



## SUBMISSIONS ARE IN!

January 30 was the final day for submissions on the draft Residential (Land Lease) Communities Regulation 2014. NSW Fair Trading will now consider the submissions and prepare a report for the Minister for Fair Trading.

The Tenants' Union (TU) consulted with resident groups and the Tenants Advice & Advocacy Network in the course of preparing our submission. There were positive provisions in the draft Regulation and a few that we believe need some revision. We also highlighted some additional areas that the Regulation ought to cover.

### Sewerage charges

One of the most complex clauses of the draft Regulation is clause 11,

which provides an exemption from the requirement that operators can only charge for utilities where usage is separately metered. Clause 11 enables operators to charge residents a sewerage usage charge based on the amount of water used at the residential site.

The sewerage usage charge will only apply to sites that are individually metered for water because the calculation is based on measurable water usage.

To calculate sewerage usage the operator takes the total water usage for the whole park and works out what percentage of that usage applies to each area of the park including common areas, and to each site according to the metered amount of water used by that site.

*The draft Regulation poses many questions for park residents.*

The operator then takes the overall sewerage usage charge for the whole park and each residential site is billed the same percentage for sewerage usage as for water usage.

Let's use Tom as an example. He lives in a park with 48 residential sites where the only facilities are the communal showers and toilets.

The quarterly water usage account for the whole park, including the common areas and facilities, is \$5,837.

Tom's water bill for the quarter is \$99.23, which the operator calculates to be 1.7% of the total water usage at the park.

The sewerage usage account at the park for the same quarter is \$3,521. So, Tom will pay 1.7% of \$3,521, which is \$59.86.

The draft Regulation continues the status quo regarding service availability charges for sewerage and water by setting the maximum combined charge at \$50 in any calendar year.

## **Site fee increases**

As many residents already know, the new Act provides for fixed method site fee increases to be linked to the Age Pension. The Act states that site fee increases may be "by fixed calculation (for example, in proportion to variations in the Consumer Price Index or in the age pension)."

The draft Regulation provides a standard form of site agreement for use after the Act commences and in this agreement the terminology around fixed method increases has changed. The site agreement provides for fixed method site fee increases to be "in accordance with variations in (single/couple) age pension."

In our submission the Tenants' Union expressed concern that "in proportion to" and "in accordance with" do not have the same meaning and the standard form of site agreement appears to allow for the

whole of the Age Pension increase to go to the operator as the site fee increase.

## **Electricity service availability charge (SAC)**

The draft Regulation appears to continue the status quo by providing for lower service availability charges for electricity where the supply to the site is less than 60 amps. However, through another subtle and unnecessary change in terminology the draft Regulation may fail. Instead of continuing to use the word "supply" the draft Regulation introduces the term "capable of flowing", which could have a different meaning.

The Consumer, Trader and Tenancy Tribunal (now the NSW Civil and Administrative Tribunal, or NCAT) considered the meaning of supply in relation to electricity on many occasions and found that it was different to available. We are concerned that capable of flowing is more akin to available than supply. This is important for residents because the site or dwelling may only be supplied with 15 amps of electricity but if 60 amps are capable of flowing then residents may have to pay the full SAC rather than 20 per cent of the SAC.

## **Prohibited terms of site agreement**

The draft Regulation prescribes four terms that cannot be terms of a site agreement including one that indemnifies the operator against any liability for damage or loss due to an act or omission in relation to the occupation or use of the site.

The agreement cannot require residents to take out any form of insurance. Insurance is now a matter of personal choice.

## **Retaliatory conduct**

The draft Regulation adds to the retaliatory conduct provisions in the Act by including the withdrawal or withholding of a service or use of a facility.

## Sale of homes

Currently, section 82 (1) of the *Residential Parks Act 1998* enables terms in site agreements that place restrictions on the sale of homes on-site. The draft Regulation provides that any such terms cease to have effect on commencement of the Act.

In our submission we have suggested that the Regulation should also provide for terms in site agreements that prohibit sales (allowed under section 80 (1) of the Parks Act) also cease to have effect on commencement of the Act.

## What next?

Unlike the new Act, the Regulation does not need to be passed by Parliament to come into force. The final draft of the Regulation will be submitted to the Governor for approval then published in the Government Gazette or on the NSW Legislation website and a notice tabled in both Houses of Parliament.

It is expected that the *Residential (Land Lease) Communities Act 2013* will commence around mid 2015.

## One-off funding boost for TAAS

The Tenants' Union welcomes the news that the Rental Bond Board will provide a one-off grant of \$177,960 to Tenants Advice and Advocacy Services to assist with the implementation of the *Residential (Land Lease) Communities Act 2013*.

Minister for Fair Trading, The Hon. Matthew Mason-Cox, confirmed that he had approved the funding in a letter to the TU in December 2014. The grant is dependent upon the introduction of the new legislation. When that happens a decision will be made with Fair Trading about how the funds will be allocated.

# Parks work at the Tenants' Union



*Residential Parks Forum  
July 2014*

In 2014 the Tenants' Union (TU) expanded our capacity and consequently our role in the area of residential parks. We began producing *Outasite Lite* and convening the Residential Parks Forum. This year we will be expanding even further.

In legal matters 2015 is off to a big start with an appeal scheduled in the Supreme Court, and some interesting Tribunal cases being dealt with by Tenants Advice and Advocacy Services and resident groups.

Membership of the Residential Parks Forum is expanding and we have settled on a meeting schedule for the year. The Forum is a unique gathering of representatives from various resident groups, advocates and lawyers where park-related matters are discussed and plans for action formulated. Contact us if you are interested in being involved (see contact details for the Tenants' Union on the bottom of the back page of *Outasite Lite*).

We are currently developing a website where we will make factsheets, publications and information about parks available to all residents. In the meantime previous issues of *Outasite Lite* produced by the TU are available on our website at: [www.tenantsunion.org.au/parks](http://www.tenantsunion.org.au/parks). Here you will also find a link to back issues of *Outasite* and *Outasite Lite* produced by the Park and Village Service (PAVS).

## GET ON BOARD: NEW CAMPAIGN!



Tenants Advice and Advocacy Services (TAAS) provide free independent advice and assistance to tenants and park residents but more and more they are struggling to meet demand. Some of you are aware that TAAS cannot always take on residential park cases because they don't have the necessary resources available. The TAAS are calling for an increase in ongoing funding so that they can better meet the demand for their services and you can help.

The Tenants' Union and the TAAS Network are running a campaign to highlight how the interest from tenants' bonds is spent.

Over \$1 billion of tenants' money is lodged as bonds at the Rental Bond Board. This money generates about \$60 million interest yearly. The State Government decides how this money is spent.

Most of the money – about two-thirds – is paid to NSW State Government agencies. A small portion (about 8%) is used to fund the TAAS. A tiny amount (less than 1%) is paid as interest to individual tenants when they claim their bonds at the end of their tenancies. Meanwhile, 10% goes into surplus.

The *More Bang For Your Bond* campaign is calling for funding to TAAS to be increased now by \$5.2 million – and grow proportionately in line with the number of tenants in NSW.

Find out more and support the campaign at [www.yourbond.org](http://www.yourbond.org)

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](http://www.tenants.org.au)

### CPSA Factsheets

[www.cpsa.org.au/pavsfactsheets](http://www.cpsa.org.au/pavsfactsheets)



#### 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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