper procedures. The effects include a host of serious and ongoing abuses of the rights of local communities to food, a healthy environment, land, development and (internal) self-determination.** In December 2020, the Barbuda Council Secretary noted in a media article that “here in Barbuda, [PLH] is seemingly causing major destruction to an environment. And not only the environment — major destruction to a people’s life, to an entire community.”⁴⁸
- e. **The Council is forced to rely on sand mining because the island’s economy is experiencing dire levels of austerity and is nearing a state of collapse.** The Barbuda Council currently employs roughly 60% of the island’s population. In March 2022, the Council was 38 weeks in arrears on weekly wages and 4 months in arrears on monthly salaries, amounting to over EC\$2 million in fees.⁴⁹ It is the responsibility of the central government to send the Council additional funds with which it can pay

December 2020); **The Independent**, ['Vulnerable to climate change so the rich can play gold': An untouched island, a billionaire 'environmentalist' and a legal fight over a luxury resort](#) (13 December 2020), inter alia.

⁴⁵ Letter from Paul Nedd, Secretary, Barbuda Council to Darren Flanagan, Vice President of Operations, Barbuda Ocean Club (Dec. 4, 2019) (on file).

⁴⁶ Letter from Chairman, Barbuda Council to Frederick Southwell, Chief Town and Country Planner, Development Control Authority (Feb. 11, 2020) (on file).

⁴⁷ Ibid.

⁴⁸ Alleen Brown, Caribbean Islanders: 'Environmentalism' Billionaire Building Resort on Protected Wetlands, *The Intercept* (Dec. 9, 2020), <https://theintercept.com/2020/12/09/barbuda-resorts-dejoria-de-niro/>.

⁴⁹ Telephone interview conducted by authors’ affiliated partner with Trevor Walker, Barbudan Member of Parliament, Barbuda, (Sep 11, 2021). Antigua Observer, *Barbuda Council continues to push for money owed* (25 March 2022), <https://antiguaobserver.com/barbuda-council-continues-to-push-for-money-owed/>.

salaries, funds that are partly generated through taxes on Barbudan people.⁵⁰ As of September 2021, public employees in Antigua were up to date on salary payments.⁵¹

27. PLH writes that “[o]n September 18, 2020, close to 40 people, including two members of the Barbuda Council (Mr. Paul Nedd and Mr. Devon Warner), trespassed on PLH’s leased land. They trespassed to attempt to force PLH into covering supposedly unpaid Council salaries ... the police arrested Messrs. Nedd and Warner for obstruction. No one else (certainly not the 21 individuals mentioned in the Joint Communication) was arrested or is facing charges.”⁵² **This account is not accurate.**

- a. The group of individuals went to the construction site to observe the environmental destruction that had recently been reported by the government. The Barbuda Council stated on September 19, 2021, that “members of the Barbuda Council, Council workers and ordinary Barbudans visited Palmetto Point ... to see what was happening to the internationally renowned RAMSAR site ... [because] over the last few weeks DCA and the DoE have issued noncompliance notices to the developers ... support[ing] what the Barbuda Council and Environmentalists have been saying to DoE and DCA since the start of this project.”⁵³
- b. Contrary to what PLH alleges, a group of **24 individuals still face charges** for not wearing a mask in a public place, trespass and obstruction. Despite due process concerns, for the third time a hearing went ahead on Barbuda on 28 June 2022 during which the defendants clarified again the purpose of their visit, their concerns for the impacts of the construction on the island, and the fact that they were walking on a public road and had been allowed on the construction site by a local guard.⁵⁴ The repeated summoning of that same group of individuals and the unwarranted threatening of jail time clearly present serious issues in relation to the rights of environmental and human rights defenders. In its letter, PLH continues to claim that the “arrest and charges were limited to Messrs. Nedd and Walker”.⁵⁵

⁵⁰ Slow payment of funds to the Council is part of a historical pattern. For example, a report by the UK Commonwealth Secretariat in 2000 assessing the relationship between the central government and the Barbuda Council noted that the “central government has not always met its financial obligations [for Barbudan public services] under agreed arrangements on a timely basis.” Commonwealth Secretariat, *Review of the Operation of the Arrangements between the Government of Antigua and Barbuda and the Barbuda Local Council* 26 (Oct. 2000).

