



ARPRA

Representing Residential Land Lease Communities

Fact Pack

Residential (Land Lease) Communities Act 2013



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RESOURCES





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fact sheet

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RESIDENTIAL (LAND LEASE) COMMUNITIES ACT 2013

fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. People who reside in a residential park, village or estate are now home owners in a residential community. This fact sheet is about the *RLLC Act* and the Regulation, and how they apply to your Residential Tenancy or Site Agreement.

Who does the Act cover?

All home owners in a caravan park or manufactured home estate in New South Wales are provided with legislative protection by both the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. Long-term casual occupants are not covered by the *RLLC Act* or the Regulation.

Home owners who move into a park in a campervan or caravan that does not have a rigid annexe may not be covered for up to the first 60 days of their occupancy.

What does the Act look like?

The *RLLC Act* is divided into Parts, Divisions, and Sections. The *Residential (Land Lease)*

Communities Regulation is divided into Parts and Clauses.

The Regulation also includes Schedules, which provide prescribed versions of different types of Tenancy Agreements, including Site Agreements. These Agreements are also divided into Clauses.

Some Sections of the *RLLC Act* provide for the rights and obligations of both home owner and community owner. These Sections are included in every Residential Tenancy Agreement and Residential Site Agreement in a community, and commence with the phrase, 'It is a term of every residential tenancy agreement...'

It is illegal for either party to try and contract out of the Act or The Regulation.



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What Are My Rights?

Always check your written agreement first to find out all your rights and obligations. Following is a short list of just some of your rights, as stipulated in the *RLLC Act*—

- to be given a written Agreement at the start of your tenancy.
- to be given site fee receipts, unless you pay your site fee directly into a bank account.
- to be given 60 days' written notice of a site fee increase or 14 days' notice by a fixed method increase.
- to be given 30 days' written notice of a change to the Community Rules.
- to sell your home when you choose, without interference from the community operator.

What Are My Obligations?

Some of your obligations are—

- to pay your site fee, on time and in advance.
- to keep your site reasonably clean.
- to make sure you obtain written consent from the community before doing any additions or alterations that can be seen from the outside.
- not to interfere with the reasonable peace, comfort and privacy of everyone else who lives in the community.

For further advice and information, please contact your local affiliate or contact ARPR on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and *Residential (Land Lease) Communities Regulation 2015*. The *RLLC Act* also includes information for prospective home owners. This fact sheet lets you know what you should look for before moving into a community, and what information you should be given before you buy or lease.

Before you sign up

Once you have picked a community you think you'd like to live in, take a walk around the community before looking closely at any houses, so you won't be swayed. What are the amenities like? Does it have what you want, like a bowling green, or a swimming pool? What are the roads like? The condition of the roads is a good indicator of how much maintenance the community owner routinely does. What are the trees like? Are there any dead branches hanging over any of the houses or roads?

Find some home owners to talk to, and get their opinions on living in this community, including the site fee levels. If everything looks good, it might be time to take a look at some of the houses that are for sale.

What to look for in a house

Manufactured homes are built off-site. They should not be on cement slabs, but up on footings. Check the gutters, the downpipes, and the edges of any woodwork, like verandahs. A build-up of mildew or mould around the edges might indicate a long term dampness issue underneath the house. Check for compliance plates and site boundary markers. Both are required by council.

Older dwellings are usually more affordable, but more basic, sometimes consisting of a caravan with an annexe attached. Make sure it is a hard annexe, not one made of canvas.



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What should I be given before signing up?

A community owner is required to provide every prospective home owner with a written copy of the tenancy agreement. Prospective home owners have a right to seek independent advice before entering into an agreement with the community owner, who must not restrict their right to seek such advice.

A community owner must offer you a rent-only site agreement before offering a Voluntary Sharing Agreement. Before entering into any Voluntary Sharing Agreement, please seek advice as these agreements could be complex, and you should fully understand what you are entering into.

Agreements can contain additional terms that are not required by law and are negotiable with the community owner. You must be given a Disclosure Statement at least 14 days before entering into a Residential Site Agreement. The Disclosure Statement should set out the following: the fees and charges that will be payable, current range of site fees

payable in the community, details of the services and facilities available, and any details of compliances with any statutory requirements for the community and any other information as set out in the prescribed form. Communities have rules, and the community rules form part of your agreement.

You must be given a set of the current community rules before you sign. You must also be provided with a copy of Fair Trading's *Moving into a Land Lease Community?* booklet, and the Disclosure Statement and the Site Condition Report. This very important document provides you with legally required information about the community, the site, and the dwelling. If you don't receive any one of these documents, don't proceed before getting advice. Talk to a solicitor or to ARPR on **1300 798 399**.

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STARTING A TENANCY



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fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet provides information on starting a tenancy in a Residential (Land Lease) Community in New South Wales.

