TENANTS' UNION OF NEW SOUTH WALES

Residential Land Lease Communities Magazine • Issue 13 • August 2025

Outasite

"I don't want my site fees to increase by more than what they already do. It's understandable that operating costs for the community will increase but those costs don't compound over the years like our site fees. We have a residents committee and they are assisting any of us who want to try and negotiate something different than what has been offered."

– Graham Cravigan

Graham purchased his home at Thyme Lifestyle Community Village in Evans Head NSW and has been living there for a year and a half. His agreement has a fixed method with two elements in it.

THERE'S STILL TIME

TO NEGOTIATE FIXED-METHOD SITE FEE INCREASES

If you are a home owner with non-compliant fixed-method site fee increases, you can still act on your rights. But be quick!

Who does this apply to?

Home owners who have a site agreement that was:

- entered into before 25 September 2024, and
- has a built-in fixed method of site fee increase, and
- that method doesn't comply with the amended sections 65 and 66 of the *Residential (Land Lease) Communities Act 2013*.

The Act has given home owners in this situation 12 months – **until 24 September 2025** – to negotiate with their operators about how site fees will be increased under the site agreement.

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Acknowledgement of Country

We acknowledge that Aboriginal and Torres Strait Islander Peoples were the first sovereign Nations of the Australian continent and its adjacent islands, and that these lands were possessed under the laws and customs of those Nations. The lands were never ceded and always remain Aboriginal and Torres Strait Islander Country. Our office is on the Country of the Gadigal People of the Eora Nation.

***Outasite* magazine** Issue 13, August 2025

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Printed on recycled paper by **Indigi-Print** – Indigenous owned, full-service print management, Australia-wide. **ISSN 2209-105X**

About the Tenants' Union

The Tenants' Union of NSW is the resourcing body for Tenants Advice & Advocacy Services (TAASs) and a community legal centre. We are an independent, secular not-for-profit membership-based co-operative. We receive principal funding from the TAAS Program administered by NSW Fair Trading, and the Community Legal Centres Program administered by Legal Aid NSW.
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Fixed methods that are now considered non-compliant

- An increase with more than one element.
- An increase that happens more than once in 12 months (unless it is calculated using the variation in aged pension – this can occur up to twice per year)

Here are two examples we have seen of fixed increase methods which are no longer compliant:

Example 1:
CPI + 2%

Example 2:
1. Any positive change in the CPI; plus
2. 3.75%; plus
3. A proportional share of any increase in costs incurred by the Operator since the calculation of the last site fee increase calculation for the following:-
   - electricity and water (net of any amount that has been recouped from Home Owners); plus
   - gas; plus
   - communications; plus
   - rates; plus
   - any other government (federal, State or Local) charges or taxes other than company tax. Plus
4. The effect of any change in the rate of GST or similar tax that is included in the site fees rounded up to the nearest dollar.

The two methods are very different but were both allowed under the repealed section 65 and section 66 regarding increase of site fees by a fixed method.

Compliant methods

Here are 3 examples we often see that use a compliant single element fixed method of increase:

- Using a dollar amount only (one time per 12 months)
- Using CPI rates only (one time per 12 months)
- Using the variation in age pension only (can be twice in 12 months)

These ones are allowed and there is nothing for home owners to act on.

Recommendations

The requirement to update non-compliant methods arose from the 5-year statutory review of the *Residential Land Lease Communities Act* 2013 which produced 48 recommendations.

Related recommendations from the 5 year Statutory Review (November 2021)

#10 Make the fixed method of increase simpler to

understand and easier to predict by limiting the number of variables that can be used in the 'other' option to a single variable.

#11 Existing site agreements that are subject to multi-variable fixed method increases must be reviewed within three years from the commencement of the amended Act so that they comply with the single variable requirement.

Note: The Tenants Union were successful in advocating for this to be reduced to 1 year as there was no justification for the prolonged disparity and disadvantage.

#12 Limit site fee increases using the fixed method to once per year, except where the increase is pegged to the age pension in which case it would be limited to twice per year.

Is there a process for reviewing non-compliant fixed methods?

A number of home owners and resident committees are in the midst of negotiations with operators to vary non-compliant fixed method increases. In some cases home owners or resident committees have initiated those discussions and in other communities the operator has issued a notice proposing a new method. This can include opting to change from a fixed method of increase to a 'by notice' method of increase. Whichever way the negotiations are started, both parties must consent to the change.

During the negotiation period the non-compliant method stays in force until an agreement is reached. Once an agreement has been reached it is enforceable by way of a written variation of the existing term in the agreement, or by entering into a compliant site agreement. Our recommendation is to vary the existing term of the agreement because a new compliant site agreement could introduce different terms in it than the existing one has.

If no agreement is reached then the legislation states that by 24 September 2025 a non-compliant fixed method term becomes void and moving forward, site fees can only be increased using the by notice method under section 67 of the Act.

Some operators have imposed short deadlines for home owners to reply to an offer to vary the term, when the legislation gives parties up until 24 September 2025. It is recommended that home

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owners ask for more time if needed.

"During negotiations, operators must act honestly, fairly and professionally."

During negotiations, operators must act honestly, fairly and professionally. They cannot mislead, deceive, or use high-pressure tactics. Home owners experiencing difficulty can apply for voluntary mediation with Fair Trading NSW. Voluntary mediation can be applied for using the same form as is used for compulsory mediation however home owners will need to clearly state their request for mediation is about making a non-compliant fixed method of increase compliant and fair.

So is that the end of the matter?

Even after the transition date, home owners and operators can still negotiate compliant fixed method increases under Schedule 2 Part 3, clause 24 of the *Residential Land Lease Communities Act*.

Considering the different increase methods

Fixed methods offer predictability but can't be disputed as excessive in the Tribunal, and high percentages compound over time. 'By notice' methods require 60 days written notice, occur maximum once yearly, and can be challenged as excessive by at least 25% of affected residents through mediation, then potentially NCAT.

The Tribunal cannot order increases below operators' actual and projected costs, but many operators struggle to properly establish these costs. Recent NCAT decisions show successful challenges, with 'by notice' site fee increases limited to 4.2% (North Coast community) and 3.5% (South Coast community) when operators failed to properly disclose financial records.

