

# Land Lease Living

Affordable Lifestyle Living

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## Land Lease Living



Our Association is the peak industry body in NSW actively working for members to encourage and promote the lifestyle and benefits of Land Lease Living communities across government, business and consumers.

[www.landleaseliving.com](http://www.landleaseliving.com)

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# Land Lease Living

**Land lease living is growing in popularity across Australia as more and more people 50+ embrace the opportunity for an affordable and attractive retirement lifestyle. The key reasons to consider land lease living:**

## **1. Lifestyle**

You are supported by a safe friendly community and the security of owning your own home in an attractive location where you make friends, pursue many interests and join in social activities. All this while you are enjoying a retirement where your financial burden is lessened because you don't have to buy the land – you rent the site your home is on.

## **2. Affordability**

Land lease living gives you the opportunity to live in a modern house in a highly desirable location at a fraction the cost of traditional housing options; you have an opportunity to downsize and release funds tied up in the family home to fund the retirement lifestyle you desire.

## **3. Choice**

Many people are now choosing land lease communities because they are so affordable and offer home owners so many options for an enjoyable quality of life; with more than 480 land lease communities in NSW you can choose to live in some of the state's most sought after areas – whether it be on the coast, in a country town or in the city.

There are also so many choices in housing including cosy cottage style or hi-tech light-filled structures; single or multi-storey houses; one, two or three bedroom layout; new or 'pre-loved' homes. Modern manufactured houses are luxurious – they offer great value and are transforming the housing market with their emphasis on design quality, sustainability, comfort and functionality.

## **4. Connection to Community**

Land lease communities offer a sense of connection, a source of friendship, social interaction and shared enjoyment of amenities such as landscaped gardens, swimming pools, sporting facilities, clubhouses, libraries and walking trails. They also offer the freedoms associated with living in a safe and secure environment – these are communities in the true sense of the word, where you know your neighbours, have things in common and you never have to be alone.

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Land lease living homes are affordable, comfortable and contemporary and offer a sense of connection to community life.



# Community

**Land lease communities are located in attractive places throughout NSW. They offer residents a sense of connection, resort-like amenities and a way of life that is relaxed, enjoyable and free of financial worry.**

## **A new style of community**

Although they are not exclusively retirement communities, most residents are aged 50+ and have retired or are transitioning to retirement.

The growing popularity of land lease communities is due to their enduring cost-effectiveness and new resort-like amenities. At the same time dramatic improvements in the quality of manufactured homes has resulted in more attractive, well-designed and contemporary housing options.

**The Act:** To formally regulate this new and evolving sector, the NSW Government introduced the Residential (Land Lease) Communities Act 2013 administered by NSW Fair Trading.



## **Why land lease living is so affordable**

As housing prices continue to rise many retirees are looking for alternatives to taking on large mortgages or having to deplete their savings in order to buy a traditional home and land. A combination of factors means that land lease communities offer prospective home owners compelling savings on their housing.

▷ With a land lease community you do not purchase the land on which your house is located. This means the entry price is much lower because you are not buying the land. Instead you lease the land by paying a site fee of \$120–\$300 per week to the community operator.

▷ If you are a pensioner you may be eligible for Commonwealth Rental Assistance. This is a non-taxable allowance for individuals and couples, which helps meet the costs of site fees.

▷ You can buy a fully fitted-out factory-built home and locate it on a site within a community or buy a newly constructed or 'pre loved' home direct from the community operator or existing home owner.

▷ You do not have to pay stamp duty when making the purchase – and you don't pay council rates either.

▷ You do not usually have to pay entry or exit fees in a land lease community.

Additionally, the value of your home and the right to locate it in the community could appreciate – so when it comes time to sell, you could get more than you paid. Demand for good properties in well-located communities is currently very high and is projected to remain strong, given the shortage of land in these areas and the rising demand for quality retirement living.

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Most land lease communities are pet friendly, you have your own small garden and many have beautiful parklands, pools, clubhouses and libraries; getting together over a drink or a cuppa is all part of community life.



# Lifestyle

**Living in a land lease community offers home owners many amenities, activities and conveniences which make for a worry free and personally enriching retirement.**

## **Community lifestyle**

You are truly part of a community where there are social or activity clubs, fitness amenities and friendly and caring neighbours. When home owners are asked why they enjoy living in a land lease community the most frequent response is: "The sense of belonging".