Start-up Costs

The cost of preparing a Residential Tenancy Agreement, including a site agreement, is divided between the community owner and a home owner. The home owner cannot be asked to pay any more than \$15. If an agreement in excess of three years is intended to be registered under the *Real Property Act 1900*, you must pay the fee required under that Act, as well as the \$15. The current registration fee is \$99.50. You are not required to pay the community owner's legal or conveyancing fees accrued in the registration process.

Access Charges

If you need a boom gate key, or any other security device, to access the community, the maximum you can be asked to pay for it is \$25.

This is refundable if you ever have to hand it back in.

Cooling Off Period

A prospective home owner is covered by a 14-day cooling off period. You have 14 days after signing a Residential Site Agreement in which to rescind the agreement if, for any reason, you have changed your mind. The 14 days ends at midnight on the 14th day after signing the agreement.

If you move into the home during the cooling off period, the cooling off period then ends. The cooling off period also extends to a current home owner who sells their home and purchases a home from the community operator.

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Site Fees in Advance

You may be asked to pay some advanced site fees at the start of your tenancy. The community owner cannot ask for more than two weeks' site fees in advance. If you paid a reservation fee (no more than one weeks' site fee), it must be applied to your site fee ledger, and is included in the two weeks' advanced site fees you may pay.

Other Charges

Charges known as Site Premiums or similar, are illegal. Site agreements with brand new homes cannot include site development costs.

For further advice on what to expect when starting a tenancy, please contact your local affiliate, or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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fact sheet

Home owners in New South Wales have rights and obligations that are included in every residential tenancy or site agreement. This fact sheet is designed to help you interpret your agreement, so you can easily identify those rights and obligations.

The Agreement

Parliament has prescribed a number of different tenancy agreements. The most widely used agreement is the Standard form residential site agreement (where tenancy is for a term of three years or less). This Agreement is the one used if you own your own home, and lease the site from the community owner. There is another Agreement for periods of more than three years. The law recognizes verbal agreements too, so every Agreement, whether or not it is in writing, contains every term included in the appropriate prescribed form. You are entitled to have time to read the agreement, and seek further advice if you wish.

Information to be included

The first two pages of the Agreement contain all the clauses which require information specific to you, such as your name, the name of the community owner and manager, the site number you will be leasing, how much the site fee is, and how to pay your site fee. None of these clauses should be overlooked, as their omission can cause problems later on. Make sure your Agreement includes the required information about the size of your site. The number of people who intend to occupy the dwelling is listed here, together with their name, if you wish to include them. Your Agreement will also stipulate what other documents the community owner is to provide, such as a copy of the Community Rules.



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Rights and Obligations

It is easy to identify which clauses are rights, and which are obligations. Any clause which starts with the phrase, 'the home owner agrees...' is an obligation on the home owner. The home owner is obliged by law to adhere to the requirements of that clause. Similarly, any clause which starts with the phrase, 'the community owner agrees...' is an obligation on the community owner to adhere to the requirements of that clause. In general terms, community owner obligations usually refer to a right the home owner has, and a home owner obligation is a right the community owner enjoys. For example, a home owner has an obligation to pay the site fee on time and in advance. The community owner has a right to be paid the site fee, on time and in advance.

Any failure by either party to perform a required obligation is called a breach of the Agreement.

Additional terms and community rules

Most Agreements contain additional terms that are not required by law. It is important to remember that additional terms are not prescribed terms, and are open to negotiation. If the community has a set of community rules, those rules also form part of your agreement.

For further advice on your agreement, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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REPAIRS



fact sheet



Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding repairs and maintenance in a community.

Responsibilities

If you own your own dwelling and lease the site, you have an obligation to maintain your own home, and to keep the site reasonably clean. This includes all improvements, such as garden sheds, carports, verandahs, driveways, clotheslines and garden beds. The community owner must ensure that everything provided with the residential site for use by the home owner, and the common areas of the community, are reasonably clean and fit to live in or use. Common areas include such items as the roads in the community, the lighting, and the facilities such as laundry, swimming pool and community hall.

The community owner is also responsible for maintaining the supply of utilities to each site. Water and electricity meters remain the property

of the community owner. Any failure or breakdown of the water, gas or electricity supply that has been caused by a fault lying between the meter and the dwelling is the responsibility of the home owner. Responsibility for any failure from the meter outwards lies with the community owner. This is in relation to wiring or pipes that connect directly to your home. Infrastructure remains the responsibility of the community owner, no matter where it lies. For example, the community owner is obligated to repair a burst water pipe located on your site if that water pipe is part of the community's infrastructure, and not exclusively linked to your home.



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Enforcement

When you become aware that a repair is required, you must first determine who is responsible. If the community owner is required to perform work to affect a repair, then your next step is to ensure the community owner is made aware of the fault, and the need for a repair. All requests for maintenance or repairs should be in writing, addressed to either the community owner or the manager. Such a request should include—

- the date the letter is written;
- your name and site number;
- information relating to the repair required; and
- a request for the repair to be attended to by a certain date. How long you give the community owner to do the work will depend in large part on the urgency of the repair.

- a statement that if the work is not done by the date requested, you may apply to the Civil & Administrative Tribunal for resolution.