⁵¹ “Antigua PM Says Government Now Has “Difficulty” Paying Salaries,” CNW Network (Sep. 7 2021), <https://www.caribbeannationalweekly.com/news/antigua-pm-says-government-now-has-difficulty-paying-salaries/>

⁵² PLH Letter, p.24.

⁵³ <https://www.facebook.com/BarbudaCouncilPR/posts/2708219839420545>

⁵⁴ Telephone interview conducted by authors with Jackie Frank, one of the defendants, online (June 28, 2022).

⁵⁵ PLH letter, p. 25.

PLH Claim 4: PLH development is repairing prior environmental harm; it has not and will not cause harm to the environment

Claim 4a: PLH is repairing prior environmental harm

28. PLH claims that by 2016, when it began discussing the project with the government, “the island’s beaches and landscape had been destroyed as a result of sand mining.”⁵⁶ However, there have never been any **sand mining operations conducted along the south shore of Palmetto Point** where the PLH development is planned.⁵⁷ PLH claims “the dunes in Barbuda were severely degraded long before PLH arrived at the island. The cause for removal of the dunes—sand mining—has been ongoing in the area for more than 50 years ... according to the EIA, over 90% of the original and native plant assemblages of species and growth forms has been “obliterated by sand mining” ... plant assemblages in the area reflected human disturbance as early as 1997.”⁵⁸

- a. According to Dr. Adelle Blair, Advisor to the Barbuda Council on Environmental Matters and the former Chief Environmental Officer at the Antigua and Barbuda Environment Department, **PLH’s account of this is “incorrect” -- Barbuda’s beaches and landscapes had not been destroyed by sand mining.**⁵⁹ She explains: “If the beaches and landscape were destroyed by sand mining then the whole of Barbuda island would be covered in water. Further, why would a developer invest millions of dollars in a place that had no beaches or landscape? [PLH] went on further in page 13 to say that, ‘PLH discovered that the Palmetto Peninsula had some sea turtle nests’. If indeed the beaches and landscape on the island were destroyed, where would the turtles have nested?”⁶⁰ Dr. Blair also notes that “Figure 9 in the DoE’s site visit report of 26th August, 2020 illustrates and states that there was a historic dune remaining on Palmetto”.⁶¹

⁵⁶ PLH letter, p.2.

⁵⁷ Dr. Blair’s letter, p.5.

⁵⁸ PLH letter, p.18.

⁵⁹ Dr. Blair’s letter, p.5.

⁶⁰ Ibid.

⁶¹ Ibid, p.6.



Figure 9: Map of Palmetto Peninsula vegetation communities & land use, 2018. Source: PLH letter, Appendix 4.1.

29. The 2018 PLH Vegetation Survey and Mapping report, shown above, documents the location of existing sand mining. Sand mining was not happening along the shore, but rather on a small inland plot, where construction of the golf course is underway. Thus, the **current construction on the golf course is not rehabilitating land damaged by sand mining but rather covering that area with a golf course.**
30. PLH is right that sand mining “destroys sand dunes and beaches, removes natural barriers of protection against hurricanes and storms, increases the risk of flooding, and affects wildlife.”⁶² However, it is silent with regards to the fact that sand mining did not occur in the areas where the current development of luxury resorts is planned/ongoing. In sum, **it ignores the fact that the large-scale and significant ecologically harmful impact of sand mining is resulting from the construction of an 18-hole golf course, 450 luxury villas, one international airport, and its associated infrastructure such as the connecting roads.** PLH has willfully omitted any mention of these severe impacts on the environment, which are far more destructive and

⁶² PLH Letter, pp.2-3.



compromise the environment in the Palmetto Point area in ways that are worse than the entire 50 year history of sand mining on Barbuda. PLH has in fact fabricated its reconstruction of their project.

