

LEGISLATIVE COUNCIL

Residential (Land Lease) Communities Bill 2013

First print

Proposed amendments

- No. 1 Page 2, clause 3, lines 15 and 16. Omit all words on those lines. Insert instead:
- (e) to establish legislative protection for community residents and home owners,
- No. 2 Page 12, clause 21. Insert after line 15:
- (d) details of the community rules for the community, and
- No. 3 Page 21, clause 44. Insert after line 42:
- (c) any person under 18 years of age who is in the care of the home owner or the home owner's spouse or de facto partner.
- No. 4 Page 21, clause 44, lines 43–46. Omit all words on those lines.
- No. 5 Page 23, clause 47, lines 3, 5, 6 and 8. Omit “home owners” and “home owner” wherever occurring. Insert instead “residents” and “resident” respectively.
- No. 6 Page 25. Insert after line 9:

54 Change of use of site

- (1) The operator of a community must not make an application for an approval, or an amendment to an approval, under the *Local Government Act 1993* that, if granted, would permit an existing residential site in the community to be occupied for holiday purposes only unless the operator gives notice of the application to the home owner in relation to the site no less than 7 days before making the application.
Maximum penalty: 10 penalty units.
 - (2) A council must not deal with an application referred to in subsection (1) that relates to an existing residential site in a community unless satisfied that the home owner in relation to the site has been given notice of the application.
- No. 7 Page 25, clause 55, lines 21–28. Omit all words on those lines. Insert instead:
- (1) An operator must, within 30 days after the relevant date:
 - (a) if the operator is an individual—undertake an education briefing approved by the Commissioner, or

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- (b) if the operator is not an individual—arrange for a nominated person involved in the day-to-day management of the community to undertake an education briefing approved by the Commissioner.
- (2) The *relevant date* is:
- (a) for a person who was an operator of a community at the commencement of this section, the date of commencement of this section, or
- (b) for any other person, the date the operator’s name is inserted in the Register.
- No. 8 Page 29, clause 65, line 19. Omit “or in the age pension”.
- No. 9 Page 29, clause 66. Insert after line 26:
- (3) A site agreement must not provide that the site fees may be increased more than once in any 12-month period. This is calculated by reference to the day from which the increased site fees are payable.
- No. 10 Page 31, clause 69, line 27. Omit “25%”. Insert instead “20%”.
- No. 11 Page 31, clause 69, line 28. Omit “30 days”. Insert instead “45 days”.
- No. 12 Page 33, clause 73, lines 6–9. Omit all words on those lines.
- No. 13 Page 33, clause 74, line 14. Omit “or projected”.
- No. 14 Page 33, clause 74, lines 17–20. Omit all words on those lines. Insert instead:
- (c) any repairs or improvements to the community carried out by the operator since the previous increase (if any),
- No. 15 Page 33, clause 74, lines 23–24. Omit all words on those lines.
- No. 16 Page 33, clause 74, line 30. Omit “in the operation of the community”. Insert instead “in all the circumstances of the case”.
- No. 17 Page 47, clause 109, lines 36–41. Omit all words on those lines. Insert instead:
- (2) The operator must enter into the new site agreement after the request is made, unless the operator declines to enter into the agreement and does so on reasonable grounds (including, for example, the ground that it appears reasonably unlikely that the sale contract will be entered into).
- No. 18 Page 48, clause 109, lines 7–11. Omit all words on those lines. Insert instead:
- (5) The site fees under the new site agreement must not exceed:
- (a) if the home is being sold by the operator of the community—the site fees currently payable for residential sites of a similar size and location within the community, or
- (b) in any other case—the site fees currently payable by the home owner who is selling the home.
- * Pages 48 and 49, clauses 110 and 111. [Vote “No” to the Question that the clauses as read stand part of the Bill.]
Note. Amendments nos 19 and 20 to be moved only if the above amendment is unsuccessful.
- No. 19 Page 48, clause 110, lines 23–27. Omit all words on those lines. Insert instead:
- (c) to pay a specified share of the capital gain in respect of the home to the operator if the home is sold by the home owner,
- No. 20 Page 48, clause 110, line 40. Omit “sale amount”. Insert instead “share of the capital gain”.
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- No. 21 Page 50, clause 113. Insert after line 27:
- (2) The sale commission (if any) payable under the selling agency agreement must not exceed the maximum commission. A sale commission is not payable to the extent that it exceeds the maximum commission.
- No. 22 Page 50, clause 113. Insert after line 38:
- maximum commission** means 3% of the sale price of the home or, if a maximum commission is prescribed by the regulations, the prescribed maximum commission.
- No. 23 Page 55, clause 124, lines 13–22. Omit all words on those lines. Insert instead:
- (2) A termination notice may not be given under this section unless:
 - (a) the Tribunal has authorised the operator to give a termination notice under this section, and
 - (b) if the use of the community for the new purpose requires development consent under the *Environmental Planning and Assessment Act 1979*, consent for the proposed use has been obtained under that Act.
 - (3) The Tribunal may, on application by the operator of a community, make an order authorising the operator to give a termination notice under this section.
 - (4) The Tribunal is not to authorise the giving of a termination notice under this section if the closure is not proposed in good faith.
- No. 24 Page 60, clause 140, lines 24–27. Omit all words on those lines. Insert instead:
- (1) This section applies if, after and in consequence of receiving a termination notice given by an operator, a home owner decides to relocate to another community.
 - (2) The operator that gives the termination notice is liable:
- No. 25 Page 79, clause 187, lines 5–12. Omit all words on those lines. Insert instead:

187 Reviews of Act

- (1) The Minister is to undertake reviews of this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The reviews are to be undertaken:
 - (a) for the first review—as soon as possible after the period of 2 years from the commencement of this Act, and
 - (b) for subsequent reviews—at intervals of no greater than 5 years.
- (3) A report on the outcome of each review is to be tabled in each House of Parliament within 12 months after the end of the period to which the review relates.