

**Submission
No 236**

INQUIRY INTO SOCIAL, PUBLIC AND AFFORDABLE HOUSING

Organisation: Independent Park Residents Action Group

Date received: 19/03/2014



IPRAG NSW

Independent Park Residents Action Group NSW

Summary of Submission to The Select Committee on Social, Public and Affordable Housing in response to Terms of Reference S.1(f)

SUMMARY:

- Residential Parks, Caravan Parks, Residential Land Lease Communities, Manufactured Home Estates, by any name, are communities in which people live in houses they have purchased, mostly pre-fabricated, and pay weekly fees for the site on which it is located.
- Recent trends in the ownership of Residential Parks, coupled with the new Residential (Land Lease) Communities Act, 2013 (R(LL)C Act 2013) are currently and will continue to lead to radical changes in the sector.
- The emerging trend seems to enmesh the Residential Parks sector with the “aged care” or “retirement living” industries.
- These changes have already started to undermine the role of Residential Parks in providing for affordable housing options of any kind – crisis, short-term, and long term residential options.

WE MAKE SUBMISSIONS IN RELATION TO THE FOLLOWING:

1. Impact of the Residential (Land Lease) Communities Act 2013 (The Act)
2. NSW Fair Trading Residential Parks Register
3. Availability of vacant sites for relocation of homes, and availability of rental accommodation in Residential Parks in NSW.
4. Options for Increasing Supply of Residential Parks and affordable permanent housing sites in NSW Residential Parks
5. Viability of the Sector
6. Emerging Corporate Strategies in the Residential Parks Sector
7. New Development or Re-Development of Residential Parks.
8. Economic Trends, Rent Stress and Residential Parks

CONCLUSIONS:

- Many existing residents are now unable to afford their basic needs due to Site Fee levels, which have increased beyond CPI in the last decade.
- Current trends in the Residential Parks sector will exacerbate this problem, and lead to these homeowners facing uncertain futures and possible enrolment for state-funded housing.
- The investors moving into the sector are actively, with the support of the State Parliament, enmeshing the Residential Park sector in line with the aged care and

retirement villages, initiating such provisions into the R(LL)C Act as entry fees, exit fees, capital gains sharing and the like.

- Whether or not Residential Parks, operated on current corporate models currently provide for affordable, low cost or social housing is unclear, what is certain though is that in the future, the leading owners and operators of the Residential Parks sector have no intention of providing for same.

FURTHER:

- IPRAG NSW officeholders are able to provide evidence at hearings, and documentation supporting all statements within this submission and request this opportunity to address the Inquiry to support this submission.
- If the Senate Committee considers that Residential Parks are to have an ongoing role in the Affordability Housing mix, we request that IPRAG NSW representatives are able to address the inquiry as it evolves.
- Where perhaps proper standards of referencing are lacking, there is plenty of personal experience from IPRAG NSW members and their elected representatives that is available to the inquiry on request.

END OF SUMMARY



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The IPRAG NSW mission statement is:-

“IPRAG NSW PROVIDES A FORUM FOR ALL RESIDENTS TO EXPRESS THEIR VIEWS AND PROVIDES A VEHICLE TO LOBBY STATE AND FEDERAL GOVERNMENTS ABOUT THOSE VIEWS”

PREAMBLE:

- Residential Parks, Caravan Parks, Residential Land Lease Communities, Manufactured Home Estates, by any name, are communities in which people live in houses they have purchased, mostly pre-fabricated, and pay weekly fees for the site on which it is located.
- Recent trends in the ownership of Residential Parks, coupled with the new Residential (Land Lease) Communities Act, 2013 (R(LL)C Act 2013) are currently and will continue to lead to radical changes in the sector.
- The emerging trend seems to enmesh the Residential Parks sector with the “aged care” or “retirement living” industries.
- These changes have already started to undermine the role of Residential Parks in providing for affordable housing options of any kind – crisis, short-term, and long term residential options.