Claim 4b: PLH has not and will not cause environmental harm

31. As summarized by Dr. Blair: “From the onset, the project’s master plan had to be adjusted because of various potential negative impacts.”⁶³ This, is, however, ignored by PLH.
- a. In a letter from the DoE, written on 19 February 2018, Chief Environment Officer Mrs. Diann Black-Layne stated that “the DoE is concerned about the northern portions of the masterplan which will involve the alteration of wetlands and buildings in an unstable area that has been designed as a no development area”.⁶⁴
 - b. In a letter from 26 February 2018, wherein Chief Town and Country Planner Mr. Frederick Southwell granted approval-in-principle to PLH for the Palmetto Point development, he attached (but did not reference) an EIA Review report which had been submitted by Ruleta Camacho Thomas of the DoE on 19 February 2018. Mrs Camacho Thomas stated, “during the screening and scoping exercises.... the DoE identified several conflicts between the Land Use Master Plan and existing legal and international designations of the site.”
 - c. Further, the DoE concluded that the Development Master Plan 4.0 did not reflect the principles of the current Land Use Plan for Barbuda which are contained in the SIRMZP.”⁶⁵
 - d. Later, Mrs Camacho Thomas noted that the “DoE has already cautioned that the development of the wetlands and lagoon system are not in line with the legal designations of the area and the protections provided therein”, and that “although the plans were updated, concerns remained regarding the northern portions of the masterplan”. Mrs. Camacho Thomas also flagged that “[a]s highlighted in the EIA the installation of a large golf course over an aquifer will have impacts on the water quality of the site and has implications for the health of the aquifer”.⁶⁶
 - e. More recently, Dr. Blair notes that after the DoE’s site visit report of June 2020, “**setback recommendations of the DoE and Fisheries Division were ignored** – this report noted on page 4 that the distance between the line of permanent vegetation and holes 8 and 9 was insufficient for the 10ft protective coastal dune. These holes are in areas that are vulnerable to overtopping during swell events. Dune restoration use of buried revetment being contemplated but was not a part of what was approved. **Concerns were raised that it appeared that the golf course was given priority over dune restoration, and this was not what was agreed to. Drainage and hydrological**

⁶³ Dr. Blair’s letter, p.1.

⁶⁴ Dr. Blair’s letter, p.1.

⁶⁵ Dr. Blair’s letter, pp.1-2.

⁶⁶ Dr. Blair’s letter, pp.1-2.

management plans were not finalized at this stage. The developer stated that they would be submitted within the month but the subsequent report of July 2020 noted that they were yet to be submitted.”⁶⁷ (emphasis added)

- f. According to the DoE’s site visit report of August 2020, PLH had “reversed the wetland mitigation actions previously in place and damaged the historic dune and may have [damaged the (sic)] historic palmetto vegetation. These actions are in violation of the EMMP [Environmental Management and Monitoring plan] that is in place for the Palmetto site.”⁶⁸ The DoE called on PLH to “[c]omply with the Environmental Management and Monitoring plan, the conditions of approval and the EIA by restoring wetland mitigation areas and introducing new mitigation actions for wetlands damaged. **These actions are required as compliance to RAMSAR principles on the wise use of wetlands**”.⁶⁹ The DoE also stated, “**With respect to the destruction of the historical dune, restoration of the material and the vegetation should be instituted immediately**”.⁷⁰ Dr. Blair adds: “In relation to the July-August infractions the DOE has also raised the issues of overall compliance with the EMMP process. It is noted that monthly reports have been delayed. The content of the July 2020 and August 2020 report reflect that the science team has not been involved in the planning of activities on the site. These issues of internal communication should be addressed to avoid any additional impacts as a result of the EMMP not being followed.”⁷¹

32. PLH maintains that the government did not make a finding on August 26, 2020 of “ongoing violations in the project’s implementation phase” and that “in August 2020, no mangroves were removed.”⁷² It states that in August 2020 “the government and PLH identified that a small area (0.2 hectares) that PLH had been restoring as a wetland was impacted due to earth movements during the prior month [and thus the area] rendered practically useless, was by mistake filled with sand.”⁷³ **But the violations identified by the DCA are made clear in their compliance notice:**

⁶⁷ Dr. Blair’s letter, p.2.

⁶⁸ Dr. Blair’s letter, p.2.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Dr. Blair’s letter, pp.3-4.

⁷² PLH letter, p.12.

⁷³ Ibid.

