

Notice of site fee increase

Residential (Land Lease) Communities Act 2013 Part 6

To all **home owners** (delete if different increases or methods are to apply); or

Name of home owner/s:

Site number:

I give you notice to increase your site fees using the following method: *(tick one method below)*

Increase by fixed method (section 66) *(only if the fixed method is set out in the site agreement)*

Important: This notice must be served **at least 14 days** before the increased site fees are payable.

Your current site fees are \$	Payment frequency:	Weekly	Fortnightly
Your new site fee will be \$	Payment frequency:	Weekly	Fortnightly

Payable from: *(date on and from which the increase is to begin)*

How your **new** site fees amount has been calculated *(i.e. show how fixed method has been applied)*:

Note: provide explanation in an attachment if needed.

Increase by notice (other than by fixed method) (section 67)

Important: This notice must be served **at least 60 days** before the proposed increased site fees are intended to be payable.

Your current site fees are \$ _____ Payment frequency: ☐ Weekly ☐ Fortnightly

Your proposed **new** site fee will be \$ _____ Payment frequency: ☐ Weekly ☐ Fortnightly

Payable from: _____ (date on and from which the proposed increase is intended to begin)

Explanation for the proposed increase:

No. of sites receiving this notice = _____ (25% threshold to dispute increase =....)

Service of notice (section 184)

(it is not recommended to send notices by registered mail)

Notice served by (tick one):

☐ Mailing it to the home owner / agent (allow 4 working days for service)

☐ Giving it personally to the home owner / agent

☐ Leaving it with a person over the age of 16 years at the residential site

☐ Emailing it to the home owner (if agreed by the home owner)

☐ Putting it in the home owner's mailbox

Operator

Name:

Name of Community:

Phone number:

Email:

Signature of operator/person signing on their behalf:

Date

Important information

A home owner is not required to pay any increase in site fees unless proper notice of the increase is given. If 2 or more persons are home owners living on the same residential site, this notice can be given to any one of them.

Increase by a fixed method - at least 14 days' notice

- Site fees can only be increased in this way if a fixed method has been specified in the site agreement. The fixed method may be a fixed amount or a fixed calculation that uses 1 element to calculate the increase.
- The site agreement must not provide that the site fees may be increased by more than one fixed method. If more than one method is specified, the method that results in the lower or lowest increase of site fees is the applicable method.
- The operator must not increase (or attempt to increase) the site fees that are to be increased according to a fixed method otherwise than in accordance with that method.
- Site fees can be increased in this way only once in a 12-month period, unless it is linked to the age pension – in which case it can be increased twice in a 12-month period. Notice of a site fee increase using a fixed method must still be given even if the timing of the increase is already set out in the site agreement.
- No action can be taken to the NSW Civil and Administrative Tribunal if proper notice is given under this method.
- Any fixed method set out in a site agreement continues on after the fixed term period of the agreement has expired, unless the agreement states when the method is to end.

Increase otherwise than by a fixed method - at least 60 days' notice

- Site fees must not be increased in this way more than once in any 12-month period. This is calculated by reference to the day from which the last increased site fees were payable.
- A notice of increase in this way must be given to all the home owners in the same community at the same time (except those who have a site agreement with a fixed method increase).
- If a site fee increase is due to higher costs for specific items, the notice must include details about the item, how much the costs have gone up and how the costs have been shared when calculating the increased site fees.
- Proposed increases in site fees payable by home owners in the same community must take effect on the same day (and not on different days).
- Under this method a notice of increase may be cancelled. A later notice may provide for a lesser increase than that specified in the earlier notice. A later notice overrides the earlier notice and takes effect from the date on which the earlier notice was to take effect.

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- At least 25% of home owners must disagree before the proposed increase can be disputed. The first step in this process is to apply for compulsory mediation (using the approved form) with NSW Fair Trading. Such an application needs to be made within the first 30 days of the notice period. If mediation fails, the dispute can then be taken to the NSW Civil and Administrative Tribunal. If the 25% threshold cannot be achieved all home owners must pay the increased site fees from when they become payable.
 - Under this method different increases can still be given to different groups of home owners. For example, increases can vary due to the size of sites, location or availability of services. However, if an individual home owner believes their increase is substantially excessive when compared with increases for similar residential sites in the community, they may apply directly to the Tribunal to challenge the increase within 30 days of receiving the notice.

More information

For more information about your rights and obligations as a home owner, contact:

- NSW Fair Trading on 13 32 20 or fairtrading.nsw.gov.au
- Tenants' Union of NSW at thenoticeboard.org.au for news and information for community residents
- Law Access NSW on 1300 888 529 or legaldid.nsw.gov.au