BACKGROUND:

- Homeowners in Residential Parks commonly live in their homes, once purchased, all their lives. This is, in part, due to the fact that it is not financially viable, nor in many cases affordable, nor desirable from a social viewpoint, to relocate their homes.
- Residents are thus in a unique position in the community to suffer annual increases in their site fees (rent) without the options of a normal lessee in the wider community.
- Many existing residents of Residential Parks are presently living in Rent Stress or Extreme Rent Stress, as a result of historic site fee increases, and the refusal of the Consumer Tenancy and Trade Tribunal to consider affordability as criteria in assessing site fee (rent) increase matters. NCAT is similarly expected to refuse considering affordability in these matters.
- The commencement in 2014 of Residential Land Lease Communities Act 2013 will provide unprecedented and significant opportunities for operators and owners of Residential Parks to increase the site fees to residents and the NCAT will be bound to award increases under the provisions of the R(LL)C Act 2013. ¹
- In addition to this pressure of rising site fees, the Residential Parks sector is being ‘corporatised’. That is, investment vehicles driven by merchant banks, investment funds, multinational and major local investors are actively seeking to firstly purchase any Residential Park that becomes available, and secondly

maximise their returns by increasing yields from Residential Parks. This must only minimise the availability in the Residential Parks sector of 'affordable' and 'low cost' housing.

- This corporatisation of the sector, which traditionally has been largely populated by family businesses, is outside the control of Park Residents. These investment vehicles seek only to maximise returns to their investors, operating to the limits of the law and beyond, with little to no regard for existing Residents of Parks which they acquire, and certainly do not offer affordable, low cost, nor social housing in their business plans.
- The overwhelming strategies emerging from these new operators is to re-position Residential Parks as options only for older persons, "retirees" "over 55's", "retirement living" with "resort style" facilities, rather than the traditional option for people of all ages seeking affordable living in Residential Parks, that is living in their own home, with minimal outgoings, and a secure tenure.
- The corporate owners buying into existing Residential Parks are focussing on the retirement living sector, targeting people with a much higher asset base than those that have traditionally looked to Residential Parks for low cost / affordable housing.
- The concept of Residential Parks providing affordable housing in NSW is thus becoming more and more marginal. This is directly exacerbated by recent R(LL)C Act 2013 passed through NSW parliament which provides owners of Residential Parks unprecedented access to site fee increases, amongst other radical changes in their favour from the existing Residential Parks Act 1998.

WE WISH TO MAKE SUBMISSIONS IN GREATER DETAIL IN RELATION TO THE FOLLOWING:

1. Impact of the Residential (Land Lease) Communities Act 2013 (The Act)

- 1.1. It is the view of IPRAG NSW that this Act resulted from a flawed process and is heavily weighted to the detriment of NSW Park Residents. The largest impact will be the evaporation of 'affordable' or 'low cost' housing in Residential Parks across NSW.
- 1.2. The Act will permit unprecedented increases to the site fees of NSW Residential Park residents. NCAT is bound to grant site fee increases to cover "future expenditure" by operators. Nowhere else in the Commonwealth are we aware of such provisions for either determining residential rents based on landlord's forecast expenditure, or such a Tribunal being bound in legislation to award increases without any discretion on its part.²
 - We submit that s.65 to 67 and s.73 to 74 of the Act be examined by this Inquiry with regard to the impact on the unfettered operation of these clauses on the affordability of housing in residential Parks.
- 1.3. Age discrimination appears to be permitted within the Act. This will permit operators to determine a minimum age for Residents within the Parks, and it is unclear how this will operate, or if this provision would stand legal scrutiny.³
 - We submit that s.44.6 be referred to the appropriate authority to consider its legality in legislation.
- 1.4. "Voluntary Sharing Agreements" appear in the Act in S. 110 and 111 and imitate provisions that crept into the retirement living sector in the last decades.⁴
 - We submit that the Inquiry may examine the provisions of these Sections 110 – 111 which have the impact to increase the costs of entry into Residential Parks, strip the asset value of existing Residents, and otherwise detrimentally affect the affordability of Residential Park living.

1.5. The Act will also allow for levies and maintenance costs to be passed through to Park Residents. Whilst not being formally entitled “Pass Through” provisions, the effect of clauses 73 and 74 are that where a park operator can provide evidence of an increase in costs (of any nature) to the Tribunal, then the Tribunal must award a site fee increase to cover this cost increase.⁵

- We submit that these constitute quasi “pass through” provisions and request the Inquiry examine the effect of the operation of clauses 73 and 74 in terms of the impact on the availability of low cost or affordable housing in NSW Residential Parks.