There are also many other factors which make for a pleasant and easy lifestyle: A home owner can park right next to their home; there is a yard and outdoor space; there are no shared walls joining the houses; there is plenty of scope to create a charming cottage garden and, in many communities, large communal gardens to admire and enjoy. Most communities are accessible to local shops and have easy transport links.

There are also many 'gated' communities, which have on-site security giving you the reassurance of knowing this is a safe and protective environment. If you want to travel for a while the neighbours will also keep an eye on your home and maybe even water your plants!





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Beautiful natural locations lure residents to participate in outdoor activities. These can be enjoyed independently or as part of a group – and fun is all part of the experience.

# Home

**Manufactured (factory-built) homes are becoming increasingly popular in Australia, not only within land lease communities but also as an attractive option for residential housing – particularly in regional areas.**

## Homes in high demand

These architecturally designed homes can be manufactured to suit any site and any budget. They are in high demand because of their innovative and appealing designs, sustainable features, and use of quality materials, durability and ease of onsite installation.

Manufactured homes are built in the controlled conditions of a high-tech factory. Depending on the size and inclusions you choose, the home can be completed within 8–12 weeks. After being transported from the factory the home can be installed on your site in just a few days.

The manufactured housing industry produces homes that maximise light and space and include high-tech features providing energy efficiency.

The homes can be luxuriously designed with marble bathrooms, wood flooring, insulated roofs and walls, spacious rooms, decks, verandas, garages, and even vertical gardens.



## How to buy a manufactured home

Those considering a move into a land lease community should first consider which community they would like to live in. Some communities have a mix of new and older style homes. However, there are also many new communities springing up which closely resemble up-market housing estates or resorts.

### Buying from the Community Operator

▷ **Buying a New Home:** New or recently refurbished land lease communities offer prospective residents the opportunity to buy a 'package' that includes the purchase of a new home and the site rental.

Residents are able to customise a new home to fit their selected site and their needs. This allows them to choose from a range of designs and specify everything from the number of rooms, the floor plan, exteriors, wall finishes, colour scheme, floor coverings, bathroom fittings and appliances.

Many land lease communities also have new homes that have already been erected on site. It's just a matter of choosing the one you like and making the purchase either through the operator, the existing home owner or direct from the home manufacturer.

▷ **Buying a 'Pre-Loved' Home:** Usually operators also coordinate the sales and site inspections of 'pre-loved' homes within their communities. These can be latest designs or sometimes older, cottage style dwellings. Many communities promote pre-loved homes for sale on their websites on behalf of home owners. It is usually advisable to book an inspection in advance.

### Buying Direct From the Manufacturer

Land lease communities also offer sites that are fully prepared for the installation of a newly manufactured home. Once you decide on a site you can then arrange to purchase a new home direct from the manufacturer.

Manufactured home builders offer homebuyer packages with many inclusions as standard items. In addition they may offer options to purchase additional services and building elements.

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New architect-designed homes built to suit your needs or 'pre-loved' cosy cottages – the choice is yours.



# Compare

**Land lease communities and traditional retirement villages are both designed primarily for retirees who live independently and are seeking the security, friendly social environment and facilities of an age appropriate community. However, there are differences.**

The main differences between residential land lease communities and retirement villages are the type of contractual arrangements, their level of affordability and the legislation governing their operation.

## Land lease Communities

▷ **Home owners in Residential Land Lease Communities** have a site agreement with the operator and pay a site fee of between \$120–300 each week. Pensioners are able to offset part of this cost through the Commonwealth Government's Rental Assistance scheme.

You also purchase a manufactured home – either new or 'pre-loved'. The average purchase price for a manufactured home within a land lease community ranges between \$100,000 – to more than \$300,000 (home costs vary according to the size and age of the home). When a home owner chooses to leave they generally sell the home to an incoming purchaser.

**The Act:** The NSW legislation relating to land lease communities is the Residential (Land Lease) Communities Act 2013, administered by NSW Fair Trading.



