Submission of Statutory Review of the Residential (Land Lease) Communities Act 2013:

Question one: *Are the objects of the Act still relevant to Residential land lease communities?*

Response: The objects of the Act, although well meaning have failed to provide improved outcomes for Residents living in Land Lease Communities. Unfortunately the industry has been taken over by "big business" (hometown America, Ingenia Communities, Land Lease Living etc.) The Land Lease Living, Caravan& Camping and Manufactured Housing Industry Association of New South Wales represent all of the above Operators. This organisation is a very powerful lobby group that has the "ear" of politicians from all sides of NSW Parliament.

In addition some of the afore mentioned, Park Owners employ an in-house Lawyer who's role is to find various loop holes in the RLL that allows them to "milk" their Residents to the point that this style of living is rapidly becoming unaffordable.

A common sentiment amongst Residents is that the RLL was "written by the Operators for the Operators". There are now over seventy thousand Residents living in Land Lease Communities, (ten thousand of whom live in [redacted] Communities). As a result we have a situation where by Residents were encouraged to sell their family homes and purchase a new smaller home from the various Park Owners. Many of those Residents are now struggling financially to pay the ever-increasing site fees.

The review needs to be a complete audit of how these Communities are being operated. Residents should not have to worry about the future, the move into their new homes was meant to ensure that they had a stable home/lifestyle for the remainder of their days. The reality is very different from the Park Owners marketing strategy.

Question two: *Has the Act been effective in delivering its objects?*

Response: Absolutely not, the industry needs a "root and branch" investigation that seeks input from people who actually live in Communities (not just park owners and members of groups like APRPA)

Question Five: *Does the disclosure statement provide enough information to a prospective homeowner to allow them to make an informed decision about buying into the community?*

Response: No, new Residents have complained that the Operator fails to fully explain the details of both the disclosure statement and the site agreement.

Question 12: *Should the list of prohibited terms in site agreements be modified?*

Response: Item 46: of the site agreement states "45.1: You agree that you will not on any social media or otherwise do anything that negatively impacts on the reputation of our business, including without limitation, adversely commentating on the Residential Community, its home owners or tenants or all of them.

This clause encroaches on our right to freedom of speech, park owners cannot dictate to their Residents what they can or cannot say on social media, or any other form of media.

Question 14: *Have you accessed the Communities Registrar?*

Response: I have made a number of attempts to access the Registrar without success. I have been informed that the information, currently contained within the Registrar is minimal. Not enough to allow a perspective Resident to make an informed decision about a particular community.

Question 16,17,18 19 & 20: *All questions relating to site fee increases.*

Response: The entire process of site fee increases (fixed and by notice) requires an urgent review. Greedy Park Owners have taken over the entire process and the Residents have to battle the NCAT system in order to seek a "fair go" the following suggestions would go some way to providing a "level playing field".

1: Scrap the current requirement for Mediation, the process is a waste of time and only serves to prolong the process.
2: The current system allows the park owner to charge the new rate sixty days after the issue of the notice. If an increase is challenged by the required 25% of Homeowners the increase should not be charged until the matter has been finalised at NCAT etc.
3: Given the fact that Residents have to verify the fact that they have the required 25% of Homeowners prior to applying for mediation, why do we also have to complete the "Schedule of Affected Homeowners"?
4: The Act should allow both fixed and by notice methods to be challenged at NCAT. New Residents are being told that they can only have the fixed method, this then allows park owners to charge an inflated rate of site fees for a number of years, after that time the current rate of fees is increased by for example 3.75%.

