Land Lease Communities Newsletter
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OutasiteLite

A home owner in one community was required to spend over $15,000 to replace a major retaining wall to make the site safe and fit for habitation.

HOME OWNERS PRESS FOR URGENCY ON LEGISLATIVE REFORMS FOR SITE REPAIRS

Last year the Tenants' Union of NSW received an increasing volume of enquiries about significant site repairs. For a number of home owners the need for major site repairs has been becoming unmanageable and detrimental to their homes.

The concerns home owners hold are directly related to the *Residential (Land Lease) Communities Act 2013* (RLLC Act), being silent about responsibility for **ongoing** repairs and maintenance. Operators assert that they can lawfully refuse to accept responsibility for most ongoing site repairs because of section 37(1)(k) RLLC Act. For many years now this situation has put home owners in need of site repairs in an unfair position of deciding to carry out costly repairs or incur the risks of going without them when the cost is too prohibitive.

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BACKGROUND TO THE LEGISLATIVE SITUATION:

The *Residential Parks Act 1998* (RP Act) which previously governed land lease communities was repealed on the 31st October 2015.

Section 24 of the RP Act covered site repairs and used to provide for an operator's ongoing responsibility to maintain the site:

> *24 Park owner's responsibility for cleanliness and repairs*
>
> *(1) It is a term of every residential tenancy agreement that:*
>
> *(a) the park owner must provide the residential premises (for instance, the moveable dwelling and the residential site or the residential site only) and the common areas of the residential park in a reasonable state of cleanliness and fit for habitation by the resident, and*
>
> *(b) the park owner must provide and maintain the residential premises in a reasonable state of repair, having regard to the age of, rent payable for and prospective life of the premises.*
>
> *(2) In this section:*
>
> *residential premises includes everything provided with the premises, for use by the resident, under the residential tenancy agreement.*

On the 1st of November 2015 the *Residential (Land Lease) Communities Act 2013* (RLLC Act) commenced, replacing the RP Act. However an operator's **ongoing** responsibility for repairs and maintenance to sites was not explicitly expressed in the equivalent section 37(1)(k) of the RLLC Act.

> *37 Operator's responsibilities*
>
> *(1) The operator of a community has the following responsibilities –*
>
> *(k) to ensure a residential site is in a reasonable condition, and fit for habitation, at the commencement of a site agreement for the site*

In November of 2021 the five-year statutory review of the RLLC Act, was tabled in the NSW Parliament and there was recognition of the diminished site repair protections afforded to home owners. There are three directly relevant recommendations in the statutory review pertaining to site repairs:

> *Recommendation 30:*
> *Clarify that operators should be required to ensure a site is safe, in a reasonable condition and fit for habitation, and that operators are responsible for maintaining infrastructure that forms part of the structure of the site and cannot be removed.*
>
> *Recommendation 31:*
> *Require home owners to keep the site they occupy in a clean and tidy condition and be responsible for damage they have caused to the site (beyond fair wear and tear).*
>
> *Recommendation 32:*
> *Undertake further consultation on how these general principles about site maintenance and repair should be expressed in the Act, and whether it is necessary to list specific aspects of site maintenance and repair for which the operator is responsible.*

In 2022 the Tenants' Union and other key stakeholders were asked to comment on the first draft of the *Residential (Land Lease) Communities Amendment Bill*.

The Bill resulted in 21 out of 48 of the Recommendations being enacted and was referenced as 'Phase 1' of implementation of the Statutory Review. The Tenants' Union had expected it would cover responsibility for site repairs and maintenance.

In March 2023 the Tenants' Union and other key stakeholders responded to the Government's targeted consultation paper, which included consultation about recommendations relevant to site repair slated for 'Phase 2'.

In 2024 contact from home owners about their prolonged time under hardship prompted the Tenants' Union to release a briefing paper asking for an Urgent Amendment Bill.

The paper was provided to the Minister for Better Regulation and Fair Trading as well as the NSW Strata & Property Services Commissioner in November 2025.

Residents and resident advocates also ensured the briefing paper was circulated across their

own electorates and communicated examples of detriment experienced by their own communities with their local Members of parliament.