Do not give the community owner a repair request without keeping a copy. Such correspondence may be required as evidence, should a Tribunal application be necessary.

For further advice on how to get repairs done, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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SITE FEE INCREASES



fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding how your site fee may be increased and how you may respond.

Site Fee Increase Notices

Your community operator may decide to increase your site fee. There are a number of ways that the community operator can do this. Your site agreement may set out the method in which the site fee increases. There are two ways, either by a fixed method or by a notice.

Fixed Method

The site agreement may set out which fixed method the site fee increases by. However, the site agreement cannot set out an increase by more than one fixed method. If the agreement has more than one method, then the law says that the method to be used must be the one that results in the lower or lowest site fee increase. The method may be a fixed amount, e.g., \$5.00 per week, or by a fixed calculation, e.g., current site fee x 2.5%.

Under the fixed method, the community operator must give at least 14 days' written notice, and the notice must specify the amount of the increased site fees and how the site fee increase has been calculated, and specify the day on which the site fee will increase. Under this fixed method, the home owner cannot challenge the site fee increase because they have already agreed to it when commencing their tenancy.

Increase of Site Fees by Notice

Under this method, all home owners in the

same community that do not have a fixed method site fee increase agreement can be given a site fee increase by notice. However, the notice must be given to all home owners at the same time. The notice must specify the amount of the site fee increase, and specify the day on and from which the increased site fees are payable must include an explanation for the increase.

The site fee increase notice must also give no less than 60 days' notice of the increase, and there can only be one increase in site fees in any one twelve-month period.

Notices can be delivered in a variety of ways. Notices may be posted to the home owner or the home owner's agent, given personally to the home owner or a person at the site over the age of 16, left in the mailbox of the home owner, or, if the home owner has agreed to notices or documents being given by e-mail, to the e-mail address that the community operator has on file. You should make sure that if you change your e-mail address that you update your address with the community operator.

For further advice on site fee increases, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding your site fee and how it may be paid.

Your Agreement

New home owners who purchase a dwelling may be given a brand new Residential Site Agreement. Home owners who are renting both the site and the dwelling are party to a Residential Tenancy Agreement and not a Residential Site Agreement. In either case, all agreements contain prescribed clauses that relate to the amount of site fees payable, the frequency at which the site fee is to be paid, and the method or methods by which the site fee is to be paid.

Your agreement is a contract, and none of the clauses contained in your agreement can be altered or modified in any way unless both parties agree to the alteration, or unless the law allows for such changes. An example of a legally allowed modification where the consent of both parties is not required is when the community owner issues a site fee increase notice in accordance with the requirements of the *Residential (Land Lease) Communities Act 2013*.

For example, an agreement may stipulate that the site fee is \$100 per week, payable on the Friday of every fortnight, by cash payments at the office.

Older Agreements may contain a payment method that is no longer viable. An example of this is payment of site fee by personal cheque which can take more than a week to clear. While this method may suit a home owner, administrative costs may have increased over time to such an extent that an alternative method may be necessary.

A community operator must permit the home owner to pay the site fees by at least one means for which the home owner does not incur a cost (other than bank fees or other account fees usually payable for the home owner's transactions) and that is reasonably available to the home owner.

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Direct Debits

Direct Debits are account transactions in which site fees and utility payments are automatically debited from the home owner's bank account by the community owner's financial institution. Periodical payments refer to payments made by the home owner's financial institution to the community owner's. Home owners have no control over the amount or frequency of direct debits, and community owners have no control over periodical payments. Direct debits are used to deduct site fee increases from the commencement date, and utility invoices on their due date, regardless of whether or not a home owner agrees with the charges.

It is not a breach of your agreement to refuse to

consent to a payment method that is not already included in your agreement. A community owner cannot force a home owner to agree to such an alteration, and a community owner cannot make such an alteration without the consent of the home owner.

For further advice on site fee payment methods, please contact your local affiliate or contact ARPR on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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UTILITIES



fact sheet



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Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding utilities charges payable under your agreement.

Water and Sewerage

A community owner may charge you for water and sewerage usage and service availability if your site has its own individual water meter. The amount you are required to pay for water usage depends on the metered amount you use. Home owners should be charged at the same rate per kilolitre that they would have to pay if they were a direct domestic customer of the water supply authority.

The water service availability charges payable by a home owner are calculated according to how much the community owner is charged by the local water supply authority, divided by the number of sites in the community, including short term sites. The amount you can be charged is either \$50 per annum, or the

calculated amount, whichever is the least. If the calculated yearly amount is more than \$50, the law stipulates you cannot be charged more than \$50 for both water and sewerage availability.

Gas

A home owner may have gas connected to their home. Home owners may have an account directly with the gas or energy supplier, or may be supplied by the community owner. The premises must be separately metered for gas usage before a community owner can pass these charges on to a home owner.



