



Draft Regulations Released!

NSW Fair Trading Minister Mathew Mason-Cox released the draft Residential (Land Lease) Communities Regulation 2014 at a residential park in the Tweed on 17 October. In attendance were a number of park residents and representatives from residents groups including Port Stephens Park Residents Association, Tweed Residential Parks Homeowners Association and the Affiliated Residential Parks Residents Association.

The Regulation is the final piece in the reform of residential parks legislation. It is necessary to carry out the purpose of the Residential (Land Lease) Communities Act 2013.

There is a 15 week consultation period for the Regulation with submissions due by 30 January 2015. The Minister has indicated

that he will visit more residential parks during the consultation period and talk with residents about the proposed changes to the law.

What's in the Regulation

The Regulation only has 17 clauses but it also provides the standard form site agreement and condition report.

Clause 4 sets out the procedure for the publication on the internet of particulars of enforcement and disciplinary action taken against operators. This information can be published as part of the register of communities (currently the residential parks register).

Clause 5 enables the Fair Trading

Residents from Tweed Residential Park Homeowners Association and the Port Stephens Park Residents Association with the NSW Fair Trading Minister Mathew Mason-Cox.

Commissioner to publish on the internet information about whether a community has a residents committee.

Clauses 6 and 7 are about the standard form site agreement and condition report.

Clause 8 prohibits certain types of terms from being terms of a site agreement including a term requiring a home owner to take out any form of insurance.

Clause 9 exempts new operators from the requirement to undertake an education briefing if they have operated a park within the previous two years.

Clause 10 expands retaliatory conduct by an operator to include the withdrawal or withholding of a service or use of a facility.

Clauses 11, 12 and 13 deal with sewerage charges and are the most complicated clauses in the Regulation. They set out the method for calculating sewerage use and set a maximum charge of \$50 for water and sewerage availability.

Clause 14 sets out the maximum service availability charge for electricity based on the number of amps flowing to the site. The maximum charge in the Regulation reflects that currently prescribed by the “Customer Service Standards for the Supply of Electricity to Permanent Residents of Residential Parks” published by NSW Fair Trading.

Clause 15 provides a maximum financial

penalty for operators who request or receive from home owners more than the maximum amounts provided for in the Regulation.

Clause 16 is about offences penalty notices.

Clause 17 cancels any clauses restricting the sale of homes on-site in residential site agreements that are already in force when the new Act commences.

The Regulation also has three schedules. Schedule 1 is the standard form of site agreement. There is only one type of agreement under the new Act (instead of the five provided under the Residential Parks Act 1998). Once the Act has commenced this is the agreement that operators must use but they can add additional terms to it.

Schedule 2 is the standard form of condition report for sites.

Schedule 3 sets out penalty notice offences.

A full copy of the Regulation can be obtained from the NSW Fair Trading website www.fairtrading.nsw.gov.au or by calling 9895 0111. The Regulation is not a complicated or long document and we encourage all residents to read it, discuss it and put in a submission.

Submissions can be emailed, posted or faxed by 30 January 2015.

Residential Parks Forum

Resident representatives, Tenant Advocates and Residential Park Officers from the Tenants Union of NSW gathered at the NSW Residential Parks Forum in Sydney on 20 November to discuss the Regulation. There was agreement that some of the provisions in the Regulation are positive but a number of issues and concerns were also identified.

If you would like more information about the Residential Parks Forum or the Regulation talk to your resident representative or call Julie Lee at the Tenants Union on Thursdays or Fridays on **8117 3700**.

Reprieve for residents of Hastings Point Holiday Park



Hastings point residents, from left: Kevin Byng, Lorraine Byng, Phillip Tucker, Susan Allen, Beryl Anderson, Helen Verrills and Bob Verills.

Hastings Point is a picturesque part of NSW with a significant number of elderly residents living permanently in residential parks dotted across the region.

Hastings Point Holiday Park has been in the process of closing for some time and a seniors living development is being built in its' place. During 2012 the remaining approximately 30 residents of the park were served with Notices of Termination of their site agreements for change of use. The termination notices set 2013 dates for the residents to provide vacant possession of their sites.

At the time the Notices' of Termination were served Stage 1 of the seniors development was complete and a plush retirement village complex was built near the entrance to the park. Meanwhile, park residents had lost many of their services and amenities including their swimming pool and tennis court. The laundry and services block were also allowed to fall into disrepair by the park owner.

Most residents initially sought advice

from Northern Rivers Tenants Advice and Advocacy Service during 2008 about their rights in regard to the proposed closure of the park.

During the closure and development process the park owner developers obtained two amended development consents. Ownership of the park changed hands on two separate occasions and the latest sale price agreed was a multi-million dollar sum.

The current park owners, Tricare (Hastings) Ltd, engaged a management company KDH to run the diminished residential park and to collect the site fees from residents.

In 2013 Tricare (Hastings) filed applications with the Tribunal seeking orders that the remaining residents deliver up vacant possession of their respective residential sites at the park.

The Tenants' Union of NSW represented the residents in proceedings before both the NSW Land and Environment Court

(LEC) and the NSW Civil and Administrative Tribunal (NCAT).

A majority of the residents were awarded compensation from the Tribunal significantly greater than the sums they were offered by Tricare (Hastings). While the Tribunal has terminated the residents' agreements they are entitled to remain on their sites until 20 September 2016.

The Tribunal decision is published and can be found at:

www.caselaw.nsw.gov.au/action/PJUDG?jgmtid=174972

The important lesson is that residents who were served with Notices' of Termination sought advice and representation from their local Tenants Advice Service and from the Tenants Union and did not accept the initial written offers to sell their homes and vacate the park by the residential park owner.



A home at Hastings Point

Get advice from your local service:

NSW Tenants Advice and Advocacy Services

Eastern Sydney	9386 9147
Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Northern Sydney	8198 8650
Southern Sydney	9787 4679
South Western Sydney	4628 1678
Western Sydney	8833 0933
Blue Mountains	4782 4155
Central Coast	4353 5515
Hunter	4969 7666
Illawarra South Coast	4274 3475
Mid North Coast	6583 9866
Northern Rivers	6621 1022
North Western NSW	1800 836 268
South Western NSW	1800 642 609

Aboriginal services

Greater Sydney	9698 0873
Western NSW	6884 0969
Southern NSW	1800 672 185
Northern NSW	1800 248 913

Tenants NSW website

www.tenants.org.au

CPSA Factsheets

www.cpsa.org.au/pavsfactsheets



**TENANTS'
UNION**
OF NEW SOUTH WALES

The Tenants' Union of NSW is:

- A community legal centre specialising in NSW residential tenancies law.
- The peak resourcing body for the NSW Tenants Advice and Advocacy Program.

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We also invite contributions.

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