The Tenants' Union can report that since the briefing paper was released NSW Fair Trading has initiated further discussions and targeted consultation with key stakeholders and we hope that the additional advocacy work by resident committees, associations and advocates will expedite the necessary changes.

DISCUSSION ABOUT SITE REPAIRS IS AN ONGOING ONE

We have heard from home owners who have site repair issues ranging from retaining walls at risk of falling, site subsidence causing homes to crack and walls to warp, inadequate drainage causing mould and uninhabitable living conditions, fences that are bowing and tree roots that compromise driveways and paths.

The time that has lapsed since losing what the Tenants' Union considers were adequate site repair protections under the RP Act – repealed over 10 years ago – has created space for inconsistent and unfair drafting of additional terms in site agreements or other written agreements that relate to the use of a site. Terms being implemented by operators during this time have blurred the lines of separation where the home owner is responsible for their home and its additional fixtures and the operator is responsible for the site and its infrastructure.

Some examples we have learned about include:

- Contracts for the sale of a home owned by an operator, which include purchasing site infrastructure needed for the site to be fit for use.
- Additional terms in a site agreement or otherwise community rules which shift responsibility and/or ownership of site infrastructure to the home owner.
- Deeds for the relocation of a home where the operator requires hardscaping for the site to be left behind even if the home owner had been deemed the owner or person responsible for ongoing site repairs and maintenance in their site agreement.

The ongoing discussion with home owners about site repairs has given us better insight into what home owners want the future amendments to the RLLC Act to achieve:

- Clarity around the separation of ownership and responsibility for the home they purchase and the site it is located on.
- Better administration and record keeping about the condition and additions to the site from the commencement though to the end of their site agreement.
- Clear laws that assign responsibility for ongoing site repairs to the operator (unless the home owner has caused or permitted the issue).
- Preventative steps they can take to ensure their homes stay safe from damage caused by issues with the site.
- Regulations that separately manage site repairs that home owners need, from additions and alterations to the site that a home owner wants.
- Avenues for dispute resolution such as the ability to apply to the NSW Civil and Administrative Tribunal for orders about the repair itself, any damage caused to the home, a reduction in site fees or compensation for losses incurred.
- Home owners who have been forced to make an addition or alteration to address a site repair issue, and others who have unfairly become owners of site infrastructure want equitable protections as other home owners will have under the proposed amendments. In submissions to NSW Fair Trading, the Tenants' Union has advocated for the legislature to account for the very people who have experienced the impact of the existing gap in legislation.

Recommendations 30 to 32 from the statutory review propose to return to the naturally fairer system where ongoing site repairs and maintenance are the operator's responsibility unless the home owner has caused or permitted the damage.

The Tenants' Union invites home owners to continue sharing their site repair issues to inform our advocacy work on how general principles about site repairs and maintenance should be expressed in the RLLC Act.

If you have a site repair issue you want to share with the Tenants' Union, email us at: **contact@tenantsunion.org.au** Attention to Amanda Elgazzar •

EL LAGO TENANTS AWARDED COMPENSATION FOR UNTENABLE CONDITIONS

In an earlier article (Issue 50, October edition of *Outasite Lite*) about El Lago Waters Tourist Park we reported on an unsuccessful Development Application to construct a multi-storey apartment complex in the place of the community and the operator's failure to tend to several repairs issues at the community.

The viability of 'El Lago' as a land lease community is still quite precarious as Central Coast Council's rectification orders have not been complied with and the home owners who applied to the New South Wales Civil and Administrative Tribunal (NCAT) for repairs to be made are still taking action in the Tribunal to enforce those orders.

In this article we cover the Tribunal action launched by some of the tenants who rented villas from the operator, which were far from secure or reasonably fit for habitation and offered little in the way of peace, comfort and quiet enjoyment.

A number of tenants were recently represented by Central Coast Tenants Advice and Advocacy Service (CCTAAS) at NCAT and sought orders for repairs to their villas, rent reductions and compensation. They had been residing at the community for periods of time ranging from 10 months to nearly 4 years. Their applications were heard on separate occasions from October to December 2025.

