

# Special levy



As a home owner in a residential land lease community you have rights under the *Residential (Land Lease) Communities Act 2013* and *Residential (Land Lease) Communities Regulation 2015*.

This factsheet explains the law in NSW regarding special levies.

## How is a special levy introduced?

Home owners in a land lease community can agree to pay a special levy to provide a specified new facility or service for the community, or to make a specified improvement to the community (community upgrade).

To introduce a levy a special resolution must be prepared setting out the proposal. It must include the amount or method of calculation of the levy and when it is to be paid by home owners.

All home owners in the community must be given notice of the special resolution. Within 90 days of this notice the vote must be taken and the special resolution is passed if 75 percent (75%) of home owners vote in favour.

The operator must also agree to the community upgrade by notice in writing to all home owners either before or within 90 days of the special resolution being passed.

A home owner can dispute a special resolution by making an application to the NSW Civil and Administrative Tribunal (NCAT). The application must be made within 28 days of the resolution being passed.

The Tribunal can make an order confirming or cancelling the special resolution completely, or

in part. Such an order can only be made if there are reasonable grounds.

## How is a levy divided?

Once a special resolution has been passed and the operator has also agreed all home owners in the community are required to pay the levy in accordance with the special resolution.

The levy is split equally between residential sites with each site counting as one share no matter how many people live there.

The operator can recover the levy as a debt owing from any home owner who fails to pay their share.

If a home owner sells their home, they are no longer required to pay the levy but any amounts already paid are not refunded. The new home owner takes over payment of the levy if they were advised of this requirement by the operator in the disclosure statement.

The operator can contribute to the cost of the community upgrade but is not required to do so.

## Management of the levy

The operator must hold the proceeds of the levy on trust until the money is used for the service

or facility, or is refunded to home owners. There is no requirement for the levy to be held in a separate account.

Once all payments of the levy have been received the operator must, within a reasonable time, use the money for the purpose specified in the special resolution. Any unused money must be reimbursed to home owners in equal shares (one share per residential site).

## Change of operator

If another person becomes the operator of the community while a levy is in place the new operator becomes responsible for the levy and community upgrade.

## FURTHER HELP:

### Tenants Advice and Advocacy Services

#### Sydney

South	9787 4679
South West	4628 1678
West	8833 0933
Northern	8198 8650

#### Regional

Blue Mountains	4704 0201
Central Coast	4353 5515
Hunter	4969 7666
Illawarra & South Coast	4274 3475
Mid Coast	6583 9866
Northern Rivers	6621 1022
North West NSW	1800 836 268
South West NSW	1300 483 786

#### Aboriginal

Sydney	9833 3314
North NSW	1800 248 913
South NSW	1800 672 185
West NSW	6884 0969

<b>Website</b>	<a href="http://thenoticeboard.org.au">thenoticeboard.org.au</a>
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<b>Law Access</b>	1300 888 529
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This factsheet is intended as a guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or are affected by the law as it applies in New South Wales, Australia.

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