1.6. The Act removes certain protections from the Residential Parks Act 1998 which have the effect of simplifying the process by which a Park Resident, owning the Home in which they live, may have their right to occupy the land terminated.⁶ This renders the value of the home drastically reduced, and thus the resident is exposed to asset stripping. In a corporatised profit-driven Residential Park sector, this can only result in older, lower yielding – yet low cost & affordable – homes within Residential Parks being ‘redeveloped’ as outlined in the referenced Ingenia publications^{7,8}

- We submit that the Inquiry examine the various legal protections and changes thereto from the Residential Parks Act 1998 to the R(LL)C Act, 2013 in terms of the likely impact to the availability of low cost and affordable housing within NSW Residential Parks.

1.7. The regulations relating to the Act are currently being drafted

- We submit that the Inquiry engages with IPRAG NSW and other Advocacy bodies including the Tenants’ Union to investigate ways by which the regulations may improve the Act in terms of provision of affordable and low cost accommodation and housing in Residential Parks.

2. NSW Fair Trading Residential Parks Register

2.1. This register, established by NSW Fair Trading, is cumbersome and it’s accuracy cannot be verified in any way. IPRAG NSW members have requested access to this information and been denied same, being referred instead to the online database.⁹

- We submit that this register is outdated, having not been updated since its inception.
- We submit there was little or no verification of information provided during the establishment of the Register initially and therefore its contents are best regarded as compromised; at worst, irrelevant.
- We submit that the Inquiry may investigate this register, it’s benefits, drawbacks, accuracy and currency of information, with a view to improving access to information to consumers which could lead to more competition in the sector, and therefore better access to affordable housing in this sector.
- We submit that such verification of the register or otherwise is critical, as much recent policy pertaining to the Residential Parks sector has been and continues to be based on and justified by the data that apparently is contained within this register which is relied on by government, media, and other interested parties.

3. Availability of vacant sites for relocation of homes, and availability of rental accommodation in Residential Parks in NSW.

3.1. Our experience is that it is near impossible to purchase a home from an independent manufacturer and install it into a Residential Park in NSW. Certainly in the corporate owned parks, this is certainly the case.

- We submit that this Inquiry may examine the presentation and inform itself of the business practices outlined by “Ingenia Communities Group, Morgans Queensland Conference” dated 11 October 2013 and make findings on the likely impact of these practices in relation to the affordability of Residential Park housing.¹⁰
- We submit that these sector-wide practices of limiting a prospective Resident’s choice of home builder be referred to the relevant authority as it dramatically increases the initial cost of Residential Park living and may well constitute a restraint of trade in NSW.

4. Options for Increasing Supply of Residential Parks and affordable permanent housing sites in NSW Residential Parks.

4.1. It is clear that the existing models of Park Ownership based solely on maximising the return to the owners and operators will not improve the affordability of Residential Park housing, as the Chairman of Ingenia Communities notes “I can assure you that maximizing investor returns is an ongoing focus for the Group”¹¹

4.2. Given the issues surrounding the existing NRAS scheme, we submit that Residential Park developments could be an element in the provision of affordable housing in the future.

4.3. Our members from the Tweed down to Sydney all report that it is difficult to find rental accommodation in their regions, and that the costs of between renting in the wider community and renting in a Residential Park are becoming more similar. This is also reported in NSW Parliamentary E-brief 11/2011 by Louise O’Flynn¹²

- We submit that the affordability of housing within the residential Park sector is also linked to availability, and approaching the costs of living in the wider community.

4.4. Overseas experience also shows that community and/or cooperative Residential Park developments operate successfully in the long term and as non-profit operations, provide both low cost housing, and greater security for persons owning a home in such a Residential Park, as the threat of re-development (and thus eviction) is all but removed.

- We do not necessarily seek nor support the increase of supply of Residential Parks under the current corporate owned models, and certainly not under the guise of providing affordable, low cost, or social housing.
- We submit that new Residential Parks, developed with the experience demonstrated in the USA in particular, as non-profit cooperatives may indeed provide low cost and affordable housing solutions to increase stocks, and support investigation into how this model may operate in NSW.

5. Viability of the Sector

5.1. Naturally, operators of Residential Parks currently operate as a business, and must be viable. This was an often heard justification from the previous Minister for Fair Trading when promoting the R(LL)C Act 2013.¹³

- We submit that the sector was, is and will be viable, and refer the Inquiry to the referenced published documents which highlight this.^{14, 15}
- We submit that in terms of the affordability of housing in Residential Parks, the Inquiry make findings as it may in relation to the increasing profitability and returns being generated by many operators, and the impacts on the residents of those Parks.
- We submit that such operations are designed to asset strip retirees, be they self-funded, in part time work, or full pension receivers and request the Inquiry examine this issue and make findings in this regard.