Your local Tenants Advice and Advocacy Service (TAAS) or Resident Association offer advice about varying the fixed method term in your agreement. TAAS contact details are provided on the back of this magazine.

For earlier stories in *Outasite* on the now banned practice of multiple element fixed method increases, see Issues 6 and 8 at tenants.org.au/thenoticeboard/outasite-archive

The Tenants' Union recently joined the Northern Rivers Tenants Advice & Advocacy Service to visit a few communities including Casino Lifestyle Village, Riverside Evans Head and Thyme Lifestyle Resort Evans Head. In those communities and many more we have heard from, home owners with non-compliant fixed method increases in their agreement are considering their options.

Some examples of offers from operators:

Current non-compliant method	Offer made by the operator	Type of community
Increases by CPI or 5% every 12 months whichever is the lesser.	A choice between CPI every 12 months for the term of the site agreement, Or 4% every 12 months for 10 years and then reverting to the by notice method.	Home owners
2% plus CPI every 12 months for the duration of the fixed term of the site agreement.	5% every 12 months for the remainder of the fixed term of the site agreement.	Home owners
$2.50 plus CPI every 12 months for a fixed number of years.	5.5% every 12 months for 3 years.	Home owners, renters & short term stay

ENERGY HARDSHIP

The Tenants' Union of NSW has been hearing from residents about cost-of-living pressures related to living in land lease communities. The issues include excessive site fee increases but lately advice is more often being sought around the significant jump in the cost of utilities, particularly for electricity.

For some residents in communities with embedded networks we have heard about electricity bills almost doubling. The recent amendments to the *Residential Land Lease Communities Act*, combined with the Independent Pricing and Regulatory Tribunal's determination on the median retail market offer are the main contributors to the increase.

This is an odd outcome given that the previously applied cheaper 'Reckless' method was considered sufficient to cover the total of the operator's bill from their retailer of choice.

The cost of electricity in general is also set to increase, with retailers citing rising costs at the grid as the reason.

For some other communities water access charges are also reported to be on the rise due to changes in how residential land lease communities are billed by their local councils.

Hearing from more residents about utilities has us concerned that some, particularly those on statutory incomes may be facing energy hardship.

In a report by Energy Consumers Australia, Senior Policy Associate Dr Caroline Valente describes energy hardship as:

- being unable to pay energy bills;
- restricting energy consumption to the detriment of health and well being or;
- having relatively low income and spending a high proportion of it on energy.

In the same report it was found that energy hardship contributed to:

- mental and physical decline,
- food insecurity,
- impacts on consumption including food, medical

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treatments, clothing, personal care and hobbies,
- social exclusion and
- dramatic changes in energy practices.

In retailer terms, customer hardship is generally described as a life event impacting on household income. For example:

- Someone in the family being sick or passing away
- Experiencing violence in your life
- Loss of employment or a reduction in employment hours.

While these are helpful considerations by retailers, it could discourage people from asking for help when they are simply struggling with the day-to-day cost of living.

We would encourage anyone experiencing energy hardship to contact their service provider – regardless of the reason for the hardship. Ask about their hardship policy and discuss options to manage expenses.

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Having an understanding of your rights and obligations and those of the energy provider is invaluable when navigating your options.

Under the *Residential Land Lease Communities Act* there are requirements on the utility provider around charging and issuing utility accounts whereby a utility means: electricity, gas, sewerage, water, or another service prescribed by the Regulations. (Currently there aren't any others prescribed.)

For home owners and tenants in land lease communities, you must pay utility charges to the operator or a third party supplier if:

- it is a term of the site agreement or tenancy agreement; and
- the usage is separately metered; and
- the operator or third party supplier gives the home owner or tenant an itemised account in accordance with section 83 of the Act (section 83 outlines what should be included in the bill); and
- the home owner or tenant must be given 21 days to pay.

When it comes to electricity or gas from an embedded network, the operator or third party supplier needs to be registered as an exempt seller and comply with the Australian Energy Regulator (AER's) exempt seller guidelines. Under these guidelines you should be issued bills at least every 3 months.

The *Residential Land Lease Communities Act* standardises this billing frequency across other utilities that the operator is associated with supplying.

For retailers covered by the National Energy Retail Rules, the billing frequency must be at least every 100 days – for example if you enter into your own contract with an electricity provider in the private market.

The timeframes for billing can help with budgeting for bills by putting aside or paying some money each pay cycle toward your bills.

Many energy retailers provide a 'bill smoothing' payment option that calculates estimated usage to be paid by instalments in advance. You can enquire with your retailer about paying by instalments.

When there are unpaid utility charges

Just like other energy retail laws there is provision in the *Residential Land Lease Communities Act* for the operator or third party supplier to apply a late fee or a fee for dishonoured payments. The amount must reflect actual and reasonable costs incurred by the supplier.

Whether an energy utility is regulated under the AER's Exempt Selling Guidelines or the National Energy Retail Rules, there are some equivalent consumer protections for customers having difficulty making payments.

Energy retailers and exempt on-sellers are required to have a hardship policy. This must be provided to customers when they express difficulty making payments, along with other information such as:

- Information directing you to energy efficiency resources, government & non government energy rebates, concessions and relief schemes.
- Information about financial counselling services

They must offer you flexible payment options and a payment plan that has specific and clear information:

- how long it is for,
- the frequency and amount,
- the number of instalments.

If you report that you are experiencing financial difficulties, exempt sellers and retailers must not charge late fees or security deposit fees to a hardship customer.

The AER's Exempt Selling guidelines were recently reviewed and will soon include a requirement for exempt sellers to have a policy around domestic and family violence (DV). This already exists for energy retailers covered by the National Energy Retail Rules.

Requirements for the DV policy:

- Better data security of your energy related information
- Consulting with you about your preferred form of communication
- Not asking for evidence that you are affected by DV
- Allowing you to nominate a support person
- Assistance around difficulties paying
- Not disconnecting you if unpaid energy bills resulted from family violence or would impact your safety.

Dispute Resolution

Authorised energy retailers and exempt sellers alike must have their own procedures for handling complaints. These procedures must be made available to their customers. Ask for a copy before lodging a complaint or dispute about your charges or billing.

They must also be members of their state energy ombudsman scheme, which act as an external dispute resolution service. In NSW this is known as the Energy and Water Ombudsman of NSW (EWON). EWON can assist with most electricity, gas and some water customers. (See contact details below.)