COMPLIANCE NOTICE

BARBUDA OCEAN CLUB /PLH — AUGUST 2020

Dear Mr. Wilshaw,

I write to advise and put you on notice that the Development Control Authority (DCA), in conjunction with the Department of Environment (DoE), performed its scheduled monitoring visit and compliance check at the PLH, Palmetto Point Project site on August 26, 2020. It was observed and recorded that work was being conducted contrary to the conditions of the approval granted for Plan Application # G18-2017, the Environmental Impact Assessment (EIA), Scientific Analysis, Management Plans and the Approval and Conditions under which Plan Application # A454-2019 was granted.

Violations:

- Reversal of the wetland mitigation actions.
- Damage to the historic dune and palmetto vegetation.
- Works conducted on site since visit of July 16, 2020 was not subjected to any environmental review, guidance, monitoring or the recommendation of the DoE for adherence to the guidelines related to the RAMSAR designation of the site, EIA Findings and Environmental Management and Monitoring Plan (EMMP) for the site.

Immediate Remediation Actions:

- Immediately comply with the Environmental Management and Monitoring Plan (EMMP), the conditions of approval and the EIA.
- Immediately restore wetland mitigation areas and establish new mitigation actions for damaged wetland, using established matrices as is required in compliance with RAMSAR principles on the wise use of wetlands.
- Immediately restore historic dune and palmetto vegetation.

Figure 10: Excerpt from the Compliance Notice issued by the DCA to the Barbuda Ocean Club/PLH in August 2020.

- a. On August 31, 2020, the government sent a letter to PLH following a site inspection on August 26. This letter leaves no doubt that PLH's construction activities, not "earth movements", caused the environmental damage. The letter states: "The PLH/BOC **has reversed the wetland mitigation actions previously in place and damaged the historic dune** and may have [damaged the (sic)] historic palmetto vegetation. The work conducted on the ... site since the last site visit on July 16th was not subjected to any environmental and scientific review, guidance or monitoring ... The PLH / BOC project in [sic] therefore **not in compliance** with the regulatory rules and conditions of approval."⁷⁴ (emphasis added)
- b. **Mangroves have been removed in significant swaths** on Palmetto Point and will continue to be cleared for the development. Deborah Brosnan & Associates' Palmetto Peninsula Ecological Management Plan Report dated 17th December, 2019 acknowledges that an area of buttonwood mangroves were cleared by a subcontractor.⁷⁵ The golf course and private estates on Palmetto Point are fundamentally incompatible with existing mangrove forests, which will be removed.
- c. **According to the DoE, PLH has not carried out adequate monitoring to assess environmental**

⁷⁴ DCA, Compliance Notice: Barbuda Ocean Club/PLH – August 2020, p.1.

⁷⁵ Deborah Brosnan & Associates, Palmetto Peninsula Ecological Management Plan Report (17 December 2019) (on file with the authors).

harms. According to the site visit report of August 2020, “[t]he work conducted on the PLH/BOC Palmetto site since the last site visit on July 16th was not subjected to any environmental and scientific review, guidance or monitoring. This lack of monitoring and mitigation represents a direct violation of the conditions of approval for A #454 2019 and the DoE recommendations for adherence to the guidelines related to the RAMSAR designation of the site, the EIA findings and the EMMP for the site.”⁷⁶

- d. In the DoE’s August 2020 site visit report, **the DoE stated that “a stop order should be immediately issued and the following remediation actions taken by the developer”**, noting: “It was indicated during the site visit that the “plans have changed”, however there has been no reporting to the DCA or the DOE of this change of plans. The actions observed on site regarding the work on the historic dune and the wetland mitigation areas represents a breach of the conditions of approval. For these reasons the PLH activities at Palmetto and Coco Point are currently not [in] compliance with the approvals issued.”⁷⁷ The DoE wrote in its compliance statement: “Based on the site visit performed on 26th August 2020 by the DOE, PLH activities related to the development approved in plan application #A 454-2019 are not being conducted in accordance with the conditions of approval for application #G 18-2017, the accompanying EIA as well as all relevant scientific analysis, management plans and reports related to the project.”⁷⁸
- e. **In addition, PLH has made changes to its mitigation plan without seeking proper approval from the DoE.** In the DoE’s site visit of September/October 2020, after PLH explained that they would pull back the dunes near holes 8 and 9 of the golf course to prepare for the installation of Geo Tubing, the DoE requested that PLH halt the work and present “detailed science based report supporting the proposed change in mitigation approach”.⁷⁹ The DoE also reminded PLH that “any changes to approved environmental risk mitigation and ecosystem enhancement measures need to be submitted for approval prior to the change being implemented”, and that “changes in planned environmental mitigation should be reported through the EMMP process, either as discrete request in the monthly EMMP report submission or as a standalone request”.⁸⁰