5: As a result we have an example in our community of a Resident who purchased an existing home in September 2020. Homeowners on either side were being charged $391.96 per fortnight. The new Resident started of at $417.00 per fortnight. Prior to the end of the year she was informed that effective from the 22/1/2021 she would be paying $450.00 per fortnight. The amount would then increase by 3.75 % each year. This is an outrageous example of gouging that requires urgent investigation.
6: If New Homeowners were allowed to carry on under the previous Homeowners site agreement, park owners would not be able to unfairly increase their site fees. We have a Resident in our community who is paying 49% of her single aged pension in site fees.
7: Last year our fees were increased $13.50 per fortnight and this year $10.96 a total of $24.96 this was in spite of CPI only being 1.6 at the September quarter.
8. All Park Owners have to provide to justify their increase is to state that their costs have increased. They should be required to provide documents (invoices bills etc) to confirm the requirement for an increase.
Last year (2020) [redacted] justified an increase of over $13.00 per fortnight by stating that they had placed new signage at the front entrance. The other item was to repair a hole in the roof of their community hall.
9: Some park owners are trying to pass on Capital Ex costs to their Residents.
10. Our park owner has suggested that they will need to pass on the costs of a new garbage truck. These costs cannot and should not be passed back to Residents. The park owner has an obligation under our site agreement to remove our household rubbish. How they achieve that task is not the responsibility of Homeowners.

Question 27: *Should there be neighbour-to-neighbour obligations that are* able *to be enforced by other homeowners?*

Response: No it is the responsibility of the Park Owner to enforce the community rules and to deal with any breaches via the provisions that are already in the RLL. If residents were able to enforce rules or obligations the community would descend into chaos with neighbour fighting neighbour.

Question 28: *Should the Act be clearer on the issue of maintenance of a residential site being the responsibility of an operator or homeowner.*

Response: Yes there needs to be clearer definitions regarding parts of the site that should be classified as "hard scapes". The homeowner owns the home and is therefore responsible for the upkeep of their asset. We lease the site from the park owner who should be responsible for repairing cracks in concrete, rusted fences, plumbing repairs and other repairs that are not part of the home.

One issue that has arisen in this community concerns colorbond fences, which have fallen down or panels that have rusted away and require replacement. A recent example was a Resident had to pay $500.00 to have a panel installed as the original one was falling down. When the 182 new homes in this community were

built the park owner purchased cheap inferior quality fence panels and other building materials.
There needs to be a very detailed listing of items that are the responsibility of both the homeowner and the operator/owner.

Question 31: *Are the special levy provisions useful or are upgrades usually funded by site fees increases?*

Response: The special levy should only be used if Residents request a new amenity. The problem is some park owners believe that they can use it for repairs to roads and other common areas.

Question 32: Are the rules of conduct adequate and are they having intended effect of ensuring appropriate conduct by operators?

Response: The content of the rules is adequate, however there is no enforcement by Fair Trading or for that matter any other statutory body. When Homeowners take the issue of a breach to NCAT the Presiding member is often not aware of the obligations that operator/owners have and tend to rule on the side of the owners.

In 2019 there was a review of NCAT performance in relation to members understanding/knowledge of the RLL. Over 96 submissions were received including a number of suggestions that there be a dedicated group of members who only deal with matters relating to the RLL. Needless to say there has been no report or feedback made to the authors of the submission. No doubt the review has been "placed in the too hard basket"

Question 34: *Are the operator education requirements effective?*

Response: In October 2018 [redacted] was purchased by [redacted] All of the staff (including senior management were replaced). As Residents we have no way of knowing if any of them have had the mandatory training.

The training should be conducted in a classroom; too many owner/operators are treating the contents of the RLL with disdain. There should be a system in place that ensures new owner/operators have to undertake the training within for example three months.

Questions 38-46: *Community Rules and Residents Committees.*

Response: Community rules are only as good as the efforts of the community manager in enforcing the rules and where required to issue breach notices to repeat offenders.
Our community has a rule, we had a rule regarding the age restriction, however a member of a previous Residents committee had it cancelled. There are a number of Residents in our community who approve of the age rule and probably an equal number that don't.

Questions: relating to Embedded Electricity Networks

Question 49: *What are your views on the operation of 77(3) as it applies to an embedded network in a community?*

Response: In September 2017 Justice Davis of the NSW Supreme court handed down a decision regarding this finding. Park Owners continued to refuse to back down and continued to drag their Residents through the NCAT process. Politicians Labour and Liberal failed to take up the issue on behalf of Homeowners.

For over two years a colleague and myself attended over twenty NCAT hearings, until finally our community owner, agreed to refund the amounts that had been overcharged and remove the SAC fee. The wording and definition of section 77(3) has still not been changed in spite of the then responsible minister (Matt Kean) making public promises that it would be reworded, to ensure that it could not be misinterpreted.