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Electricity

Home owners can have supply accounts directly with the electricity supplier, however in most communities, home owners have meters that are read by the community owner. Home owners that are charged by the community owner must be charged at the same rate they would have to pay if they were a direct residential customer of the electricity supplier. If your site does not have an electricity meter, you cannot be made to pay separately for electricity consumption. Electricity service availability charges (SACs) may also be payable by a home owner. The amount of SAC payable by a home owner is dependent on the amount of amps your site is supplied with, and not the amount your home can take. The Office of Fair Trading has produced a booklet titled *Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks*. It contains a chart that shows the SAC rates according to the ampage supplied, and is available from any Fair Trading Centre and their website, and the ARPRO website.

A community operator must give the home owner an itemised account and allow at least 21 days for the payment to be made for all utilities. The community operator cannot charge more than the amount charged by the utility service provider.

All utility invoices must include the meter readings and dates on which they were read, and the rate of charge.

Late Fees

The community operator is entitled to charge a late payment fee or for a dishonoured payment that does not exceed the amount that could have been charged if the utility was supplied directly to the home owner by the local utility service provider. Remember, it is your responsibility to pay your utilities on time. If you are struggling to make a payment, speak with your community operator and ask to make a payment plan that may assist you. A community operator cannot use site fee payments towards outstanding utility fees and charges.

For further advice on utilities charges, please contact your local affiliate or contact ARPRO on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding your rights of access and privacy, and your obligations to others in the community.

Access

If your community has a boom gate or any other security device that is designed to restrict access into the community, or to any part of the community, (for example, the amenities block) then the community owner must give you a copy of any boom gate key or other opening device at the commencement of your tenancy, and at any time during your tenancy if those locks or devices have been changed. A community owner may charge a home owner for the provision of these devices, to a maximum amount of \$25. This amount is refundable when the device is given back to the community owner. Older agreements may have further restrictions. Call ARPRA or your affiliate if your agreement pre-dates the *RLLC Act*.

In all tenancy agreements, the owner of the leased site (i.e., the community owner) has some rights of

access to those sites, but only in certain circumstances. These circumstances are listed in your agreement. In general terms, a community owner has no right to access your home unless he owns it. Under a site agreement, the community owner's access rights are limited to the site, and the dwelling itself is excluded. A home owner who owns their own home cannot be forced to provide the community owner with a key to the home. However, some home owners are happy to provide the community owner with a key for emergency use only, especially if the home owner knows they will be absent for an extended period of time.



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Privacy

All home owners of a community should be mindful of the fact that all community users have equal rights to peace, comfort and privacy. Your agreement states that the community owner or the community manager will not interfere, or cause or permit any interference, with the reasonable peace, comfort or privacy of the home owner in using the residential site. Similarly, all agreements obligate every home owner to not interfere with the reasonable peace, comfort and privacy of all other home owners, and all persons lawfully in the community.

A community's rules usually contain explicit instructions relating to noise, pets and vehicles, and anything else that might impede on the peace, comfort and privacy of others. A breach of the community's rules is a breach of your agreement.

Serious and/or persistent breaches may result in Tribunal action, and in some cases, termination of your agreement.

Quiet Enjoyment

The phrase 'quiet enjoyment' should not be confused with peace, comfort or privacy. It refers to a home owner's right to live in their home under their agreement without the community owner threatening to terminate you for reasons you believe may not be allowed under the *RLLC Act*.

For further advice on access and privacy, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding the services and facilities that have been provided for your use in the community, and whose responsibility it is to maintain them.

Services

The term 'service' or 'services' may refer to utilities such as water or electricity, or it may be in relation to waste disposal or tree maintenance. If the utilities are not separately metered, then water, electricity and gas charges will be part of what a home owner pays for when they pay their site fee. If at any time one of these services is removed or reduced, the removal or reduction is referred to as a reduction or withdrawal of that service, and is a breach of your agreement.

The installation of a separate water meter on a residential site and the subsequent charging for water usage and availability is taken to be a reduction in service for which a home owner may be entitled to a site fee reduction.

Facilities

Almost all communities have something in the way of facilities that are provided for the home owners' use. They might include a community hall, bowling green, swimming pool, barbecue area, or a tennis court. These are referred to as common areas, and it is the community owner's responsibility to keep the common areas of the community reasonably clean and fit to use. If the community owner decides to close the swimming pool completely, or to close it between certain hours when previously home owners had access, then this would be a withdrawal or reduction in facility.



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Withdrawal or reduction of service or facility

If a home owner believes that a service or facility has been withdrawn or reduced, they should write a letter to the community owner outlining the breach and asking for the service to be reinstated. If the community owner refuses, the home owner may then apply to the Tribunal for an order reinstating the service. The home owner may also ask for a site fee reduction until such time as the service is resumed or reinstated. Depending on the service that has been withdrawn, the reduction in site fees awarded can be minimal when compared to the disruption the withdrawal has caused.

The access roads and storm drains within a community are part of the common area, and it remains the responsibility of the community owner to maintain and repair them. The roads are a facility provided for use by the home owners, but the work done to maintain and repair them would be classified as a service.