Due to the appalling living conditions, by October 2025 several tenants opted to vacate their villas in the community ahead of their scheduled NCAT hearing dates. Unfortunately this meant pursuing orders for repairs to the villas was no longer possible. We spoke to one tenant about their experience of living in a villa at El Lago.

TENANTS' UNION SPEAKS TO A FORMER TENANT

Sarah (name changed for privacy) has been a local at The Entrance nearly all of her life. She previously rented a home with her partner of 18 years just streets behind the El Lago Tourist Park. After leaving the relationship Sarah and her youngest child moved a few times until rents at The Entrance became unaffordable.

A few years ago Sarah made the decision to return to their neighbourhood and with some reluctance they moved into the El Lago Waters Tourist Park.

> ***"I was working part time and was applying for lots of places. I just wasn't getting accepted and there weren't any other options at the time".***

The accommodation was bleak in contrast to the blissful location opposite Tuggerah Lake, surrounded by beaches and bays. The area had been their home for such a long time.

Sarah describes how she rented a villa that didn't have locks on the entry door and the door was only fit for internal use. There were holes in the walls, kitchen cupboard doors and drawers were falling apart and some window panes and screens were missing. Sarah had frequently asked about repairs being done but the on-site manager did not respond to her requests and the repair issues grew in number over time.

Sarah says she had to divide her efforts between the pressures of day to day life and the increasingly tedious steps she had to take to access basic and essential services in the rental villa when there was no hot water or electricity or a working toilet. She reported that her youngest child who had been living with her went to live with other family members, particularly in light of the growing frequency of trespassers and antisocial behaviour in the community. She struggled to find time or energy in the day to look for a better place to live.

When we spoke to Sarah she recounted occasions where fuses were removed from the villa power box and nothing was done about it. She stated that one neighbour who still had electricity gave her permission to plug into a power point for lighting.

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Photos showing the neglect and disrepair at El Lago Waters Tourist Park.

The community grounds and amenities were also in a state of neglect and disrepair. At one stage the community office caught on fire and Sarah states that the office and the communal laundry below became off limits from then. None of this deterred vigorous rent collection in full!

Over the course of the next few years Sarah's prospects of securing better housing felt more more and more elusive. Her housing expectations and resilience wore thin due to the operator's indifference to their obligations.

"Once I was living there and putting my address on rental application forms I stopped getting the call backs or feedback that I used to get when applying for rental properties."

Sarah sought the advice and assistance of Central Coast Tenants Advice and Advocacy Service (CCTAAS) in late 2025. They wrote to the operator outlining the issues that needed addressing.

Again there was no response from the operator and a lack of meaningful action on the urgent repairs needed. CCTAAS helped Sarah to apply to NCAT and represented her at the hearing.

NCAT DECIDES THE MATTER IN THE OPERATOR'S ABSENCE

On the day Sarah's matter was listed for hearing the operator failed to appear and hadn't filed any evidence in accordance with procedural directions made earlier. The Tribunal determined that in the circumstances and in the interests of justice it was appropriate to proceed with the hearing despite the operator's absence. The decision was handed down just before the end of 2025.

Like many of the home owners at 'El Lago', Sarah and other tenants had entered into agreements which were made verbally. The Tribunal therefore commenced proceedings by first determining the type of agreement she had; whether NCAT had jurisdiction to hear her matter; and which legislation would apply.

Sarah was found to be a tenant covered by the *Residential Tenancies Act 2010*. Her application was successful in getting both an award of compensation for non-economic loss and a 50% reduction in rent for a specified period of time.

The Tenants' Union was informed that a number of other tenants were also successful in obtaining orders for compensation and/or rent reductions.

A further order had been sought for the Tribunal to refer her matter to the Commissioner of Fair Trading but the Tribunal declined to do so at the time because it had not considered the operator to be in breach of an order made by the Tribunal.

The Tribunal drew on provisions in the *Residential Tenancies Act 2010* which set out:

- A landlord's general obligations, including to provide and maintain the residential premises in a reasonable state of repair (even when the tenant is aware of the state of disrepair before moving in)
- The minimum standards for a rental premises to be deemed fit for habitation, and,
- The definition of what constitutes an urgent repair.