## Traditional Retirement Villages

**Residents of Retirement Villages** have several different contractual models the most common of which are *loan/licence* or *loan/lease* agreements. With these agreements, residents pay an entry fee or 'incoming contribution', which can range between \$300,000–\$1 million+.

The incoming contribution purchases either a long-term lease or a licence, which gives incoming residents a 'right to occupy' a unit or villa within the village. Residents also pay service and maintenance charges which can average between \$100–\$200 per week depending on the size of the village and the facilities and services that are offered.

Although pensioners may be eligible for Commonwealth Government Rental Assistance, this only applies if the price paid to enter the village is below \$203,000 (as at July 2017).

When the resident leaves the village their original inbound payment is refunded – less applicable exit fees (also known as a *Deferred Management Fee*); there is a large range of exit fees which sometimes can be up to 35% of the original entry price.

There are also strata retirement villages where residents purchase the freehold to a unit or villa within the village. In these instances residents, as unit owners, pay fees to the owners corporation and enter agreements with the village operator to pay for personal services.

**The Act:** The NSW legislation relating to Retirement Villages is the Retirement Villages Act 1999, administered by NSW Fair Trading.



# Type of Contracts

## Land Lease Community vs. Retirement Village

TYPE OF COMMUNITY	TYPE OF TENURE
<p><b>Land Lease Community</b> (Leasehold)</p> <p><b>Contract:</b> Site Agreement</p>	<p>Leasehold – a lease of the land on which your home is located, which can only be terminated in limited circumstances.</p> <p>Average weekly site fees range between \$120–\$300 pw. Occupants also purchase a manufactured home.</p> <p>Average home prices range between \$100,000–\$300,000+ depending on size and location, new or 'preloved'.</p>
<p><b>Retirement Village</b></p> <p><b>Contract:</b> Loan/Licence or Loan/Lease Agreement</p>	<p>Residents purchase a right to occupy a unit or villa within a retirement village.</p> <p>Incoming contribution ranges between \$300,000–\$1 million+. Exit fees apply which can be up to 35% of the original entry price.</p> <p>In addition service and maintenance fees range between \$120–\$300 pw.</p>
<p><b>Retirement Village</b> (Strata scheme)</p> <p><b>Contract:</b> Freehold ownership of a 'lot' which includes the residence plus ownership of common property within the village</p>	<p>Residents buy a unit or villa within a strata scheme retirement village. And, as members of the owners corporation jointly own common areas and are responsible for maintenance and capital replacement of the common property.</p>



# FAQ

## Frequently asked questions (faq)

### Can I rent my home?

Yes, you can rent out your home in a residential land lease community in limited circumstances; however, you need the operator's prior written permission to do so. Operators cannot unreasonably withhold permission for an owner to sub-let their site for 12 months or less, once every 3 years. Tenants have to comply with the terms and conditions set out in the home owner's site agreement, including caring for the premises and reporting the need for any repairs and maintenance, paying utility bills on time, not using the premises for illegal purposes and not interfering with the peace, comfort or privacy of neighbours and others in the community.

### What rules do I have to comply with?

Before signing a site agreement each prospective home owner is given a copy of the community rules, which create a framework for happy and harmonious living within the community. The rules are set by each operator and have to be fair, reasonable and clearly expressed and, generally, apply equally to all people living in, working in or visiting the community. The rules cover issues relating to use, enjoyment, control and management of the community including age restrictions, noise, motor vehicle speed limits, parking, rubbish disposal, the keeping of pets, use and operation of communal facilities, fire safety.

### Can an operator force me to leave a community?

When you live in the community you have responsibility to comply with the terms of the site agreement and community rules. Any major breach or persistent breaches of the site agreement can be grounds for the operator to give you a notice of termination of the site agreement.

To start this process, the operator must first issue you with a termination notice – but if you do not vacate the site the operator can only get the agreement terminated and an order for possession from the NSW Civil and Administrative Tribunal (NCAT).

Your site agreement can also be terminated without the need to issue a termination notice if you (or anyone occupying your home) have caused serious damage to property; have threatened or caused injury to people living or working in the community; or used the residence for illegal purposes.

### How do I sell my home when I leave?

When it is time to sell your home you (or the executor or beneficiary of your estate) can offer the home for sale but only after giving notice to the operator.