For further information on service and facilities, including what to do if you believe a breach of your agreement has occurred, please contact your local affiliate or contact ARPR on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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RESIDENT COMMITTEES



fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding committees in a community, and a home owner's rights to participate in any committee or organisation.

Residents Committees

Home owners of a community may decide to form a residents committee. All home owners should be invited to a meeting to establish the resolution to form a residents committee. A resolution to form a residents committee must be carried by a majority of the home owners in the community that attend the meeting. The purpose of a residents committee is to facilitate discussion between the home owners and the community owner. A residents committee differs from a liaison committee in that only home owners may be on a residents committee. There is no representative of the community owner. Members are elected by the home owners, and the community owner must not interfere with, or obstruct in any way the establishment or operation of any residents committee.

Each community is to have only one residents committee. If more than one organisation within a community claims to be the residents committee, the community owner or a home owner may apply to the Tribunal for a determination as to which one will operate as the residents committee for the community. Home owners can, however, form any other group or organisation for any other reason they wish.

The functions of a residents committee is to represent the interests of the residents and to consult regularly with both residents and the community operator in connection with the day-to-day running of the community and to raise any complaint or proposal by a resident to the community operator.

The community operator must, as soon as practicable after being requested to do so by the residents committee, give a list of the names, site

numbers, and postal addresses of all current residents within the community.

All home owners must be invited to meetings, and no one under the age of 18 can be elected to hold office of that committee. The committee may adopt its own procedures, or they can adopt the model constitution as published by the Commissioner for Fair Trading.

Home owners have the right to be members of an external communities organisation like ARPRA. The community operator has no right to try and stop you from doing so. A representative of an external communities organisation such as ARPRA has the right of reasonable access to a community in order to consult with its members.

Finally, none of the following people can be members of a residents committee:

- a) The operator of the community
- b) A close associate of the community operator (even if he or she is a resident)

However, a close associate or the community operator may be able to attend and speak at the residents meeting if invited by the residents committee.

For further information on residents committees, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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COMMUNITY RULES



fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding Community Rules—what they are, how they are made and changed, and what they can be about.

Community Rules

A community owner may make written community rules relating to the use, enjoyment, control and management of the community. Section 86 of the *Residential (Land Lease) Communities Act 2013* lists the topics that community rules can be made about. Community Rules can be made about any or all of the following:

- a) the making of noise;
- b) motor vehicle speed limits;
- c) the parking of motor vehicles;
- d) the disposal of refuse;
- e) the keeping of pets;
- f) the playing of games and other sports activities;
- g) the use and operation of communal facilities;
- h) maintenance standards for moveable dwellings, as they affect the general amenity of the community;
- i) the imposition of reasonable requirements regarding the landscaping and maintenance of any residential site on which any moveable dwelling is located; and
- j) any other matter prescribed by the regulation.

The Commissioner may publish model community rules that may be adopted by a community. A community rule cannot require the home owner to replace or remove an older home or to make upgrades or improvements to a home for any reason other than health and safety.

The community rules form part of every residential tenancy agreement in the park, including site agreements. Each community rule is a term of the agreement. A breach of a community rule is a breach of the agreement. Home owners, community owners and operators all must comply with the community rules. This means, for example, that if home owners are to drive at a certain speed in the

community, so must the community operator and owner.

The community rules are the same for every home owner. There is only one set in force at any time, and the rules that apply are the last ones that were validly made or amended, and served to each home owner. A community owner cannot make different community rules for different home owners.

Each home owner must receive 30 days' written notice of any amendment to the community rules, including the insertion of a new rule or the removal of an old one.

Community rules should be made in consultation with the residents committee if the community has one. Community rules equally apply to the community operator's employees and the home owner's visitors and occupants. It is the home owner's responsibility to make sure visitors abide by the community rules.

If a dispute arises in relation to a new, amended, or existing community rule, a home owner may apply to the Tribunal for a determination on the matter.

For further advice and information on community rules, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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MAILBOXES AND TREES

fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the law in NSW regarding mailboxes and tree maintenance in your community.

Mailboxes

Not all communities provide individual mailboxes for home owners. Under the *Residential (Land Lease) Communities Act*, the operator of a community must establish and maintain at the community reasonably accessible and reasonably secure mail facilities for the home owners. The operator of a community must not access or interfere with individual mail facilities provided to a home owner in the community, except with the prior consent of the home owner.

If your community has no mailboxes similar to those that you might find at the post office or in an apartment block, your community home owners may request the community operator to provide them. This could be done under the provisions of the Special Levy. See our fact sheet titled "Special Levy".

Mailboxes must be installed in accordance with any requirements or guidelines from Australia Post.

The boxes must be constructed in such a way that home owners are able to install their own separate locks on them, if they choose. A community owner must not access or interfere with individual mail facilities provided to a home owner of the community, except with the prior consent of the home owner.

A community owner has no right to retain a key to home owners' mailboxes. A home owner may choose to give them one, but they cannot be forced to.