The Tribunal member provided useful written reasons in the decision, clarifying that the landlord's obligation to repair arises when they are on notice about a repair issue. The method of notice doesn't need to be obtained from a tenant making a repair request. Also once on notice, the landlord's duty to repair is enlivened whether or not the tenant has made a request.

MORE EFFORTS REQUIRED TO ENFORCE THE OPERATOR'S ACCOUNTABILITY

Sarah states she has not yet benefited from any of the monetary orders that were made because the operator had lodged an application for those orders to be set aside. A set aside application is often lodged when a party to an NCAT matter states they had a valid reason for not attending the hearing and believe they can show that the decision could be substantially different if they could have been at the hearing. We note that at the time of writing, the operator's 'set aside' application has been refused by the Tribunal however the operator has still not complied with the money orders.

Central Coast Tenants Advice and Advocacy Service has referred tenants in a similar position to their closest Community Legal Centre or otherwise Legal Aid office who can assist them with applying to the local court for enforcement of the money orders.

ARPRA SUCCESSFULLY ADVOCATES FOR LIQUOR LICENCE EXEMPTION FOR OVER 55'S COMMUNITIES

The NSW Government Department of Creative Industries, Tourism, Hospitality and Sport which encompasses the Hospitality and Racing sector, has recently adjusted its list of circumstances where a liquor licence may not be required.

The new liquor licence exemption started on 28th January 2026 under the commencement of the *Liquor Amendment (Miscellaneous) Regulation 2026* making it unnecessary for a liquor licence to be held for eligible communities.

The background to this development is some persistent advocacy work by the Affiliated Residential Park Residents Association (ARPRA) in consultation with the Land Lease Living Industry Association NSW and the NSW Police around making the legislative amendment.

Residential land lease communities (RLLCs) increasingly cater for residents of similar ages to those living in retirement villages and lend themselves to community gatherings. However, RLLCs were ineligible for the same kind of liquor licence exemption that retirement village residents enjoyed for social gatherings.

For some time now many land lease communities had the costly task of obtaining a liquor licence (approximately $750 per annum for registering under non-profit associations). The licensing requirements also included having persons trained to hold a Responsible Service of Alcohol competency card. For a residents committee, social club or other fundraising committee the cost of the licensing requirements consumed a large amount from their own budgets and necessitated fundraising efforts.

Under the new liquor licence exemption for land lease communities, eligible communities must meet specific criteria.

The NSW Government website, **www.nsw.gov.au/business-and-economy/liquor-and-gaming/liquor-licensing/apply-manage/not-required** states that the following applies to residential land lease communities that restrict residents to those aged 55 or over.

WHEN A LICENCE IS NOT REQUIRED

A liquor licence is not required for alcohol to be sold or supplied during gatherings at a residential land lease community to adult residents or guests of residents. However:

- the residential land lease community must operate with an over-55s age restriction rule
- the gathering must be organised and run by residents (and not by the operator of the registered residential community)
- a residents committee member or nominee of the residents committee must be present at the gathering to supervise the sale and supply of alcohol and the general conduct of the gathering
- alcohol sold and supplied at the gathering must be purchased from a retail liquor outlet
- gatherings must be held at a temporary bar or common areas of the registered residential community
- records must be kept of the gatherings held by the community.

More information about exemptions, including contact details for residents to give feedback, make enquiries, or complaints can be found on the NSW Government Business and Economy, Liquor and Gaming website.

REMOVAL OF RESIDENTS' MAILBOXES

By Sandy Gilbert (TRPHA) and Paul Smyth (Tenants' Union of NSW)

Imagine doing your daily routine of going to the mailbox to check if there's anything that has been delivered to you and one day finding a written notice from your operator requesting that you hand back your mailbox key within seven days. What do you do and how should you respond? This was the dilemma that faced Ron Warren who has lived at North Star (presently operated by Tasman) for over 25 years.

North Star is a mixed use community located off the Tweed Coast Road and is close to Hastings Point beach in Northern NSW. Tasman are the operator of North Star and they own and operate 12 communities throughout NSW. North Star is described by the owners as the "ultimate family caravan park" the homes consist of cabins, villas, powered camping sites and ensuite caravans.The facilities at North Star include the resort pool, a heated pool, waterslides and a marine discovery centre. There is also a kiosk and an onsite licensed bar and café.

