

Outasite Lite



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Together we can get through this.

COVID-19

How the pandemic may impact land lease communities

There is no doubt we are living in strange and worrying times where everything is changing almost on a daily basis, including the law. The Tenants' Union has had a number of enquiries from land lease community residents about the impacts of COVID-19, which we will address in this special issue of *Outasite Lite*.

Gathering and movement

The NSW Minister for Health and Medical Research, Brad Hazzard MP, has issued an order under the *Public Health Act 2010* that places restrictions on the gathering and

movement of people. The order is effective from 31 March 2020 until 29 June (unless earlier revoked).

The Minister has directed that a person must not leave their place of residence without reasonable excuse. Reasonable excuses include: obtaining food or other goods and services for personal need; travelling for work or education if necessary; exercise; obtaining medical care or supplies or fulfilling a carer's responsibilities.

Additionally, a person who is moving to a new place of residence has a reasonable

excuse to travel between their different places of residence. That means if someone has purchased a home in a land lease community and they are scheduled to move in while these measures are in place, they are permitted to do so.

The Minister has also directed that a person must not participate in a gathering in a public place of more than two persons, with certain exceptions. Those exceptions include: gathering for work; a gathering of persons of the same household; providing care or assistance to a vulnerable person.

Closure of certain premises

The order also contains a Ministerial direction regarding the closure of certain premises. Termed as caravan parks and camping grounds, land lease communities must not be open to the public except for the purposes of accommodating permanent residents or other persons who have no other place of permanent residence, and allowing persons to visit those residing in the community.

This direction will not impact communities where everyone is a resident but it will impact mixed use communities with short-term sites. It means those sites cannot be used for tourists or casual occupation unless a person was already staying there when the order came into effect and the person does not have a place of residence elsewhere.

The complete order and all NSW COVID-19 legislation can be found here:
<https://www.legislation.nsw.gov.au>

Local arrangements

As well as complying with the order each operator will have undertaken measures to ensure physical distancing to safeguard employees and residents. This will include closing community facilities and cancelling social activities that cannot be conducted within the health guidelines.

Some operators will also have initiated new systems for payments and dealing

with resident queries. Whilst measures are necessary to keep everyone safe, they must be sensible. Some residents are unable to make payments or conduct discussions over the internet.

Evictions

On 29 March the Prime Minister, Scott Morrison announced that state and territory leaders had agreed to a six month moratorium on evictions for those unable to pay their rent due to financial distress as a result of the COVID-19 pandemic. Each state and territory has to determine how to implement the moratorium.

In NSW there is a new power to enable regulations to be made under any relevant Act, including the *Residential (Land Lease) Communities Act*, for the purpose of responding to the COVID-19 pandemic. Regulations may be made to:

- prohibit a landlord, owner or proprietor from recovering possession of premises from a tenant or resident under the relevant Act in particular circumstances,
- prohibit termination of a tenancy, occupancy or site agreement under the relevant Act in particular circumstances,
- regulate or prevent the exercise or enforcement of another right of a landlord, proprietor or community operator under the relevant Act or agreement relating to premises,
- exempt a tenant, resident, or home owner, or a class of tenants, residents or home owners, from the operation of a provision of the relevant Act or any agreement relating to premises.

In practice this means the NSW Government can introduce regulations to prevent anyone who rents premises from having their agreement terminated, or being evicted for any reason during the COVID-19 pandemic.

Additional powers could relieve residents from the requirement to pay some, or all

of their rent or site fees, or other charges for a certain period.

At the time of writing the NSW Government has not made any regulations in relation to the above.

Termination for closure

We are aware that home owners in mixed use communities may have concerns regarding the ongoing viability of the community during the COVID-19 pandemic due to the reduction in tourist income for the operator. We share these concerns, particularly for smaller, family-owned communities.

Ordinarily if an operator is closing a community they have to issue home owners with a termination notice providing at least twelve months to vacate the site. Home owners are entitled to compensation from the operator to move their home to another community, or for loss of residency if they are unable to relocate.

The *Residential (Land Lease) Communities Act 2013* still applies during the COVID-19 pandemic unless the NSW Government makes a Regulation that certain provisions do not apply. Currently, if an operator decides to close a community home owners are still entitled to a 12 month termination notice and compensation.

The Tenants' Union is urging the NSW Government to make regulations as soon as possible to ensure the COVID-19 pandemic does not lead to any tenant or resident losing their home.

If you have specific questions about your situation you can contact your local Tenants' Advice and Advocacy Service.

You can stay up to date about COVID-19 and renting here: tenants.org.au/blog/renting-and-covid-19-information

Free advice from local services:

Tenants Advice and 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	4274 3475
Mid Coast	6583 9866
Northern Rivers	6621 1022
North Western NSW	1800 836 268
South Western NSW	1300 483 786

Aboriginal Tenants Advice and Advocacy Services

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



Phone: 02 8117 3700

Email: contact@tenantsunion.org.au

Websites: thenoticeboard.org.au and tenants.org.au

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