Question 50: *Which reform operation for electricity charging do you support and why:*

Response: There needs to be changes to the entire operation of embedded networks, in our community there are 362 sites. Over 100 of which are able to purchase their electricity directly from the big providers AGL etc. The remaining 182 homes that were constructed over a period of five years have no option than to be part of an embedded network. As a result the EN customers are not able to obtain the various discounts etc that are available from AGL etc.

Question 54: *As an operator, what costs do you incur due to maintaining an embedded network and to what extent do you recover these?*

Response: Question 54: Park owner's costs in running an embedded network are minimal (the main costs is having to read the meters). It is important to understand that from 2012 to current time, Park owners purchased caravan parks all over the country and turned them into "mini suburbs" containing 2/3 bedroom homes with all of the Normal appliances found in any home. Prior to the creation of these suburbs park owners failed to upgrade the infrastructure for electricity supply and sewage etc.

Question 56: Ar*e you an operator or homeowner with less than 60 amps. Are there any steps that can be taken to increase this level?*

Response: In our community all of the homeowners that are in the embedded network are only able to access 32 amps. The minimum requirement in the "suburbs "is at least 60. The 32 amps were adequate for caravan parks and short-term tourist accommodation, however it is not adequate for what are permanent homes. The only way that this issue can be addressed, is for park owners to upgrade their infrastructure. Of course this is not going happen, there are sections of our community that regularly have "brownouts" in summer as the system cannot cope with the demand.

Question 59: *What are the greatest barriers to homeowners installing solar panels?*

Response: **The greatest barrier is the owner/operators who have an embedded network. It is not in their interest to allow their Homeowners to have solar panels, as they would lose revenue from their embedded network sale of electricity.**

Five years ago our owner/operator installed over eighty solar panels on the roof of their admin building. We were informed that any savings they made would be passed onto their Residents

For reasons best know to them the owner/operator has yet to switch on the solar panel system

Question 61: *Are the acts provisions about the sale of a Home and interference with a sale working well in practice?*

Response: The majority of homeowners in land lease communities have little or no knowledge of the provisions of the RLL. As a consequence homeowners are making very few complaints, as they are not aware of their rights.

Question 63: *Should operators continue to be able to act as selling agents?*

Response: Our owner/operator charges 3% of the sale price, we consider this amount to be excessive as all they do is list the home on their web sight. It is the homeowner that conducts the open house inspection. The owner operator does not need a real estate licence; this gives them an unfair advantage over licensed agents.

Question 65: *Should the act be amended to also prevent an operator unreasonably refusing consent to assignment of a site agreement?*

Response: Some owner/operators are refusing to allow transfer of the site agreement; they then inflate the site fee for the incoming homeowner. For example a Resident passed away last June at the time he was paying $391.96 per fortnight. Had his site agreement been allowed to be passed to a new owner the site fees for this year would have been $401.90? Instead the buyer is paying $450.00 per fortnight, which equates to 49% of the value of a single old age pension.

This issue requires urgent action by the Department of fair-trading. It cannot wait for the conclusion of the review.

Questions 66 to 70:

Response: It is difficult to answer the above questions, as far as I am aware there has been no compliance checks carried since the introduction of the Act in November 2015.

Question 7: *Are the powers of Fair-trading investigators appropriate?*

When the RLL came into being in November 2015, replacing the Residential Parks Act there was an expectation that the Department would (certainly in the first two years) carry out regular checks to ensure that owner/operators and Residents were complying with the new regulations. The only way that homeowners can stand up for their rights is via the inefficient NCAT process. It amazes me that Fair trading are "all over dodgy builders and shops selling cheap toys etc. That an industry that has thousands (many of them senior citizens) living in hundreds of community's has been allowed to "stay under the radar" for the last five years.

Questions 77,78 *would* you be interes*ted in attending a community information session via webinar?*

Response: Yes I would be happy to attend; however it should also provide an opportunity for Homeowners to have their say.

In conclusion we hope that the review will result in productive changes. We are aware that the owner/operators are running a commercial business and need to remain viable. However some owner/operators are engaging in what can only described as gouging.

From Brian Bavin