However, one essential service and facility for some residents was recently removed, namely their mailboxes. Bizarrely on 19 January 2026 management wrote to a number of residents including Ron Warren who has lived in his home at site 123 North Star for over 19 years, Sue (real name withheld) who has lived at North Star for 9 years and Mandy (real name withheld) who has lived at North Star for 13 years. North Star management requested that the named home owners "return your mailbox key to us within 7 days of the date of this letter". Tasman advised in the notice letter that they recently conducted a mailbox audit and during this audit it was discovered that "you hold a mailbox in our mailbox area". As the holder of an occupancy agreement with Tasman the operator advised Ron that the agreement does not allow you to use the caravan on site 123 as your permanent address. Because of these terms we ask that you return your mailbox key to us within 7 days of the date of this letter. The notice also advised that the mailbox mechanism will be updated. The notice did not say that the barrel lock would be removed. Ron's home consists of more than a caravan on site and the condescending tone of the operator's correspondence annoyed Ron and other residents.

Ron has always had a mailbox and he was issued with a key for the mailbox when he commenced living at North Star.

On 3 February 2026 management at North Star wrote back to the residents advocate Sandy Gilbert from TRPHA and said "In relation to mail facilities, North Star is not recognised as the principal residential address for Occupation Agreement holders. The issuing or withdrawal of letterbox access does not alter the legal classification of the agreement nor confer residential status under the Residential Land Lease Communities Act. Any previous access provided in error does not override statutory requirements or contractual obligations".

Paul Smyth, Land Lease Communities solicitor at the Tenants' Union of NSW says "this operator really needs to acquaint themselves with the NSW Court of Appeal decision in *Bennett v Gennacker Pty Ltd [2016] NSWCA 89* to fully understand substance over form. In the Bennett case the Court of Appeal determined that while the Bennett's had signed an occupation agreement it was not one to which the *Holiday Parks Act 2002 (NSW)* applied because all of the pre-conditions set out in s5(1) of the HP Act were not satisfied. The same scenario would appear to apply in Ron's circumstances and for the other two home owners whose mailbox facilities have been removed".

Alan Hawkes, a home owner and a residents committee member at North Star accompanied Ron to the community office. They asked staff what was happening with Ron's mailbox facilities because on 4 February 2026 the operator had removed Ron's name and letterbox number and also removed the barrelock so that Ron would not be able to use his mailbox key or access his mail (photo above).

When Ron asked what was happening to his mailbox office staff said; "Ask your neighbours can your mail be sent to their site address and share their letterbox". A female staff member at the office also said to Ron "you are only a weekender anyhow so why have you mail coming to your weekender"? The North Star action and response has angered many residents at North Star.

As an interim measure TRPHA advised the affected residents to go to the post office and ask to get their mail held there for the time being. Australia Post on discovering the plight of the three home owners who had their mailbox access removed not only assisted with redirection of their mail but offered to provided a PO Box and key [at no charge] to the home owners from North Star. The cost of a small PO Box starts from roughly $170 per annum.

The residents have applied to the NSW Civil and Administrative Tribunal (NCAT) regarding their site fee increases and the removal of their mail facilities. The home owners have sought various orders including a specific performance order that Tasman North Star restore their secure mailboxes and desist accessing or interfering with their mail facilities.

The operator removed Ron's name, letterbox number, and the barrelock.

Under section 47 of the *Residential Land Lease Communities Act 2013*:

> *(1) The operator of a community must establish and maintain at the community reasonably accessible and reasonably secure mail facilities for the home owners.*
>
> *(2) The operator of a community must not access or interfere with individual mail facilities provided to a home owner in the community, except with the prior consent of the home owner.*
>
> *Maximum penalty—10 penalty units.*
>
> *(3) The Tribunal may, on application by a home owner, make an order resolving a dispute concerning an operator's compliance with this section.*

It is also an offence at Federal Law under the *Criminal Code Act 1995 (Cth.)* for anyone to interfere with mailbox facilities. •

HOME OWNER SEEKS ACTION ON NUISANCE FAIRY IN THE GARDEN

We were recently contacted by a home owner who lives in an over 50's community on the NSW side of the picturesque Murray River. The community is generally neat and tidy, complementary to its natural surroundings. However in the spring months some residents' homes are inundated with an astounding amount of fairy grass.