33. Further, since February of this year (2022), PLH contractors have been creating huge lagoons in the Palmetto Point protected peninsula which experts describe as a geologically unstable and dynamic area characterised by its unique and unusual sand dune systems. In the long term, these lagoons are expected to **weaken the integrity of the peninsula which is composed primarily of limestone sand.**

- a. In Palmetto Point, the natural sand dune and wetland vegetation is being stripped and burned. In the process wildlife such as land crabs, land turtles and many more species (some not yet identified and/or taxonomically described) are simply being bulldozed out of existence, thus reducing the protected area's biodiversity stock. Eyewitnesses confirm that truckloads of the sand mined out of the holes are being transported to Coco Point. Mined sand is also being used at the Palmetto site to back fill low lying wetland areas to facilitate the building of workers quarters and other facilities and the expected

⁷⁶ Dr. Blair’s letter, p.2.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Dr. Blair’s letter, pp.3-4.

⁸⁰ Ibid.

luxury homes. Photos and videos taken from February 2022 to the first week of July 2022 document these activities, shown below.



Figure 11: Drone footage of Palmetto Point, taken 27 February 2022. Source: GLAN



Figure 12: Drone footage of Palmetto Point, taken 24 April 2022 (showing additional lagoons). Source: GLAN



Figure 13: Drone footage of construction ongoing at Palmetto Point, taken 19 June 2022. Source: GLAN

34. Additional environmental damage is being inflicted on the island by **the mining and removal of rocks and topsoil from the airport construction site**. This material is being trucked daily to the Coco Point site. There, it is being used to shore up the shoreline in the manner referenced at paragraphs 34(a) and (b). In the process of transporting these huge amounts of sand, topsoil and rocks daily (and sometimes at night) for the past several months **Barbudans and other residents and visitors are being subjected to nuisances of dust, noise and traffic hazards**. The effects of these continuous and persistent nuisances impact not only the individuals but the their property, homes and personal belongings.
35. Finally, GLAN has been able to obtain a copy of the executive summary of the EIA for Coco Point (ES), which gives rises to a number of serious concerns. In particular, the executive summary already admits the following:
- a. The proposed development at Coco Point expands over 164 acres, a **substantial increase of developed land** (by at least 116 acres) compared to any prior existing development on the site. The ES further lists, amongst the key environmental impacts, “negative impacts resulting in the loss of much of the existing native vegetation and habitats on the peninsula”. In particular, at the species level, a large Least Tern nesting colony (a species only recently delisted as endangered in 2021) is “*likely to be lost to development and human activity*”; a Sea Turtle colony is threatened by “*loss of habitat*”; the Barbuda Warbler (an endemic near-threatened species) is “*likely to be displacement (sic) by loss of habitat*”;⁸¹ and an endangered and native tree species, the Lignum Vitae-Gaiac Trees, is growing right at the place of proposed development, with “*several trees (...) cut down for infrastructure “back of house development and access”*”.
 - b. With respect to the marine environment, the ES simply states that the coral reefs “are already in poor condition, and at ongoing risk from runoff (during construction or operations)”. As to the risks and vulnerabilities of Coco Point due to climate change and associated sea level rise, the ES acknowledges that **under “the worst-case scenario (...) the entire peninsula would be flooded”**, simply advising the artificial elevation of the lots’ floors together with the construction of an artificial dune. Despite the recent devastation of Hurricane Irma, and the known risks of building on a low-lying island that is prone to hurricanes and flooding, PLH chooses to build close to the coast. This is a fatalistic approach to climate change, and its effects will be further exacerbated by the development scenario proposed by PLH.

⁸¹ The IUCN website states with regard to the Barbuda Warbler that it has a “*very small population, rendering it moderately susceptible to stochastic events and human impacts*” and “*Although there is currently no evidence of a decline, it is feared that habitat degradation is increasing considerably*”. See <https://www.iucnredlist.org/species/22729426/180385702>.