6. Emerging Corporate Strategies in the Residential Parks Sector.

6.1. It is clear from published documents that Residential Parks are becoming cash-cows for new investment vehicles and businesses are being modelled to exploit the opportunities in what has traditionally been a family-operated sector.^{16,17,18}

- We submit that this is resulting in the disappearance, state-wide, of affordable and low cost option in Residential Parks, and this is supported by the Chairman of Ingenia Communities who noted that “it is becoming increasingly difficult to deliver a new home ... at a price point of \$300,000 or below which is Ingenia’s target market.”¹⁹

6.2. It is clear from these publications that these investment vehicles are buying into operations which are already viable, with the intent to maximise yields. Refer also item 4.4 above. The CEO of Ingenia Communities notes “All acquisitions are subject to stringent return thresholds, exacting due diligence and are made in select and researched market clusters where we can leverage our existing operational capabilities to drive optimal performance and financial returns.”²⁰

- We submit that the Residential Park sector has been viable for some decades.

6.3. This increase in yields is achieved by either or all of the following:

- Reduction of common facilities to realise land for new sites,
- Removal of existing affordable (low yield) sites for replacement with new homes sold at margins of up to 40%,
- Relocation of existing homes in order to increase the density of homes within the Parks, and
- To summarise The CEO of Ingenia Communities²¹, this is described as:

6.3..1. “Acquiring and integrating manufactured home estates and tourism parks with a significant land bank and upside potential. We are not looking for fully built out trophy assets where we can add no value but rather opportunity rich assets in premium locations where over time and with modest capital we can drive significant value;

6.3..2. Repositioning and upgrading acquired sites to increase existing cash yields. Through reinvesting in acquired assets, implementing effective marketing strategies and improving and upgrading the quality and pricing of homes within communities, we look to achieve an unlevered return on equity exceeding 15%;

6.3..3. Developing vacant and under-utilised land within acquired communities. The low risk, capital light development cycle of MHEs adds significant value to acquired villages and also improves site yields as the rent base increases;

- We submit that the Inquiry may examine the referenced publications and make findings as to the impact of these operations on the supply of affordable and low cost housing
- 6.4. The sector actively recognises and encourages the promotion of Centrelink rent assistance as part of their sales pitch to prospective residents, to potential new investors, and in corporate strategies²²
- We submit that this Inquiry examine these practices and their impact on the affordability of site fees, and if possible, the legality of same.
 - We submit that Centrelink Rent Assistance is directly siphoned off into the corporate coffer, whilst achieving in excess of 50% profit margin on the weekly site fees²³ and we submit the Inquiry examine this issue.
 - We submit that the effect of the entry of these corporate owners into the sector is indirectly or directly resulting in an increase in the reliance on Centrelink age pensions and rent assistance programs.
- 6.5. A further factor is the disappearance of the affordable spectrum of Residential Park sector with the emergence of “resort style” and “over 55’s living” etc. – changing the sector and the trend to assimilate Parks into aged care style “resorts”.
7. New Development or Re-Development of Residential Parks.
- 7.1. It is our understanding that many new development approvals contain requirements for a portion of the development to provide for ‘low-cost’ or ‘affordable’ housing.
- Where Residential Parks are developed or redeveloped, we submit that owners/operators of these Parks be required to provide a proportion of the development/redevelopment as housing meeting the requirements for “low cost” or “affordable housing” on a permanent basis.
 - We submit that the Inquiry may find justification for the inclusion of additional requirements in Residential Park development approvals, given the unique nature of long term living in a Residential Park.
8. Economic Trends, Rent Stress and Residential Parks
- 8.1. Self-funded retirees are now under greater financial pressure post GFC and many are now dipping into their capital for their daily expenses.
- 8.2. Pensioners living in residential Parks are facing greater challenges in simply ‘making ends meet’ on a daily and weekly basis. Over the past two decades, weekly site fee increases have been well in excess of any Age Pension increases or rent Assistance increases.
- 8.3. Our members report that in the majority of Parks a single person receiving the full Aged Pension will be paying approximately 50% of their income in site fees, and a couple will be paying in excess of 30% of their income in site fees.
- We submit that the lack of the Consumer tenancy and trader Tribunal to consider affordability has led to a situation in which the site fees within parks have increased by year on year compounding higher rates than CPI.²⁴
 - We submit that the burden of proof being on Residents to challenge a site fee increase has contributed to a situation, state-wide, where site fees have outstripped CPI, in some cases, being over 200% of CPI in the last decade.