If you are worried about making payments

If you think you might not be able to pay your utilities charges, we urge you to discuss a payment plan with the operator or third party supplier – as early as possible.

For help with what to agree to, there are financial counselling services across NSW that can assist or provide an appropriate referral. (See below for contact details.)

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If the operator is taking you to Tribunal

If an operator lodges an application at the NSW Civil and Administrative Tribunal (NCAT) to recover utility arrears, it is a good idea to contact your local Tenants Advice and Advocacy service (contact details on the back cover). Getting advice can help to ensure your circumstances are properly considered at the hearing.

A Tribunal application about utility arrears allows the resident and operator to consent to orders being made without a hearing. You should only consent if it is in your best interests to do so. For example, if there is a mutually agreed payment plan between you and the operator or third party supplier that can be drafted into Tribunal orders.

Worried about disconnection?

There are a number of consumer protections that exempt sellers and retailers must follow before proceeding with disconnection of a customer – with a few exceptions.

Disconnection can occur if maintaining supply is unsafe, if the customer has vacated the premises, or upon the customer's request.

The procedure leading toward disconnection involves regular contact, reminders and notifications around your options and the risk of disconnection.

You cannot be disconnected if:

- You have reached out and engaged with the hardship assistance available and are complying with a payment plan.
- A person residing at your premises requires life support equipment that needs power to operate. The premises would normally need to have been registered with the provider as requiring such equipment.
- A formal application has been made with an organisation responsible for energy charge rebates, concessions or a relief scheme and a decision hasn't been made.
- You have made a complaint about the proposed reason for disconnection or de-energisation to the retailer or EWON and the complaint remains unresolved.

Accessing help

EAPA vouchers

Energy Account Payment Assistance (EAPA) vouchers, are available through an application process if you meet the following requirements:

- If you are experiencing a short-term financial crisis or emergency that makes it difficult to pay your energy bills. For example, unexpected medical expenses, loss of income, family illness, or other unexpected expenses.
- The energy account must be in your name
- You need to have a valid concession card such as a Pensioner Concession Card, Health Care Card, Low Income Health Care Card, or Veteran Gold Card.

You can apply through Service NSW or by contacting an approved EAPA provider, which is often a community organization. Supporting documentation is needed to assess your application.

Other supports

You can search for other cost-of-living or energy support concessions, rebates, and assistance at Service NSW:

service.nsw.gov.au/services/concessions-rebates-and-assistance#energy-and-utilities

Financial counselling

National Debt Helpline: **ndh.org.au** or 1800 007 007

Financial Rights Legal Centre: **financialrights.org.au**

Aboriginal and Torres Strait Islander people may prefer to contact Mob Strong Debt Helpline on 1800 808 488.

Energy and Water Ombudsman NSW (EWON)

EWON may be able to help with complaints and dispute resolution:

ewon.com.au
or 1800 246 545

TENANCY LAW HAS CHANGED

Tenants and Tenant Advocates celebrated the law change with an action in Sydney CBD with speakers, cake and a giant postcard saying "Goodbye No Grounds, Don't Come Back!"

Tenants rent approximately 3,000 homes located in land lease communities in NSW. The homes are rented directly from the operator or from a home owner. When a home owner offers their home for rent, they need written consent from the operator and they may be restricted from renting or sub-letting their home for periods longer than 12 months in a 3-year period. Although, this restriction is not mandatory and operators can agree to longer periods.

The rights and responsibilities for tenants who live in land lease communities are primarily contained in the *Residential Tenancies Act 2010*, with additional provisions in the *Residential Land Lease Communities Act* around land lease community living.

We first reported on the proposed changes for tenants in Outasite Magazine 12. We're pleased to be able to confirm most of the expected changes have now been enacted...

Water efficiency measures

From 23 March 2025 water efficiency measures were updated to include a requirement for toilets to be dual flush and to be of a minimum 3 star WELS rating (Water Efficiency Labelling Standards). If these water efficiency standards are not met then tenants cannot be

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asked to pay for water usage. More info: **tenants.org.au/factsheet-utilities**

Prohibited fees

From 31 October 2024 new protections for tenants and prospective tenants commenced to ban fees for preparing a written tenancy agreement and also for conducting background checks. The legislation applies to landlords, real estate agents and also third parties. More information: https://www.tenants.org.au/factsheet-02-starting-a-tenancy

Rent increases

From 31 October 2024 the rent cannot be raised in the first 12 months of a tenancy, and thereafter can only be increased a maximum of once every 12 months, for most agreements.

Agreements that are excluded from this are fixed term agreements that are less than two years, which were entered into before 13 December 2024 – because they fall outside of the transitional period of the legislative change.

The new rules for rent increases also apply when an agreement is renewed or replaced, as long as the landlord remains the same and at least one tenant is still part of the agreement before and after the renewal. More information: **tenants.org.au/factsheet-04-rent-increases**

Fee-free way to pay rent

From 19 May 2025, tenants must be offered at least one free and accessible way to pay rent. Tenants must be offered electronic bank transfer as a method. Centrepay will also be offered in future as another fee free method. Also, landlords can no longer decline a tenant's request to change their payment method. More information: **tenants.org.au/factsheet-rent-payment**

New pet rules

Previously the *Residential Tenancies Act* was not explicit around pets in rental properties which generally meant it was the landlord's prerogative to reject prospective tenants who had pets.

From 19 May 2025, tenants can request permission for a pet by submitting the approved pet application form. Landlords have 21 days to respond. Find the form at **nsw.gov.au/housing-and-construction/rental-forms-surveys-and-data/resources/form-to-apply-to-keep-a-pet-a-rental-property**

Consent is not needed for an assistance animal as per the definition of an assistance animal under the *Disability Discrimination Act 1992* Cth.

Reasonable conditions could be imposed by the landlord when they give their consent, and they cannot unreasonably refuse a pet. Those conditions could relate to the type of animals and if they are normally considered to be inside or outside pets.

For example, if the pet is considered an inside pet it might be reasonable to impose a condition that carpets are professionally cleaned. Plus, if the pet is a mammal, then it could also be considered a reasonable condition to require that the premises be fumigated.