PLH Claim 5: The repeal of the Barbuda Land Act 2007 is irrelevant to the PLH development

36. PLH maintains that “the 2018 amendment is of no consequence to the Barbuda Ocean Club,” that it “is not and has not taken any steps to become the owner of any land, nor has it benefited in any way from the 2018 amendment.”⁸² This is untrue.

- a. **The PLH leases explicitly leave open the possibility for the purchase of leased land** on Barbuda in the event of a legislative change, such as the 2018 amendment.⁸³ Sec 2.2 of the lease notes that “the Barbuda Land Act prohibits the sale of land on Barbuda ... [a]bsent new legislation to the contrary, all references in this Agreement to ownership ... shall be construed as a reference to leasehold interest” [emphasis added]. Co-owner of PLH, John Paul DeJoria, was granted a lease for a private residence within the Ramsar wetland at Cedar Tree Point, for which an EIA was submitted to the Development Control Authority on November 4, 2020. This was facilitated by the 2018 amendment, as no local consent was sought. The EIA was later revised to remove Mr. DeJoria from the application.

PLH Claim 6: PLH investing in the culture, healthcare and water and food sovereignty of the Barbudan people

37. PLH claims that it “has supported efforts to re-establish the island’s culture after Hurricane Irma”⁸⁴ and “has sponsored dozens of local cultural events.”⁸⁵

- a. **But PLH’s private development fundamentally undermines and threatens Barbudan culture.** Barbudan culture and identity is unique and deeply intertwined with the natural landscape. Barbudans have lived in harmony with nature for centuries based on inherited knowledge about the limitations and potential of their island. Practices of fishing, hunting, farming, and “living from the land” provide them with spiritual and cultural affirmation. Barbudans also have a long, shared history of defending this way of life against those who seek to privatize their land. Barbudans fear that the wholesale transformation of the island into a tourism hub - a transformation that PLH is central to - will eliminate them as a unique people.⁸⁶
- b. Further, construction of the new airport funded by PLH has **already destroyed physical cultural sites** on the island including a 25-acre historical site.⁸⁷

⁸² PLH letter, p.6.

⁸³ PLH letter, p. 6. , Barbuda (Amendment) Act, 2018 (Act No. 7/2018) (Barb.), Part II, Section 5.

⁸⁴ PLH letter, p.16.

⁸⁵ PLH letter, p.2.

⁸⁶ See, for example, National Geographic, *A tight-knit island hopes to rebuild while preserving “the Barbudan way”* (11 August 2021), <https://www.nationalgeographic.com/history/article/a-tight-knit-island-nation-hopes-to-rebuild-while-preserving-the-barbudan-way>.

⁸⁷ See, for example, NACLA (by Rebecca Boger and Sophia Perdikaris), *After Irma, Disaster Capitalism Threatens Cultural Heritage in Barbuda* (11 February 2019), <https://nacla.org/news/2019/02/12/after-irma-disaster-capitalism-threatens-cultural-heritage-barbuda>.

38. PLH states that it “has invested, for no financial benefit, millions of dollars in local residential housing and in the island’s healthcare system.”⁸⁸ **PLH claims it has provided support to the island’s healthcare, but these are overstated** given the lack of impact that PLH has made on the island’s healthcare system and its limited capacity. The hospital on Barbuda is an eight-bed facility that can handle only minor injuries. For basic and essential medical treatments such as dental care, OBGYN services, prenatal and postnatal care, and blood work, Barbudans must travel the fifty kilometers to Antigua by boat or plane at their own expense. During the COVID-19 pandemic, no personal protective equipment or additional government social support has been provided to Barbudans.⁸⁹ PLH has brought one ambulance to the island, but local Barbudans have been told that the ambulance only caters to PLH guests.
39. PLH claims it has “helped develop access to **freshwater resources** for members of the local community[,] spearhead[ing] a campaign with several NGOs to build a 150,000-gallon water tank linked to an existing desalination plant.”⁹⁰ PLH implies that its activities won’t burden freshwater supplies on the island: “[T]he Barbuda Ocean Club has a totally independent water system that runs independently of the local population’s requirements for freshwater and does not impact the natural groundwater aquifer under Palmetto Point.”⁹¹
- a. **This claim overstates PLH’s contribution to freshwater access on the island.** PLH did not pay for or source the water tank, which was obtained through a grant from the Venezuelan Government.⁹² PLH collaborated with NGOs to help put the tank in place.⁹³
 - b. Further, **this claim ignores how PLH’s development activities have and continue to place access to freshwater on the island at serious risk.** The Palmetto Point PLH development alone will require an estimated 50,000-900,000 gallons of water per day.⁹⁴ A similar amount will be needed for Coco Point, which PLH advertises will include upwards of 70 luxury estates, a spa and wellness center, “sports courts and fields, and a future golf amenity.”⁹⁵ The executive summary of the EIA for Coco Point mentions “97 total units on 164 acres (...): 35 Beach Club and Lodge units; 49 Ocean Estate Lots and 13 Village Lots” as well as “amenity buildings”.⁹⁶ . On November 19, 2019, the DoE Chief Environment Officer wrote that the Barbuda Ocean Club “presents a potential risk to the entire water system of Barbuda, human health as well as wildlife and ecosystems.”⁹⁷