You also need to refer any prospective buyers to the operator so they can carry out their obligations in fully informing prospective home owners about the terms and conditions of site agreements and community rules. This includes giving the prospective home owner a Disclosure Statement setting out all the things about living in the community.

You can appoint the operator or a real estate agent to handle the sale. An operator must not interfere with the sale of your home in any way – including by attempting to charge a buyer a higher site fee than you or others in the community are paying for a comparable site.

The new owner of your home will enter into a new site agreement with the operator.

## What happens if my house doesn't sell – am I still obliged to pay site rental fees and what happens to my home?

You are obliged to pay site fees until your site agreement is ended or a new home owner enters into a site agreement.

Your executors or beneficiaries have the right to sell the home so that it remains on site. In this way, the home is sold with the important *right for the home to remain on site*.

## Can friends and family stay?

Yes – you can have visitors. But you need the consent of the operator if you want to have other persons live with you.

Some communities may set reasonable conditions for having visitors such as limiting the number of persons that can stay overnight or the length of stay. Usually most allow visits of between 4–6 weeks in a year but do not allow you to charge guests for staying on the premises. Spouses, partners and carers all have an automatic right to live with the home owner without the need for consent from the operator.

## What happens if I breach a community rule

If the operator believes you have broken a community rule, you may be issued with a written notice to remedy the breach within a period of at least 30 days. If you fail to remedy the breach in that time, the operator can apply to the NSW Civil and Administrative Tribunal (NCAT). The Tribunal has the power to order you to comply with the rule or, if it thinks the breach is sufficient it may terminate your site agreement or tenancy agreement.

## Do I have to maintain my home?

In land lease communities, you are responsible for the maintenance of your home. Site Agreements stipulate that the home has to be maintained in a reasonable state and you need to consult with and obtain permission from the operator to add fixtures such as decks or garages to the site, or to replace your home with another.

However, permission cannot be unreasonably withheld and an operator cannot force you to either replace your home with a newer one or make any upgrades or improvements unless there are health and safety issues involved.

For your personal safety and well-being and to protect your investment, it's good idea to keep your home in good order; in most communities residents are very house-proud, often enhancing the garden areas around their properties or adding to the charm of their houses with flowering shrubs and pot plants.

## What happens if an operator wants to close or sell the site and it is to be used for purposes other than a land lease community?

An operator can give you a termination notice on the grounds that there is to be a change in the use of your site, but only if the NSW Civil and Administrative Tribunal (NCAT) has authorised the notice and development consent from the local council has been obtained.

The termination notice must give you a minimum of 12-months to vacate the site unless any fixed term remains on your site agreement. Operators must also assist you in finding alternate accommodation and this must be approximately the same standard of home on a site requiring a similar rental to your existing home.

The operator must also cover the costs of your relocation to another community including removal of your home from its existing site, transportation of your home and possessions, installing your home on the new site and connecting services, repair of any damages caused by the move and landscape the new site to the same standard as the old site.

If you cannot or do not want to relocate then the operator has to pay you compensation; the amount payable, or method of calculation is set out in the *Residential (Land Lease Communities) Act 2013*.

# Find

## Finding your land lease community

Once you have decided to move to a land lease community the next step is to find the right one to suit your budget, your needs and your desired location.

The first thing to be aware of is that you have a lot of choice; currently there are more than 480 land lease communities in NSW – with the majority located in coastal areas or near to regional towns and cities.

Before deciding on a community, it is a good idea to do some research and to actually visit several communities to get a feel for how they are managed and maintained and to make contact with existing home owners to get their views on living there.

The Disclosure Statement you will be given by the operator of the community before you sign a site agreement has a lot of valuable information for you to review before making your decision. Other questions you should consider:

- ▷ Is the community for me – do I need to be near friends and family?
- ▷ Is the location right for me – coastal, country, near a town – warmer or cooler climate?
- ▷ Do I need to be near public transport?
- ▷ Are there good service facilities nearby (hospitals, shops, entertainment venues)?
- ▷ Does it allow me to keep pets?
- ▷ Does it have my desired amenities such as gardens, walking trails, swimming pools, croquet lawn, bowling green, library, community gathering place?
- ▷ Does it look well maintained?