The legislation also addresses unreasonable conditions and makes it unreasonable to increase the rent, rental bond, or ask for any other security, to account for approval to keep a pet. It is also unreasonable to impose any other conditions the Act would ordinarily prohibited from being a term of the tenancy agreement under the *Residential Tenancies Act*.

Landlords who refuse a pet must have reasonable grounds relating to:

- The suitability of the property for the type of pet, for example: insufficient fencing, open spaces or other concerns about the welfare of an animal in the rental space.
- If the landlord lives at the rental property, they have the right to decline the pet.
- If there is an applicable law, or by-law in a scheme, a council order or land lease community rule.
- If the tenant doesn't agree to a reasonable condition.

Tenants can challenge a landlord's refusal or an unreasonable condition at the NSW Civil and Administrative Tribunal (NCAT) if the refusal

or condition doesn't meet the requirements of the Residential Tenancies Act. More info: tenants.org.au/factsheet-pets

In land lease communities, tenants thinking about getting a pet should check the community rules as they may preclude the keeping of pets or pets of a certain type or number.

It may be possible to apply to the Tribunal to challenge community rules under the *Residential Land Lease Communities Act*. For example, if the procedure for making a community rule was not correctly followed, if the rule is not fair, reasonable or clearly expressed, or applied uniformly to all residents.

The end of 'no grounds' evictions

This is a big development, and we look forward to seeing the benefits of longer and more secure homes for renters. Landlords must now have a reason and good supporting evidence for ending a tenancy. So-called 'no grounds' evictions have been removed from the law. This has been on the wishlist for tenants and housing advocates for over 50 years and finally came into effect on 19 May 2025.

Along with any pre-existing reasons to issue a termination notice the new accepted grounds are as follows:

- The property will be offered for sale and the sale will require vacant possession.
- Significant renovations or repairs will require the property to be vacant and the work is due to commence within two months after termination.
- Demolition of premises whereby the demolition must be planned within two months of the termination date.
- The tenant is no longer eligible for an affordable or transitional housing scheme or the scheme has come to an end.
- The premises are required for key worker accommodation under the NSW government key worker housing scheme (this needs to be disclosed to tenants when entering into the tenancy agreement).
- The tenant is no longer eligible for purpose built student accommodation.
- Premises will no longer to be used as rented residential premises under the Act and will not be for at least 12 months.
- The landlord or their family will reside at the property for at least six months.
- The employee or caretaker arrangement has ended whereby their agreement included the tenancy agreement.

To prevent misuse of the new termination laws, many of the new grounds have specified periods where the landlord cannot re-let the premises under the *Residential Tenancies Act* after a termination.

More info: tenants.org.au/factsheet-eviction

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So-called 'no grounds' evictions have been removed from the law. This has been on the wishlist for tenants and housing advocates for over 50 years and finally came into effect on 19 May 2025."

Further changes

From 1 July 2025 the Rental Commissioner commenced data collection via bond claim applications. Landlords are required to submit the termination notice and supporting evidence to the Rental Commissioner so landlord conduct and the new laws can be monitored and reviewed.

Later in 2025, a portable bonds scheme will allow tenants to transfer their current bond to a new place. There will also be better protections for tenants around their data and privacy including when applying for properties.

OPERATOR RESPONSIBILITIES AROUND • EMERGENCIES •
AND EVACUATION PROCEDURES

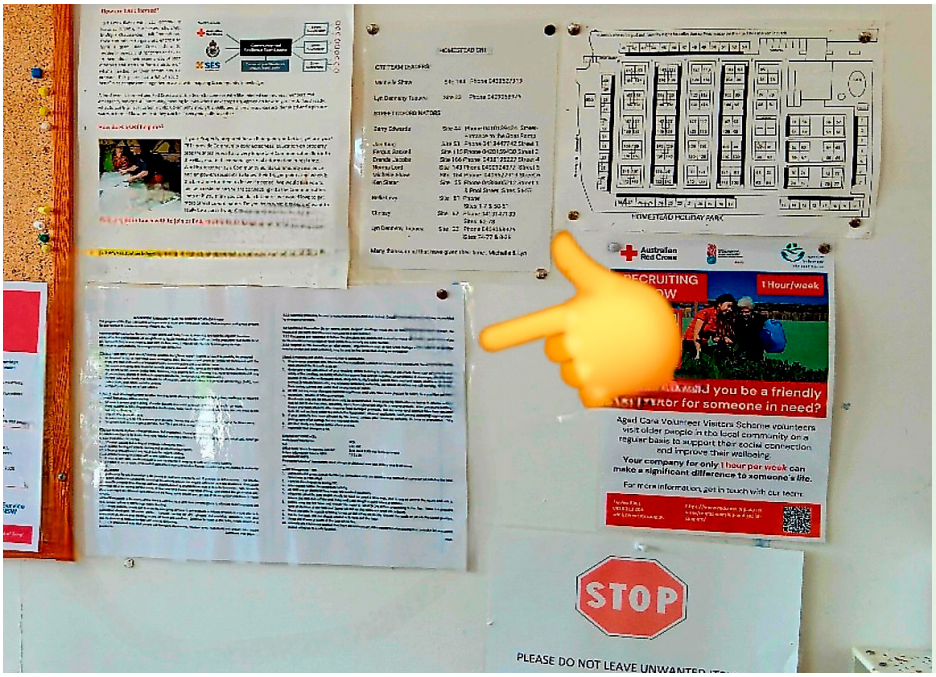
The operator of a community has a responsibility to have emergency evacuation procedures in place. With this responsibility there is also a requirement to reasonably ensure residents are aware of those procedures.

Recent amendments to the *Residential Land Lease Communities Act* that came into force from 25 September 2024, have made it compulsory for operators to test their evacuation procedures at least once a year and maintain records of the drill. Testing the evacuation procedure ought to lead to practical improvements in responding to an emergency that requires evacuation.

After the experiences of home owners in the northern NSW flood disasters of 2022, then ex-tropical cyclone Alfred, and more recently the east coast severe weather event, we have renewed concerns about disaster preparedness. The lack of operator action or communication was a repeated theme for residents when it came to evacuation of at risk communities.

Several communities in northern NSW are on flood-prone land and are still recovering from the severe floods of 2022. Some residents remain displaced from their homes and local areas. In the mid-coast and central coast of NSW there are also communities established on the low-lying topography of the coast, near major river systems, or lakes.