⁸⁸ PLH letter, pp.1-2.

⁸⁹ Telephone interview with Trevor Walker, Barbudan Member of Parliament (Aug. 12 2021).

⁹⁰ PLH letter, p.15.

⁹¹ PLH letter, p.21.

⁹² Telephone interview with John Mussington, Principal, Sir McChesney George Secondary School, Barbuda (Sep. 9, 2021); Telephone interview with Trevor Walker, Barbudan Member of Parliament (Sep. 11 2021).

⁹³ Ibid.

⁹⁴ Deborah Brosnan & Associates, Barbuda Preserve, Barbuda: Environmental Impact Assessment (Jan. 2018), 44-5.

⁹⁵ *Coco Point Map*, Barbuda Ocean Club, <https://welcome.barbudaclub.com/map/?map=coco> (last visited July 14, 2022).

⁹⁶ Executive Summary of Coco Point EIA, iii.

⁹⁷ Letter from Diann Black-Layne, Chief Environment Officer, Department of Environment to Frederick Southwell, Chief Town and Country Planner, Development Control Authority (Nov. 19, 2019), included *as reported in* Dr. Blair Visitation Report.

40. PLH claims it “has assisted local farmers in expanding livestock farming. Importantly, PLH’s investment in local farming and livestock has led local farming production to its highest level in the last 50 years ... PLH has also worked with a team of local horticulturalists to develop a two-acre farm. Any unused produce is donated to families in the local town of Codrington.”⁹⁸
- a. **PLH overstates its contribution to sustainable agriculture efforts on the island.** The Caribbean Agricultural Research and Development Institute (CARDI) and Inter-American Institute for Cooperation on Agriculture (IICA) jointly implement projects on Barbuda to support development of the livestock industry through the production of high-quality forages and planting material.⁹⁹ It is unclear what PLH’s role has been in this initiative, if any. In addition, the farm referenced in the PLH letter lies within the private development at Coco Point, which will feed the residents at upwards of 70 luxury estates.¹⁰⁰ According to the Barbuda Ocean Club website, “Coco Point's Farm & Nursery is already quite impressive, supplying not only our Members and their guests with fresh fruits and vegetables daily, but also the greater community of Barbuda.”¹⁰¹ The unused produce from the farm **will not make a significant contribution** to the daily food needs of the population of Barbuda.
 - b. **PLH overlooks the ways in which the development will harm food security and the right to food.** The Barbudan diet, once entirely sourced locally, increasingly depends on imported, store-bought food that is considerably less nutritious and whose price is subject to fluctuations in global food markets. Shifting cultivation is impossible under divided tenure of private lands; large species cannot survive when their habitats are occupied by infrastructure; and marine life cannot thrive in water filled with pollution from construction, cargo boats, and yachts. The gentrification of the island creates competition for food: the government has made a political choice to prioritize private hotel restaurants over agricultural resilience for locals. **These impacts endanger local food production and local livelihoods in contravention of obligations under international law.**
41. PLH claims that “there is no basis” to the claim that their “proposed construction will impair fishing activities off the island’s coast.”¹⁰²
- a. **According to the Global Coral Reef Alliance, “[a]ny development at Palmetto Point would cause significant, and probably irreversible, deterioration of water quality in Codrington Lagoon...deal[ing] a mortal blow to Barbuda’s fisheries.”**¹⁰³

⁹⁸ PLH letter, p.14.