## Find a Community

The NSW Land Lease Living Industry Association has the most comprehensive and up-to-date listing of land lease communities on their website: <http://www.landleaseliving.com> where you can check out locations and facilities, see images and videos and find direct links to further detailed information and contact details for the managers of any communities that may be of interest to you.



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Where do you want to live – by the coast, near a lake, in the country or in a town or city? NSW offers many locations and many options to enjoy your retirement.

# Important information

## Important information

Before becoming a home owner in a residential land lease community there are some important operational issues to consider. It is strongly recommended that you carefully review the conditions set out in the site agreement to ensure that you are clear on all site fees and charges and that you understand the role of the community operator as well as the responsibilities that you have as a home owner.

Although the paper work associated with moving into a residential land lease community is not complex it is a good idea to seek independent legal and financial advice to review all the terms and conditions before committing to the purchase of a home and signing a site agreement.

## DISCLOSURE STATEMENT

The Residential (Land Lease) Communities Act 2013 requires a community operator to supply any prospective home owner with a Disclosure Statement that clearly sets out the terms and conditions of living in that specific community. This document should include the following:

- ▶ **Community Details** – age, stage of completion, if it is residential only
- ▶ **Operator Details** – number of years in operation, who owns the community, membership of industry associations, evidence that it is financially solvent
- ▶ **Site Fees** – charges and terms of the regular payment
- ▶ **Utilities** – if gas, water and electricity are in place at the site, details of charges and how and who they are paid to
- ▶ **Services and Facilities** offered by the community
- ▶ **Safety and Security** measures
- ▶ **Legislation Compliance** – whether the community complies with all relevant legislation
- ▶ **Dispute Resolution** – processes and proceedings
- ▶ **Residents Committee** – if a residents committee is in place to liaise and advocate with the community operator on behalf of residents
- ▶ **Specific Financial Arrangements** – those associated with the community

such as additional levies or voluntary sharing of capital gains.

## SITE AGREEMENT

This is the legal agreement signed between you, the home owner and the community operator. Site agreements govern all rights and obligations of both operator and resident; they must include the detailed terms and conditions applying to fees and charges, complaints processes and the grounds on which a site agreement can be terminated.

The detailed information in the Disclosure Statement is included in the site agreement. Once you sign a site agreement there is a 14-day cooling off period, which ends if you move into the home or put a home on the site in that period.

The site agreement gives you the right to live in your home on the site referred to in the agreement, which can only be terminated in some limited circumstances. Effectively, you have secure tenure protecting your investment in the home. If you die your executor becomes the home owner and the home can remain on site or be sold to remain on site.

## INCREASES IN SITE FEES

What you pay for your site is called a site fee and is generally paid weekly or fortnightly. Site fees may be increased either by:

**Fixed Method** – there is an up-front agreement about how and when the site fees will increase. A fixed method may take a number of different forms. For example, increases in site fees could be linked to the Consumer Price Index (CPI) or a percentage of the Aged Pension, or a set dollar amount (for example, \$5 per year) or a set percentage (for example, 2% per year). Home owners must be given at least 14 days' notice before an increase takes effect. Under the *Residential (Land Lease) Communities Act 2013* Fixed Method increases cannot be challenged except as an *unfair term* under the Australian Consumer Law.

▶ **By Notice Method** – to set price increases home owners must be given

at least 60 days' notice of any proposed site fee increases; all home owners have to be advised in writing at the same time and site fees cannot be increased by notice more than once per year.

If at least 25% of home owners in the community, who received the *by notice* site fee increase, think that the increase is excessive, then they can apply to NSW Fair Trading for mediation. If the mediation is unsuccessful, they can apply to the NSW Civil and Administrative Tribunal (NCAT). This is a specialist body, which resolves a wide range of everyday disputes relating to matters that include tenancy, residential communities and leases.

NCAT will determine whether the increase is excessive by considering a range of factors such as the frequency of past increases, actual or projected increases in operating expenses, any repairs and improvements that are planned or have been carried out, the value of any improvements in the community and whether the increase is fair and equitable to the community.