We spoke to a few home owners from two different flood prone communities in the Tweed Shire of northern NSW about ex-tropical cyclone Alfred. With the prolonged uncertainty of where the cyclone would land, home owners noted that there was silence from their operators who were nowhere to be seen. In the lead-up to the disaster, one community observed staff arranging for the office to be locked and sand bagged along with the amenities block.



This photo shows a very densely worded two-page evacuation procedure located in the laundry of a community. Such a location is unlikely to be appropriately prominent. In itself, this notice is also unlikely to be sufficient to ensure home owners are able to evacuate safely in the event of an emergency. Testing procedures through an emergency drill is now compulsory.

"In the lead-up to the disaster, one community observed staff arranging for the office to be locked and sand bagged along with the amenities block.

Although many residents had chosen to leave these communities, some were still on site when the SES and community-led resilience teams from organisations such as Rotary and Red Cross arrived. Help was provided to cut the lock on the amenities block for those who stayed, and assistance was given to others to reach evacuation centres."

Although many residents had chosen to leave these communities, some were still on site when the SES and community-led resilience teams from organisations such as Rotary and Red Cross arrived. Help was provided to cut the lock on the amenities block for those who stayed, and assistance was given to others to reach evacuation centres.

It was fortunate that by the time the expected cyclone reached land it had been downgraded to a tropical low, however significant rainfall and wind speeds still contributed to it being declared a disaster event.

It was reported by residents from the two Tweed shire communities that impact resulted in loss of power for up to four days and fallen trees and debris.

We also spoke to some residents in communities captured in the SES evacuation zones of the east coast severe weather event. Some had operators who did communicate with their residents and resident committees about the imminent risk but there were still instances of operators locking up the office and walking away. One operator indicated to their residents committee that the weather event was not their responsibility.

Operators withdrawing ahead of an emergency appear to have a misconceived understanding of when their responsibilities end during these events.

The Act is clear on their responsibilities around emergency evacuation procedures and logically it would follow that managing the evacuation of residents from a community will aid in the preservation of lives and reduce the pressure placed on emergency services.

We are half way through the year so if your community has not yet been notified of evacuation testing taking place there is still time for the operator to act on this.

If you are unsure where to find information about the evacuation plans for your community, enquire with the operator about having access to that information.

At the Tenants' Union we would also like to be better informed about the different approaches that communities are taking around evacuation processes, so if you would like to share your community's evacuation plan or your experience during the evacuation of your community, please email us at **contact@tenantsunion.org.au** and attention your correspondence to Amanda Elgazzar.

Other legislative protections around emergencies

Operators need to take all reasonable steps to ensure that emergency service personnel have unimpeded vehicular access to homes in the community at all times. This includes home care service personnel.

Consultation about access arrangements with up-to-date information needs to be provided to residents of the community, as well as local emergency and home care service agencies.

The operator is also obligated to ensure all roads and residential sites in the community are signposted, or otherwise that a map is placed at each entry to the community with enough information for emergency personnel to find a home within the community.

Disputes about the operator's compliance with these responsibilities can be

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taken to the NSW Civil and Administrative Tribunal (NCAT). Your local Tenants Advice and Advocacy Service can give advice about this and any time limits that apply.

Assistance after ex-tropical cyclone Alfred

The Australian Government Disaster Recovery Payment (AGDRP), is a one-off payment to those eligible ($1,000 per adult and $400 per child). It can be lodged with Service NSW up to 6 months after the event. If you are in Ballina, Bellingen, Byron, Clarence Valley, Kyogle, Lismore, Richmond Valley and Tweed local government areas, the cut off to lodge a claim is 13 September 2025.

Assistance after the east coast severe weather of May 2025

For the following affected local government areas there are a range of categories for individual assistance: Bellingen, Central Coast, Coffs Harbour, Dungog, Kempsey, Lake Macquarie, Maitland, Mid-Coast, Nambucca Valley, Port Macquarie-Hastings, Port Stephens.

Immediate payments and support from the federal government and NSW government opened from Monday 26th May 2025. Residents can learn more about their eligibility for grants by contacting Service NSW on 13 77 88.

The Australian Government Disaster Recovery Payment (AGDRP) is a lump sum payment of $1,000 per eligible adult and $400 per child if you have been directly affected. Applications close on the 28 November 2025.

The one-off personal hardship payment of $180 per individual and $180 per dependent (up to $900) can be applied for online at Service NSW. Impacted areas that are eligible were last updated on 3 June 2025 and applications will close on 26 June 2025.

The Wilsons River in Lismore approached the height of the levee with fears it would overflow, during ex-Tropical Cyclone Alfred (March 2025).

More information

The Tenants' Union has a factsheet titled 'Natural Disasters' for home owners who find themselves and their homes affected by a disaster event.
See **tenants.org.au/thenoticeboard/factsheet/natural-disasters**

It's also a good idea to get advice from your local Tenants Advice and Advocacy Service. See contact details on the back cover or under 'Get advice' at **tenants.org.au**

Legal Aid NSW offers legal assistance following disaster events. See **disasterhelp.legalaid.nsw.gov.au** or phone 1800 801 529

UNDERSTANDING SITE FEE REDUCTIONS

Under the *Residential Land Lease Communities Act* and other related legislation, a land lease community operator has wide ranging responsibilities to ensure communities remain safe, and function at an appropriate standard.

A home owner's right to a community that is safe and in a reasonable standard of repair is also contained in a standard site agreement where clauses 19 and 20 set out the requirement. The exclusive use of a residential site is primarily what your site fees are paying for but they also cover the use of communal areas, services and amenities made available to you.

By legislative requirement, an operator who enters into a site agreement has agreed that they will:

Ensure that the community is reasonably safe and secure;

Take reasonable steps to ensure home owners always have access to their residential site and have reasonable access to common areas within the community;

Maintain the community's common areas in a reasonable state of cleanliness and repair, so it's fit for use;

Ensure the common areas are reasonably free of noxious weeds and vermin;

Make sure all trees in the community are properly maintained and respond to reports of injury or the likelihood of injury; and

Ensure your reasonable right to privacy, peace and quiet as well as proper use of your site and the common areas of the village.