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Tree Maintenance

Section 48 of the *Residential (Land Lease) Communities Act 2013* concerns the maintenance of trees in communities. It states that a community owner must ensure that trees in a community are properly maintained and to take reasonable action if a home owner reports that a tree has caused or is likely to cause injury to a person or damage to a property so as to protect the safety of home owners, moveable dwellings and other property in the community.

However, if a tree is a protected tree, such as in a known koala habitat area, then the community owner may be prohibited by other laws from removing or interfering with that tree. Council advice and approval must always be gained before any lopping or removal work is done.

As a home owner in the community or an occupant in that home, you must not plant or authorise the planting of a tree without the consent of the community operator. This removes the likelihood of an incorrect species being planted and, in many years to

come, causing damage or injury. The community operator should not unreasonably refuse the planting of appropriate trees.

The *RLLC Act* defines a community owner as being either the person who owns the land, or the person who has granted you the right to occupy, and is named on your agreement as community owner. Most of the time, this is one and the same person. When it comes to trees, the person responsible is the land owner. Disputes about tree maintenance can be resolved through the Civil & Administrative Tribunal. It is important to ensure that the community owner you name on your Tribunal application is the person who owns the land.

For further advice on mailboxes or tree maintenance, please contact your local affiliate, or contact ARPR on **1300 798 399**. More advice is also available from Fair Trading on **133 220**.

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fact sheet

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* contains requirements and restrictions concerning infrastructure and building in a community, including the installation of dwellings. It is important that home owners in New South Wales know about these regulation and what they mean, especially if any addition or alteration to the dwelling is being considered.

The local council and your community owner

Each community owner must obtain from their local council, an Approval to Operate. The Approval contains information specific to each community, such as the number of long-term and short-term sites, and the number of camping sites. It may also contain information about car parking spaces. A community map is provided that should reference each site, giving the location and size of each one.

The obligations a community owner has under the Regulation depends on whether the community is approved as a manufactured home estate or as a caravan park. For example, there are different requirements for the width of the roads between each type of community.

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* contains information on fire hydrants and hose reels, amenities blocks, laundry drying areas, site coverage, site boundaries, carports, garages, and road surfaces, among many other items.

Manufactured Home Estates (MHEs) do not have to provide some common facilities, because manufactured homes must be fully self-contained. A community owner is required to keep a copy of their Approval, a copy of the community map, and a copy of Regulation for home owners to view at no charge.



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The local council and you

A home owner may wish to install a second garden shed, or perhaps fill in the side of their carport. If any addition or alteration that a home owner wishes to do is visible from the outside of the dwelling, the home owner must first gain the consent of the community owner before commencing any work. Community owner consent should never be confused with council consent. Just because your community owner says it is ok, it doesn't mean the council will approve. Every residential site agreement contains the clause—

“28.4. To comply with all legislative obligations relating to the community, including but not limited to any regulations under the Local Government Act of 1993.”

This means that it is up to the home owner to make sure the addition or alteration they are contemplating will comply with their obligations under the *Local Government Act* and the Regulation. Check the Regulation and your community's Approval before making plans for additions or alterations.

For further advice on the Regulation, local councils, or on additions and alterations, please contact your local affiliate, or contact ARPR on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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fact sheet

Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet sets out the rules of conduct that community owners and operators must abide by in order to comply with the law.

Rules of conduct for community operators

Community operators must have a knowledge and understanding of the following acts and regulations:

The *Residential (Land Lease) Communities Act 2013* and Regulations under the Act, each as in force from time to time, and the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* or its replacement, as in force from time to time, and such other laws relevant to the management of a community, including laws relating to residential tenancy, fair trading, trade practices, anti-discrimination, and privacy, as may be necessary to enable the operator to exercise his or her functions as operator lawfully.

A community operator must act honestly, fairly and professionally with all parties in a negotiation or transaction carried out as operator and an operator must not mislead or deceive any parties in negotiations or a transaction carried out as operator.

A community operator must exercise reasonable skill, care and diligence, and not engage in high pressure tactics, harassment, or harsh or unconscionable conduct. An operator must not, at any time, use or disclose any confidential information obtained while acting on behalf of a resident which, in this rule, includes a prospective resident or former

resident, or dealing with a resident, unless:

- a) the resident authorises disclosure, or
- b) the operator is permitted or compelled by law to disclose.

A community operator must take reasonable steps to ensure persons employed in the operation of a residential community comply with the legislation. A community operator, when acting as a selling agent for more than one home in a community, must act fairly and advise prospective home owners of the details of all available homes in the community, and a community operator must not solicit prospective residents through advertisements or other communications that the operator knows or should know are false or misleading.

For further advice and information on the rules of conduct for community operators, please contact your local affiliate or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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TERMITES



fact sheet



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Home owners in New South Wales have rights under the *Residential (Land Lease) Communities Act 2013* and the *Residential (Land Lease) Communities Regulation 2015*. This fact sheet gives information about termites and termite infestation, who is responsible, and the remedies available to home owners if termites are discovered.