⁹⁹ PLH letter, p.14.

¹⁰⁰ *Coco Point Map*, Barbuda Ocean Club, <https://welcome.barbudaoceanclub.com/map/?map=coco> (last visited July 14, 2022).

¹⁰¹ *Ibid.*

¹⁰² PLH letter, p.23.

¹⁰³ Thomas J. F. Goreau, *Palmetto Point Development: Potential Impacts on Barbuda’s Fisheries*, Global Coral Reef Alliance (May 19, 2020) www.globalcoral.org/palmetto-point-development-potential-impacts-on-barbudas-fisheries/.

PLH Claim 7: PLH will generate significant tax revenue for the Barbudan people

42. PLH claims that “PLH is becoming one of the largest, if not the largest contributor of revenue for the island. In 2021, PLH will contribute over USD \$4.35 million in tax and duties revenue to Antigua and Barbuda including, rents payable under the Lease Agreements, food and beverage, government duties and fuel, staff gratuities and pensions, and import charges and duties.”

- a. **This claim does not reflect the rent and tax duties outlined in PLH’s lease, which largely exempt PLH from paying taxes and specify an annual rent of merely USD\$ 212,938 for over 600 acres of land.**¹⁰⁴
- b. Under the terms of its Memorandum of Agreement, with the Barbuda Council and Government of Antigua and Barbuda, PLH benefits from the following tax breaks, among others: (1) exemption from customs tax on the importation and purchase of materials and machinery to be used in the construction and operation of the project, as well as vehicles associated with the project; (2) a 75% reduction in property tax; (3) a twenty-year exemption from all income tax; (4) a 75% reduction in stamp duty for all land; (5) a twenty-year exemption from all taxes applicable to income gained by non-residents from projects on the island.¹⁰⁵
- c. **PLH pays USD\$ 354 per acre in rent to lease 626.83 acres of land in a Ramsar protected wetland, a total of \$212,938 annually. For the first 80 years this money must be spent on an airport that was constructed without proper approvals and that Barbudan people vigorously oppose.**

PLH Claim 8: PLH has acted in accordance with the applicable legal framework on human rights

43. PLH claims that it has “plainly complied with the legal framework” guiding the human rights compliance of real estate developments, despite the lack of a prior human rights assessment for its projects on Barbuda and the fact that it “does not have such policies or procedures”.¹⁰⁶

44. This is a contradiction in terms, as **preparing a human rights impact assessment (HRIA) prior to commencing activities following their recommendations is absolutely essential**, as recently reiterated by the United Nations Special Rapporteurs in their press release. The fact that no prior HRIA has been conducted, and the fact that PLH admits that it does not have in place appropriate human rights due diligence, is highly problematic as such, as the current projects (both the Barbuda Ocean Club and the international airstrip) have clearly not been guided by a valid HRIA.

¹⁰⁴ As stated in the Lease, on file with the authors.

¹⁰⁵ Memorandum of Agreement, PLH (Barbuda) Ltd., the Government of Antigua and Barbuda and the Barbuda Council (Dec. 6, 2016), Sec. 3.1.

¹⁰⁶ PLH letter, p. 26.



45. It has come to GLAN's attention that PLH has now commissioned a consultancy firm to conduct a "Human Rights Impact Assessment" for the Barbuda Ocean Club project on Barbuda in the coming months. As already indicated by the United Nations Special Rapporteurs, this is a "delayed" step. Further, **it remains highly unclear – and PLH has not disclosed substantive information as to – what the terms of reference are for the HRIA as agreed between PLH and its consultancy firm.** The HRIA raises important concerns as (i) it will only focus on the Barbuda Ocean Club, and not related projects sponsored by PLH relating to which the United Nations Special Rapporteurs have also expressed concerns, (ii) it departs from the premise that PLH has not violated any human rights or due diligence standard, and (iii) there is little transparency as to what extent consultations with the affected community will affect the outcome of the process.