## VOLUNTARY SHARE ARRANGEMENTS

These arrangements can be offered to prospective homeowners before they enter into a site agreement with an operator. They are an arrangement by which prospective home owners may negotiate lower weekly site fees or other benefits in exchange for paying up-front fees, exit fees or by committing to share a percentage of any capital gain made on their home when they eventually sell it. Capital gain is the difference between the price you originally pay for the home and the price you then sell it for when you choose to leave the community.

It is important to know that these arrangements are, as the name implies, *voluntary*. The operator must always also offer the opportunity for any prospective to enter into a standard site rental-only agreement where the resident purchases their manufactured home outright and then sells it when they leave the community without paying the operator any additional fees or percentages of the sale price.

Various forms of voluntary sharing arrangements are offered:

▶ **Share of Capital Gain** means you agree to pay a percentage of any capital

## Important information (continued)

gain made on the sale of your house when you leave the community. If the home sells for less than you originally paid for it there is no capital gain.

► **On-Site Sale Premiums** mean that the home owner agrees to pay to the operator a fixed percentage of the sale of their home when they leave e.g. 10% of whatever the home sells for. If you have another arrangement in place – such as Share of Capital Gain (see above)– you can't also have an option to put in place an On-site Sale Premium.

► **Entry Fee and Exit Fees** are fixed fees that you agree to pay to the operator when you sign your site agreement and are paid when entering, during the agreement or after your home is sold onsite or removed from the site.

► **Deferred Site Fees** allow you to put off paying some or all of the site fees to a later date specified in your site agreement. This may be useful when you have a limited income or when your money is tied up in an asset such as your former home.

### ELECTRICITY, GAS & WATER

In land lease communities, utilities such as water, sewerage, gas and electricity are usually already connected to your home site when you move in and you pay usage fees and service availability charges to the operator (as specified in the site agreement):

► **Electricity and mains gas** in newer or refurbished communities are generally part of your site agreement and each home site is separately measured or metered. The operator has to provide

you with an itemised account for electricity and gas charges, give you at least 21 days to pay and provide you with a receipt.

► **Water and sewerage** is also included in your site agreement and is separately measured or metered. Like the electricity and mains gas charges you must be provided with an itemised account and receipt for payment. (Note: sewerage is not always charged separately as it depends on how the local water supplier chooses to charge the operator for this service).

► **Service Availability Charges** are fixed amount charges for utilities such as sewerage and water set out by the supplier. The operator calculates these charges by dividing utility charges (except for electricity) for the entire community, by the number of sites – including both residential and holiday places. Legally an individual home owner cannot be charged any more than their correct share of what has been actually billed to the operator.

► **Service Availability Charges for Electricity** apply to eligible pensioners, if less than 60 amps of electricity is supplied the charge is discounted. If you use less than 20 amps you pay 20%, if 20 but less than 30 amps you pay 50% and if 30 but less than 60 amps you pay 70%.

► **Rebates on Energy Fees** apply to pensioners and concession holders in residential land lease communities. If eligible they may be able to claim NSW energy rebates including the NSW Gas Rebate and the Low Income Household Rebate on their energy bills from the NSW Department of Trade & Investment, Resources & Energy.

To find out more go to:

<http://www.resourcesandenergy.nsw.gov.au/energy-consumers/financial-assistance/rebates>

### USEFUL LINKS

It is always a good idea to get legal advice before entering into any sales contract for a home or arrangements for a site. You should also do your homework in learning about your rights and obligations when you enter a land lease community.

► NSW Fair Trading has many useful fact sheets relating to all aspects of site agreements and land lease communities to access go to:

<http://www.fairtrading.nsw.gov.au> and check out residential land lease information under the Tenants & Home Owners section.

► To check the standard form of a residential site agreement you can download a copy of the form at: <http://www.fairtrading.nsw.gov.au>

► If you would like to check your rights and obligations under the NSW *Residential (Land Lease) Communities Act 2013* go to: <https://legislation.nsw.gov.au>

► The Regulation that specifically relates to site agreements, utility charges, dispute resolution and other relevant matters is *Residential (Land Lease) Communities Regulation 2015*. To view a copy of the regulation go to <https://legislation.nsw.gov.au>

► To find out if you are eligible for rental assistance and the level of rebate you can claim go to: <https://www.humanservices.gov.au>

Land lease living – find out more

[www.landleaseliving.com](http://www.landleaseliving.com)





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