Termites

Termites are often called the “silent destroyer”, because they may be secretly hiding and thriving in your home or yard without any immediate signs of damage. All termites consume cellulose-based plant materials. Unfortunately, all homes, regardless of their construction type, can provide cellulose food for termite infestation.

Small steps make a big difference in termite prevention and sustaining an effective termite treatment plan. Start by eliminating moisture conditions and termite food around your home. These simple steps make your home a less attractive target, helping deter termites.

Eliminate moisture problems including leaking taps, water pipes, and A/C units. Try to divert water from around the foundation and keep gutters and downspouts clean. Remove excessive plant cover and wood mulch. Keep all vents clear and open and seal entry points around water and utility lines or pipes.

How do I know if I have termites?

Some indications you may have a termite infestation:

- A temporary swarm of winged insects in your home or from the soil around your home.
- Any cracked or bubbling paint or frass (termite droppings).
- Wood that sounds hollow when tapped.
- Mud tubes on exterior walls, wooden beams or in crawl spaces.
- Discarded wings from swarmers.



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Who is responsible: the home owner or the community operator?

Section 37 of the *Residential (Land Lease) Communities Act 2013* states that a community operator has the responsibility to take reasonable steps to keep the community’s common areas reasonably free of noxious weeds and vermin. Of course, when first starting a tenancy, the community operator should also make sure that the site is clean and safe.

If it can be proven that after writing to the community operator about the discovery of termites and the community operator fails to do anything to investigate and eradicate the termites, then the community operator may be found liable to pay any repair and

replacement costs if termite damage is caused to the home.

You should write immediately to the community operator if you suspect you have found termites either on your site, your home or in a common area of the community. Disputes surrounding termite damage can be determined by making an application to the Civil and Administrative Tribunal.

For further advice on termites and termite infestation, please contact your local affiliate, or contact ARPRA on **1300 798 399**. More advice is also available from NSW Fair Trading on **133 220**.

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Neighbour Disputes

If you have a problem with your neighbour, or your neighbour has a problem with you, it is important to try to resolve it as early as possible. Once a problem escalates, it can result in entrenched conflict that becomes disabling for all concerned and very difficult to resolve.

The best first step is always communication. If you can, talk to your neighbour. Discuss the practical aspects of the problem, how it is affecting you both, and what needs to be done to solve it. Be sure to treat your neighbour with courtesy and respect, and listen to what they have to say. Keep a record of all contact you have regarding the problem.

Investigate your options for what best suits your particular situation. There may be a range of remedies available, both legal and non-legal, and it is always a good idea to have a 'Plan B'.

Be prepared to compromise. Whether a problem is solved through talking or through legal action, the end result often involves compromise. So it can be to your advantage if you consider the issues carefully at the outset and work out which bits you can live with... and which bits you can't.

If contact with your neighbour becomes violent or threatening, call the police. ARPRA can't assist in a neighbour dispute if two neighbours are also members. This would cause a conflict of interest. If your neighbour is causing issues, then you should report them to your community manager. There may be a remedy under the *Residential Land Lease Communities Act* in some circumstances.

Using the legal system offers certain advantages but also involves significant risks. It is often preferable to try to resolve your dispute by other means.

Mediation is available across NSW through Community Justice Centres (CJCs). It is a free and confidential service that can save you expense and delay, not to mention the stress, that's involved in taking the matter to court.

CJC can help you resolve your dispute quickly and for free using mediation. Thousands of people use CJC every year—and around 79% of them reach an agreement.

There are several ways to contact a Community Justice Centre. You can:

- Call **1800 990 777** (freecall Australia)
- E-mail your name, contact phone number, and a brief description of your dispute to **cjc@justice.nsw.gov.au**

For further information, please log on to **www.cjc.justice.nsw.gov.au**, or if you require ARPRA to provide a formal referral to the Community Justice Centre, please contact us at **1300 798 399**.

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Home owners can be asked to pay utility charges in the form of:

- usage charges (this varies depending on how much they use).
- service availability charges (that is, as fixed amounts).

When can utility charges be passed on?

Before a community owner can pass on utility charges two things need to have happened:

1. the use of the particular utility on the site must be separately measured or metered
2. the home owner must have agreed to pay the particular charge under the terms of the site agreement. Note: Utility charges are now standard terms for any agreements entered after the new laws began on 1st November 2015.

If a site is not metered, and a community owner wants to charge for utilities, the community owner must pay the cost of installing the meter. If a home owner hasn't been paying a utility charge and the community owner wants them to do so, they must give at least 14 days' written notice. There would need to be an agreed offset of the site fees. If the community owner and home owner cannot agree, an application can be made to the NSW Civil and Administrative Tribunal (the Tribunal) to resolve the matter.

Are there limits on the amounts charged?

A community owner cannot charge a home owner usage charges for utilities more than they would otherwise be charged if they were a direct residential customer of a local utility service provider. Check your local provider's website to see what the standard rate for usage is.

The maximum service availability charge a home owner can be asked to pay for both water and sewerage service availability is \$50 each calendar year.

What are the community owners' billing responsibilities?