There are several holiday parks and land lease communities on both sides of the river bordering NSW and VIC as well as land used for agriculture or otherwise undeveloped but privately owned.

Just one row of homes on the west facing side of the community is inundated with the fairy grass each spring as a result of unslashed privately owned lots adjacent to it. The fairy grass blows in with seasonally high speed winds and is easily carried over the top of roofs and fences. At its worst it has piled up to the top of people's roller doors. The simplest solution to the issue would be to ensure slashing of vacant lots occurs earlier.

In 2025 the home owner we spoke with was inundated by three separate 'dumps' between the 11th November and 15th of November. The dry weed covered their outdoor furniture, garden beds and paved areas rendering the backyard unusable for over 30 days.

It's an issue that has been occurring annually since the community opened 16 years ago and many affected home owners are now too elderly to self manage it. If left unmanaged it can also create a fire hazard.

The home owner had approached the on-site managers to take some action on the issue but they claimed there was nothing they could do about it. Further discussions were then had with the area assets manager who came out to see the home owner in early December 2025 but subsequently never returned with a reply.

The home owner then lodged a written complaint with the local council and was visited by the Mayor on the 12th December 2025. He returned on the weekend to personally take care of the issue himself bringing bins and some sheeting. The dry weed material was wet down, compressed and cleared within three hours.

It is understood that the local council has since held meetings about the possibility of earlier slashing of paddocks to prevent this happening in the future.

Prior to speaking with the Tenants' Union of NSW, the home owner had also lodged an application for compensation at the NSW Civil and Administrative Tribunal (NCAT) due to the operator being unresponsive and the impact on enjoying the use of their site was too great.

Unfortunately, their two packages of documents filed with the registry were not provided to the NCAT member at the time of the initial hearing. The homeowner, discouraged by this turn of events, withdrew their application and has lodged a separate complaint with NCAT about the registry bungle.

HOW THE *RESIDENTIAL (LAND LEASE) COMMUNITIES ACT 2013* ASSISTS WITH WEEDS

Section 37(1)(g) of the *Residential Land Lease Communities Act 2013* makes it clear that the operator has an obligation to take reasonable steps to keep the community's common areas reasonably free of weeds and vermin.

In the reported example the weeds were did not originate nor travel from the common areas of the community and therefore it is thought that the home owner could rely on other sections of the RLLC Act 2013 such as the following:

37 Operator's responsibilities

(1) The operator of a community has the following responsibilities—

(a) to ensure that the community is reasonably safe and secure,

If the community is located in a high fire risk area the operator should take steps to ensure that the community is reasonably safe. This ought to include taking any reasonable steps to minimise fire risks which could include liaising with neighbouring properties and council about managing hazards in the area

38 Right to quiet enjoyment

(1) The operator of a community must not unreasonably restrict or interfere with, or permit any unreasonable restriction or interference with, a home owner's privacy, peace and quiet, or proper use and enjoyment of the residential site and the community's common areas.

Maximum penalty—10 penalty units.

(2) The Tribunal may, on application by a home owner, make an order resolving a dispute concerning an operator's compliance with this section.

It is arguable that the operator may be permitting unreasonable interference with a home owner's right to proper use and enjoyment of their site if they have not attempted to engage with neighbouring properties or the council about the weed issue affecting the reasonable right to proper use and enjoyment of their site.

LOCAL COUNCILS CAN HOLD LAND OWNERS RESPONSIBLE FOR WEED CONTROL

In NSW Local Councils are able to intervene in matters under their jurisdiction in accordance with the *NSW Biosecurity Act 2015*. Each council will have their own determination of 'priority weeds' formerly known as 'noxious weeds' and may also be able to address issues relating to other weeds which create a fire hazard or other safety risks.

Inspections of private land; risk assessments; education; allowing voluntary compliance; or otherwise taking formal enforcement action is all within the scope of what local councils are able to do utilising the *Biosecurity Act 2015* and their order making powers under the *Local Government Act 1993*.

Fairy grass inundation in residents' backyards.

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