What you've agreed to pay for might have been expressed to you in your site agreement or other documents about the services and amenities provided at the community.

For example:

- Advertisements made available by the operator before you move in
- The Disclosure statement you were given.
- An FAQ document or other documents with information about the community

Home owners frequently report that a service or amenity in their community isn't available for use – whether temporarily closed for repair, replacement or upgrade, neglected, withdrawn or, advertised but not provided.

Under the community's development consent some services and facilities might need to be maintained for the life of the community. The development consent is a publicly accessible document, available upon request from your local council.

"Home owners frequently report that a service or amenity in their community isn't available for use – whether temporarily closed for repair, replacement or upgrade, neglected, withdrawn or, advertised but not provided."

Often simultaneously when we hear from home owners about reduced services and amenities we are also hearing that the operator is engaged in other activities. For example when the operator has a development consent application for more residential sites (sometimes seeking to vary the local government requirement for a minimum of 10% open space in a community); when the community is under construction for another reason; when the operator is in the process of financing the purchase of another community; a change of management occurs; or the operator is more occupied with managing the holiday and tourist side of business since the permanent residents aren't going anywhere anytime soon.

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Some specific examples we've heard about	Some of the impacts experienced
The community hall has been closed while construction nearby takes place.	We have nowhere to hold our resident committee meetings or social club activities while the hall is closed.
The pool is under repair and not available for use.	We use the pool most in summer and it's been closed. The neighbour has had to spend extra money to go into town and use the pool for their rehabilitation exercises.
The trees are not being maintained like they used to be.	The previous manager took good care of the communal gardens, now there are palm fronds and palm seeds covering the paths and roads. I'm worried someone will slip and hurt themselves.
The street lighting is not working in a number of areas. They said they would fix them but haven't.	Some of us are worried about tripping over at night so we don't go out after dark. I won't even walk over to the bins. We don't know why it's taking so long.
The tennis court is being taken away to install more homes.	We enjoy watching matches or joining in. It feels like all the open spaces are being replaced by more homes. We have no idea if the tennis courts will be rebuilt somewhere else.
We were informed in our disclosure statement that there was a lawn bowling facility, but it hasn't been approved yet.	I agreed to the rate of site fees in my agreement expecting I'd have use of a lawn bowls facility for socialising and exercise.
The section of the community with permanent sites hasn't had any work done to maintain internal roads. There are large potholes and uneven surfaces.	We can't use the roads properly as we have to weave around potholes and each other's cars to move through safely. One resident's car was damaged.

Home owners' and residents' committees can negotiate directly with operators or apply to the NSW Civil and Administrative Tribunal (NCAT).

Where an agreement can be reached, it should be confirmed in writing by the operator so changes to the payment of site fees are clear.

Going to Tribunal

The Tribunal's power to reduce site fees under section 64 *Residential Land Lease Communities Act* is discretionary and limited to being satisfied of the following:

> ***A substantial decrease in the standard of common areas***
>
> ***A significant reduction, loss, or withdrawal of communal facilities and services.***
>
> ***The absence of a service described in an advertisement by the operator or other documentation such as a disclosure statement before entering into a site agreement.***
>
> ***And whether the operator failed to use reasonable endeavours to meet their obligations.***

The timeframe to apply is while the site agreement is in force.

As always evidence is of primary importance in the Tribunal so it is vital to have records such as colour photos, correspondence with the operator and keeping a diary to save memorising the relevant

day to day circumstances. All of this will be important in establishing the obligation or breach on the part of the operator.

The *Residential Land Lease Communities Act* is silent on the issue of repairs to the site, with a few exceptions.

- At the start of your agreement when the operator must ensure the site is provided to you in a reasonable condition and fit for habitation.
- Or when the site becomes wholly uninhabitable through no fault of the operator or the home owner and the plan is to make it habitable again.

We expect to see phase two amendments of the *Residential Land Lease Communities Act* specifically address this gap and make the responsibility for site repairs an operator responsibility unless the home owner has caused the damage.

The Act covers some operator responsibilities for the site such as the continuity of supply of utilities to the site, proper use and enjoyment of the site, obligations for operators to notify affected home owners about development applications and for operators to comply with the development consent to provide some services and facilities for the life of the community.

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Closed facilities in land lease communities. Pictured top to bottom: a fenced-off amenities block, office, and tennis court.

"Applying to the Tribunal for a site fee reduction for site repairs is not an explicit option in the Residential Land Lease Communities Act. However home owners and operators can still agree outside of the Tribunal about a reduction in site fees when repairs to the site are needed."

Continued from page 17...

The *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*, also protects the home owners right to have a certain standard of amenity and services available at their site.

Site fee reductions

Applying to the Tribunal for a site fee reduction for site repairs is not an explicit option in the *Residential Land Lease Communities Act*. However home owners and operators can still agree outside of the Tribunal about a reduction in site fees when repairs to the site are needed.

Calculating site fee reductions

Working out a fair site fee reduction doesn't have a set formula but should take into account what your site fees cover and the importance of those services or amenities, big and small.

The calculation may not produce big sums of money per household but when communities work together to achieve a site fee reduction for everyone affected, the total amount can be hefty for the operator and may encourage better accountability moving forward.

Situations when the Act mandates site fee reductions

Change events

A change event is specified in the *Residential Land Lease Communities Act* as when a utility becomes separately measured or metered and the cost becomes payable by the home owner, or when a utility is no longer available for use. The operator must give the home owner notice about the event within 14 days, reducing site fees payable.

Disputes about this can be taken to the Tribunal by the homeowner.

Uninhabitability

The Act also mandates a site fee reduction when the site becomes wholly uninhabitable other than from a breach of the site agreement by the operator or the homeowner. Examples of this would be through flood disaster or bushfire. The Act states that *site fees will abate accordingly until the site is wholly habitable or the site agreement is ended*. See the provisions of section 62 *Residential Land Lease Communities Act* site becoming uninhabitable.

The Tenants' Union is in the process of publishing a fact sheet and sample letter about site fee reductions, to help home owners take action on this right. It will be available soon on our website, the Noticeboard: **tenants.org.au/thenoticeboard**

ENCROACHMENT ONTO PUBLIC LAND BY OPERATOR

A decision was handed down and published on 30 June 2025 by the NSW Land and Environment Court after the operator of Hacienda Caravan Park Pty Ltd appealed an order issued by Tweed Shire Council.