They must provide an itemised account. This should set out what they are asking the home owner to pay, and how each amount has been calculated. They can determine the frequency of the billing cycle (for example, monthly or quarterly).

How much time must I be given to pay?

When you are provided an itemised account, you must be given at least 21 days to pay the charges.

What receipts are required?

A community owner must provide a receipt for any utility payments made in person. If utility payments are made by any other method, you only have to be given a receipt if you ask for one. A receipt for a utility payment must include:

- the name and address of the community
- the home owner's name
- their site number
- the amount paid
- any amount in debit or credit as at the date of payment
- the period covered by the payment
- the date the payment was received.

Can I be charged late fees?

Yes. If a utility bill is not paid by the due date, or if a payment for utilities is dishonoured, you can be charged a late fee. It is the community owner's choice whether to charge such a fee. However, any late fee cannot be higher than would normally be charged if the home owner were a direct customer of the relevant local utility service provider.

Can site fees be used to cover utility bills?

No. Money paid as site fees cannot be applied towards the payment of any other charges, including utilities.



EXPLAINING ELECTRICITY AND WATER CHARGES

fact sheet

Service Availability Charges Explained

The service availability charge (electricity) or supply charge (gas) is expressed in cents per day. This represents the fixed charges the network incurs (for example, meter readings, maintaining the poles and wires/pipes, vegetation management, maintaining a call centre), regardless of how much energy the customer uses. Every customer pays SAC, even if they have consumed little or no energy at all that quarter.

What if the electricity supply is not up to standard?

Where the electricity being supplied to a site by the operator is less than 60 amps, the following service availability charge discount applies:

Level of Supply to Site	Maximum Service Availability Charge (SAC)
Less than 20 amps	20% of relevant local area retailer's SAC
20-29 amps	50% of relevant local area retailer's SAC
30-59 amps	70% of relevant local area retailer's SAC

Where 60 or more amps are capable of being supplied, a home owner is required to pay the full service availability charge even if the home is not capable of receiving this amount of supply. This applies, for example, in the case of old-style caravans.

Can I be charged a fee for reading the meters?

The community owner has the right to enter a site to inspect, read, service, repair, or replace any meter. No fee can be charged for doing any of these.

My community owner charges me for 32 amps, but I only can run 15 amps. Am I being overcharged?

Usually, there is a supply point. Some call it a "mushroom" or a meter box. Some boxes have multiple access points servicing several homes. This is the point of supply, and this is where the amps are measured at. If the point of supply is supplying 32 amps and your home is only able to draw 15amps, then the community owner can charge for 32 amps. However, if the community owner was to place a circuit breaker on the point of supply that was a 20-amp circuit breaker, then they could only charge 20 amps. This circuit breaker is known as a restricting device.

Can I put a restricting device on my point of supply to lessen the SAC charge?

Plain and simple: no. You cannot put a device on the point of supply because it's not yours to alter.



ELECTRICITY DISTRIBUTION LIST

fact sheet

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Determining the Relevant Local Area Retailer



Energy tariffs vary depending on which energy distribution zone your community is situated in and different retailers operate in the different distribution zones.

Step 1: To find out which distribution zone your community is situated in refer to Schedule 3 of the Electricity Supply Act 1995 or the list below. The zones are divided up into Council areas. The three (3) main distribution zones in NSW are *Essential Energy*, *Ausgrid*, and *Endeavour Energy*. Once you have established which distribution zone your community is situated in, you then need to verify who the local area retailer is. You can do this with reference to Step 2 below.

Step 2: The following retailers are nominated as the local area retailers for premises specified below:

Origin Energy for premises in NSW connected to the following distribution systems: (a) the distribution system of *Essential Energy*, and (b) the distribution system of *Endeavour Energy*.

Energy Australia for premises in NSW connected to the distribution system of *Ausgrid*.

For example in reference to Steps 1 and 2 above, a community situated in Yass, NSW is situated in the Essential Energy distribution zone, and therefore, the relevant local area retailer is Origin Energy.

Essential Energy

Albury	Cooma	Great Lakes	Lismore	Richmond Valley
Armidale	Crookwell	Greater Taree	Maclean	Snowy River
Ballina	Dubbo	Griffith	Mudgee	Tamworth
Bathurst	Dungog	Hastings	Numbucca	Tweed
Bega	Eurobodalla	Holbrook	Oberon	Wagga Wagga
Bellingen	Gloucester	Inverell	Orange	Wellington
Byron	Goulburn	Kempsey	Parkes	
Coffs Harbour	Grafton	Kyogle	Queanbeyan	

Ausgrid

Ashfield	Cessnock	Lake Macquarie	Newcastle	Sydney
Auburn	Gosford	Lane Cove	Port Stephens	Wyong
Bankstown	Hurstville	Maitland	Rockdale	

Endeavour Energy

Baulkham Hills	Camdem	Kiama	Penrith	Wingecarribee
Blacktown	Campbelltown	Liverpool	Shellharbour	Wollondilly
Blue Mountains	Hawkesbury	Parramatta	Shoalhaven	Wollongong

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