- Please refer to the chart below which show a rent increases Vs. CPI for number of sites at a Sydney Residential Park since 2007.²⁵ (Personal and identifying information has been removed)

	2006 Site fee	2012 Site fee	% Increase	CPI increase	Difference
Site a	\$145.80	\$202.00	38.55%	17.40%	21.15%
Site b	\$147.95	\$202.00	36.53%	17.40%	19.13%
Site c	\$142.85	\$194.95	36.47%	17.40%	19.07%
Site d	\$145.95	\$198.80	36.21%	17.40%	18.81%
Site e	\$115.00	\$162.80	41.57%	17.40%	24.17%

- We submit that the Inquiry examine the refusal of the CTTT to consider affordability, and the burden of proof being on Residents to overcome above-CPI site fee increases and make findings as it sees fit and in relation to the impact of this on the supply of affordable housing in NSW Residential Parks..

CONCLUSIONS:

- Many existing residents are now unable to afford their basic needs due to Site Fee levels, which have increased beyond CPI in the last decade.
- Current trends in the Residential arks sector will exacerbate this problem, and lead to these homeowners facing uncertain futures and possible enrolment for state-funded housing.
- The investors moving into the sector are actively, with the support of the State Parliament, enmeshing the Residential Park sector in line with the aged care and retirement villages, initiating such provisions into the R(LL)C Act as entry fees, exit fees, capital gains sharing and the like.
- Whether or not Residential Parks, operated on current corporate models currently provide for affordable, low cost or social housing is unclear, what is certain though is that in the future, the leading owners and operators of the Residential Parks sector have no intention of providing for same.

FURTHER:

- IPRAG NSW officeholders are able to provide evidence at hearings, and documentation supporting all statements within this submission and request this opportunity to address the Inquiry to support this submission.
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- Where perhaps proper standards of referencing are lacking, there is plenty of personal experience from IPRAG NSW members and their elected representatives that is available to the inquiry on request.

REFERENCES:

1. Residential (Land Lease) Communities Act 2013, s. 65-67, s73-74.
2. Residential (Land Lease) Communities Act 2013, s. 65-67, s73-74.
3. Residential (Land Lease) Communities Act 2013, s. 44.6
4. Residential (Land Lease) Communities Act 2013, s. 110-111
5. Residential (Land Lease) Communities Act 2013, s. 73-74.
6. Residential Parks Act NSW, 1998 Part 12 and Residential (Land Lease) Communities Act 2013, Part 11
7. Ingenia Communities Group Morgan, Queensland Conference 11 October 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
8. Ingenia Communities Group "Investment in Manufactured Home Estates 15 February 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
9. Email communication, available by request
10. Ingenia Communities Group Morgan, Queensland Conference 11 October 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
11. Ingenia Communities 2013 Annual General Meeting, Chairman Speech, 14 November 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
12. E-brief 11/2011 "Caravan Parks" by Louise O'Flynn and sourced from NSW Parliamentary Library Research Service, Page 5/10
13. Undated "Message From The Minister" electronic document by The Hon. Anthony Roberts MP
14. "Humble Home, Smart Profits", Australian Financial Review, 7-8 September 2013
15. Ingenia Communities Group Morgan, Queensland Conference 11 October 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
16. Ingenia Communities Group Morgan, Queensland Conference 11 October 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
17. "Alceon sees a big future in retirement parks" Australian Financial Review, 7-8th August 2013
18. Ingenia Communities Group "Investment in Manufactured Home Estates 15 February 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
19. Ingenia Communities 2013 Annual General Meeting, Chairman Speech, 14 November 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>
20. Ingenia Communities 2013 Annual General Meeting, CEO Update, 14 November 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>, Pages 5/6
21. Ingenia Communities 2013 Annual General Meeting, CEO Update, 14 November 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html>, Pages 10
22. Ingenia Communities Group "Investment in Manufactured Home Estates 15 February 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html> Pp 5 & 9
23. Ingenia Communities Group "Investment in Manufactured Home Estates 15 February 2013 sourced from <http://www.ingeniacommunities.com.au/investor.html> Page 7
24. E-brief 11/2011 "Caravan Parks" by Louise O'Flynn and sourced from NSW Parliamentary Library Research Service, Pp 6-7.
25. Evidence is available on request by the Committee.

END OF SUBMISSION