The order issued by council was pursuant to Chapter 7 of the *Local Government Act 1993*, section 124 item 27 regarding the regulatory functions of councils and their order making powers.

Council had received a complaint from a member of the public with concerns about encroachment of moveable dwellings from the adjoining land lease community Tweed River Hacienda Holiday Park onto public land. Following receipt of the complaint council had carried out two inspections and a registered surveyor also conducted a survey to confirm the encroachment.

On 16 September 2024 the council issued the order requiring the operator to remove/relocate specified moveable dwellings from public land.

A total of 13 sites from the adjoining community located at 37 Chinderah Bay Drive, Chinderah are identified in the court's decision as having encroaching structures onto public land. The structures are also reported as belonging to the occupants of the sites and not the operator who owns the land and manages the community. The homes however were sold by a company controlled by the directors of Hacienda.

The *Local Government Act* has a total of 27 items in section 124 which councils can use to require someone to do or refrain from doing something. Each item details what action is required, the circumstances that warrant the action and whom the order can be given to.

The council can issue an order to:

Remove an object or matter from a public place or prevent any object or matter being deposited there.

Circumstances:

The object or matter –

a) Is causing or likely causing an obstruction or encroachment of or on the public place and the obstruction or encroachment is not authorised under any Act, or

b) Is causing or likely to cause danger, annoyance or inconvenience to the public

The order is issued to:

Person causing obstruction or encroachment or owner or occupier of land from which the object or matter emanates or is likely to emanate.

In this decision the operator appealed an order to remove or relocate specified moveable dwellings from public land identified as Lot 3 in Deposited Plan 535174, located at Chinderah Bay Drive, Chinderah (Public Land).

The land is zoned RE1-Public Recreation under the Tweed Local Environmental Plan 2014 and classified as community land under the *Local Government Act 1993* therefore meeting the definition of a 'public place'.

The Tweed Shire Council are the Crown Land managers and council's case for issuing the order was that the operator did not have authority under any Act to make use of the public land; the encroachment restricted access to the land and contravened the LGA classification of the land as community land; and the land being located in the immediate proximity of the Tweed River is subject to high flow flood water making it inappropriate and unsafe to others for the structures to be located there.

The *Local Government Act 1993* outlines procedures that must be observed before issuing orders so that the rules of natural justice and procedural fairness are observed. The decision reports the steps council took prior to issuing the original order.

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On 20 August 2024 council had issued a prior notice of intention to give the order and provided an opportunity for the operator to respond. On receipt of their response the council had then issued the notice of order.

The proceedings in the Land and Environment court initiated by the operator commenced on 11 October 2024 and after multiple adjournments for conciliation conferences, on 25 March 2025 parties reached an agreement that was very similar to the original order however allowed the operator more time to comply.

The decision to extend the time to comply notes the operator's obligations under agreements with the owners of the homes.

"The substituting order now requires the operator to relocate the 13 moveable dwellings which are partly located on public land so that they do not encroach onto a public place on or before 31 October 2027...

There are consumer protections for home owners in land lease communities when an operator requests that their home is relocated. The homeowner must consent to the relocation and cannot be forced.

If the operator makes the request, they must also cover the relocation cost."

The substituting order now requires the operator to relocate the 13 moveable dwellings which are partly located on public land so that they do not encroach onto a public place on or before 31 October 2027.

The operator agreed to provide a copy of the substituted order to all 13 occupants each year starting from the date of the decision and to ensure a copy of that correspondence is also issued to the council within 7 days of doing so.

While the council has agreed not to take enforcement action against the operator if they made all reasonable endeavours to its satisfaction to comply with the new timeframe, the decision still outlines some of the implications if the operator fails to comply with the order.

Non-compliance with the order may be found to be an offence under s628 of the *Local Government Act 1993* and may warrant a maximum penalty of $2,200. Further implications are that the Tweed Shire Council could take any action necessary to give effect to the order which includes the possibility of carrying out the work required and then seeking cost recovery orders in court for any expenses they outlaid.

Other intersecting legislation relating to this matter is the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2021*. It prescribes the requirements for the installation of moveable dwellings in a caravan park. For example, the minimum size of a site, setbacks from roads; separation distances from other moveable dwellings and the total floor area for the home and associated structures (with roof). These factors impact the extent of relocation necessary to remove the encroaching structures and may mean that there are homes that need to be relocated to another site.

Under the *Residential Land Lease Communities Act* there are consumer protections for home owners in land lease communities when an operator requests that their home is relocated. The homeowner must consent to the relocation and cannot be forced.

If the operator makes the request, they must also cover the relocation cost. It could be to another site within the community or to a site in a different community. The home owner must be given a new site agreement that is substantially the same for the new site. The Act also contains compensatory provisions when it is agreed that the home will be moved to another community or when relocation cannot happen.

Before reaching an agreement to relocate, we encourages any home owners in this position to seek advice from your local Tenants Advice and Advocacy Service. See contact details on the back cover or under 'Get advice' at **tenants.org.au**

GUBU – GROTESQUE, UNBELIEVABLE, BIZARRE & UNPRECEDENTED

Pet hair

We were recently informed that a home owner received a bizarre letter of demand from their operator for the cost to remove some dog hair that had strayed over their site boundary. The home owner was invoiced for $35 by their operator for merely having groomed/brushed his pet dog approximately one metre outside the boundary of their residential site. Dog hair, the volume of which has not been ascertained, had fallen onto the common area of the community.

We have chosen not to name the residential community involved anticipating that the operator would likely be ridiculed and lambasted for their actions. We thought it an odd choice of action on the part of the operator and that invoicing/fining the resident might constitute an overreach from what's contained in the *Residential Land Lease Communities Act* around home owner responsibilities or possibly community rules.

Perhaps the closest responsibility the operator was drawing on is that a home owner must not intentionally or recklessly damage or destroy a community's common areas.

The Act very clearly says that operator responsibilities include maintaining the community's common areas in a reasonable state of cleanliness and repair.

Within reason, permission to keep pets and the presence of pets in the community will come with traces of their existence like any being. We don't think pet hair or shedding of pet hair on community grounds could cause damage or destruction that warrants the issuing of a cleaning bill.

Home owners are held to a standard of responsible pet ownership under a number of community rules, but this was the first time we have heard of billing for pet hair removal!

If you are a tenant in a land lease community and you'd like to keep a pet, see page 9 – it is now a little easier for tenants to keep pets.

Pets are part of the family! Renters Brian and his seven-year-old kelpie Ruby. Photo by Lee Stefen.

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Trash talk

This story makes good use of bad rubbish – thanks to the advocacy of a Residents Association!

A home owner recently discovered a large general waste receptacle for the community had been placed on the other side of the street from their home.

When the home owner approached the office, the operator informed them that it would be staying as they had nowhere else to put it.

Further investigation into what had brought about this sudden change of location revealed that the bin had previously been located in an area where the operator had recently installed new cabins.

Previously, the home owner had enjoyed the outdoor ambience of their site. However now they were forced to experience several unpleasant sensory assaults.

The home owner refused to accept this as the only solution the operator could find.

The offending bin. Photo provided by the home owner.

The home owner made contact with their Residents Association and was advised to document the impact it was having on them.

Over the course of a couple of weeks they documented increased noise due to trucks on collection days, increased foot traffic, the bin door locked into the open position which was inviting birds and the presence of flies multiplying. At times the bin would be overflowing before it was due to be emptied.

When the home owner viewed the home to purchase some time ago this would have put them off, and it would not appeal to anyone who wanted to buy it from them later on.

The advocate from the Residents Association contacted the operator and arranged to meet with them to discuss the impact it was having. The operator was informed that if it was not resolved the matter would be taken to the NSW Civil and Administrative Tribunal (NCAT).

Shortly afterwards the bin was relocated and proper enjoyment in using the site was restored.

If you would like to share your 'Grotesque, Unbelievable, Bizarre & Unprecedented' experiences for future editions of *Outasite* please email **contact@tenantsunion.org.au** marked for attention of Amanda Elgazzar.

ROD NICOLL
OBITUARY

The Tenants Union Residential Land Lease Communities team and the Residential Land Lease Communities Forum members are deeply saddened to learn of the recent death of Rod Nicoll.

Rod was a member of the Residential Land Lease Communities Forum and a resident advocate. He passed away peacefully on 14 June 2025 surrounded by his family.

Rod and Margaret lived at Acacia Ponds a Hampshire Villages land lease community at Pambula on the NSW South Coast. Rod's wife Margaret says,

"Rod and I were together for 59 years. A lifetime. We shared not just a marriage, but a journey. From our fossicking adventures to building our mudbrick home, and through all the years of spiritual work and reflection at TEMBE, Rod was my companion in every sense of the word.

He was a gentle, wise, and quietly strong man. He had a

beautiful way of connecting with people — of truly listening. He loved his family deeply, and I know he felt that love returned, many times over.

Rod also had a wonderful sense of humour. He loved to leave people laughing — always with a joke, a cheeky grin, or a twinkle in his eye. It gave him such joy to make others smile, and I know many will remember that laughter.

One of the most profound gifts of Rod's life came from his sister, Phyllis, who gave him a kidney and, with it, 23 more years of living, loving, creating, and being with us all. What a gift — and what love.

His presence is woven into the fabric of our lives — in the jewellery he made and the stones he polished, the stories he told, the laughter we shared. Though he may have left his body, I believe his spirit walks with us still — free and light."

Paul Smyth, Land Lease Communities solicitor says,

"I remember Rod as a quiet and patient man, and a keen and thoughtful listener who contributed to improving living circumstances for residents.

Rod successfully represented residents from Acacia Ponds at the Tribunal in site fee matters, repairs/maintenance cases, and compensation cases.

Rod attended many Residential Community Forums over the years convened first by the Parks and Village Service (PAVS) and later by the Tenants' Union of NSW until health issues made attending in person more difficult. Rod attended and participated in Resident Advocate training that was provided by the Tenants' Union. Our sincere condolences go out to Margaret and to the Nicoll family. Rod will be missed."

Some of the members of the Land Lease Communities Forum, May 2025.

STAY IN TOUCH

We hope you will stay in touch – just scan the QR code to the right with your phone, then enter your email address, and **please make sure to tick 'Outasite Lite for Land Lease Communities,'** then tap Subscribe. Alternatively, you can visit our website, or fill in the form below, or call us on 02 8117 3700. We would also love you to spread the word among fellow land lease community residents.

Subscribe – it's free!

- ☐ Send me *Outasite* print magazine (once per year). If yes, how many copies (please circle): 1 3 5 10 20 50 100 more
- ☐ Send me *Outasite Lite* email news (sent once every few months)
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Name:	
Address:	
Park or organisation:	
Email:	
Phone:	

Please tick all that apply to you:

- ☐ Land lease community home owner
- ☐ Land lease community tenant
- ☐ I would like to make a donation. Please contact me.

We welcome donations, but please note that you do not need to make a donation, or be a member to access advice. All permanent residents of land lease communities are entitled to free advice (and may get Tribunal appearance assistance) from your local Tenants Advice & Advocacy Service (see contact details at right).

Please return this form to:

Tenants' Union of New South Wales
PO Q961
QVB Market Street
NSW 1230

GET FREE ADVICE:

Tenants' Advice & Advocacy Services

Eastern Sydney	9386 9147
Inner Sydney	9698 5975
Inner West Sydney	9559 2899
Northern Sydney	9559 2899
Southern Sydney	9787 4679
South Western Sydney	4628 1678
Western Sydney	8833 0933
Blue Mountains	4704 0201
Central Coast	4353 5515
Hunter	4969 7666
Illawarra South Coast	4276 1939
Mid Coast	6583 9866
Northern Rivers	6621 1022
North Western NSW	1800 836 268
South Western NSW	1300 483 786

Aboriginal Tenants' Advice & Advocacy Services

Greater Sydney	9833 3314
Western NSW	6881 5700
Southern NSW	1800 672 185
Northern NSW	1800 248 913

We regularly update *The Noticeboard* – our website for land lease communities. You can find over 20 factsheets, plus sample letters, and previous newsletters:

tenants.org.au/thenoticeboard

The Noticeboard
for land lease community residents

TENANTS' UNION OF NEW SOUTH WALES