

9<sup>th</sup> August 2023

Real Estate & Housing Policy Team

E: [residentialtenancy@customerservice.nsw.gov.au](mailto:residentialtenancy@customerservice.nsw.gov.au)

#### RE: Improving NSW rental laws

Animal Care Australia Inc is a national animal welfare organisation representing the interests of all hobbyist and pet animal keepers. Our members are comprised of most major animal keeping representative bodies including all species commonly kept under rental arrangements, such as, dogs, cats, birds, small mammals, reptiles, fish, horses and livestock.

Animal Care Australia has continually advocated for changes allowing pets to be kept by tenants. We see this as having benefits that far outweigh any odd incident of negative impact on a neighbourhood, or landlord.

As an animal-based organisation, our comments are restricted to Section 4, titled ‘A new model for keeping pets.’

In general, Animal Care Australia supports a default position that pets can be kept in rental properties without the need for approval from landlords. It is now universally accepted that pets improve the quality of life for all and should be encouraged. Animal Care Australia sees no difference between a tenant having pets or children, with the exception that it is against the law to reject an applicant just because they have children. However, the reality is families often struggle in competitive rental areas, with childless tenants preferred, and this is also true with pet-less tenants being preferred. Landlords already ignore the law and act on personal preferences, with few renters willing to challenge them. Providing landlords with more grounds to discriminate defeats the intent and purpose of this legislative change.

Animal Care Australia has reviewed the consultation paper and makes the following responses:

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**Question 6: Is 21 days the right amount of time for a landlord to consider a request to keep a pet? If not, should the landlord have more or less time?**

**Animal Care Australia opposes the use of a pet form and therefore the allowance of 21 days.**

This question presupposes that landlords have a right to refuse pets. At best, the process should be one of notification rather than a request.

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Other laws cover the perceived ‘genuine risks’ and the use of a ‘pet form’ provides a tool for discrimination. (Please see Appendix 1 for more information.)

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**Question 7: What are valid reasons why a landlord should be able to refuse a pet without going to the Tribunal? Why? –**

Animal Care Australia does recognise that landlords have a right to protect their properties, but only AFTER an incident has occurred that is in breach of other existing legislation. As stated in Appendix 1 of this document – all of the ‘genuine risks’ are addressed by other legislation. Unless the landlord is an expert on the species in question, they are not qualified to say whether a property is suitable – even if it is their own property. **Therefore, a landlord SHOULD NOT be able to refuse a pet without going to the Tribunal.**

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Providing the ability for a landlord to refuse prior to seeking any form of moderation is no different to an assumption of guilt without proof of innocence. In previous responses to other pets in strata and tenancies, Animal Care Australia has strongly advocated for a measure of ‘moderation’ between the landlord and tenant, to be imposed before going to the Tribunal. We continue to strongly support that recommendation.

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**Question 8: Should the Tribunal be able to allow a landlord to refuse the keeping of animals at a specific rental property on an ongoing basis? Please explain.**

Animal Care Australia cannot imagine situations where no animals at all could be kept on a specific property. It is more likely that specific persons will be prevented from keeping animals based on breaches of other legislation.

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There is no reason for a landlord to have specified rights to refuse permission based on state or local laws (as per the examples in the Consultation Paper) as these laws already provide protection for this – but these apply to an individual tenant – not a landlord or their property. The government should be avoiding the inclusion of any exemptions that make it easier for landlords to discriminate by providing the landlord with unnecessary personal information on a potential tenant.

Should there at any time be a ‘special exemption’ associated to an individual property, any restrictions on animal keeping that apply to that property, such as *‘the landlord has previously received an exclusion from the NSW Civil and Administrative Tribunal (the Tribunal) for the property, type of animal, or number of animals’* **MUST** be clearly disclosed in the lease agreement, prior to the tenant signing the lease, and not only disclosed when the landlord wishes to refuse a pet.

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**Question 9: What other conditions could a landlord reasonably set for keeping a pet in the property? What conditions should not be allowed?**

Damage to property under the Residential Tenancies Act 2010 caused by pets must be repaired or restored, as is the case for all property damage.

**Animal Care Australia opposes conditions requiring specific cleaning simply because pets are kept.**

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Any amendments to the Residential Tenancies Act 2010 should reflect the default position in favour of pet keeping that is now within the Strata Schemes Management Act 2015.

Please see Appendix 2 for comments regarding *‘Renters personal information and their rights’*.

Animal Care Australia offers its expertise as amendments are drafted to implement the default keeping of pet’s provisions within legislation.

Please do not hesitate to make contact if we can assist further.

Kind regards,

Michael Donnelly  
President

**References:**

The Consultation paper *‘Improving NSW rental laws consultation paper’* was accessed here...  
<https://www.haveyoursay.nsw.gov.au/86923/widgets/409663/documents/262552>

The legislation is here...

<https://legislation.nsw.gov.au/view/html/inforce/current/act-2010-042>

## Appendix 1:

*‘The NSW Government supports the right of renters to keep a pet on a rental property but also recognises the need for landlords to be able to manage genuine risks to their rental property.’*

The proposed legislative changes for pet keeping do not support this statement.

The default position must be that pets are permitted in all rentals where they legally permitted under local and state laws. It is reasonable to expect pet owners to comply with these laws, and to only apply for rentals that they deem are suitable for safely homing their pet/s. At the end of the day, the pet owner is responsible for the pet ownership, and this is not a responsibility of the landlord, nor should it be.

### ‘Genuine risks’:

Again, Animal Care Australia questions the use of *‘genuine risks’* in providing landlords with an excuse to discriminate against renters/tenants. These so-called risks are already addressed by other legislative requirements and responsibilities so there is no need to duplicate them, and create potential conflicts, in rental laws:

- What specific animals may or may not be kept in the council area is already addressed in local council laws.
- Noise, odour, and public nuisance are issues already addressed in local council laws.
- Cat containment is addressed in local council laws.
- Animal welfare standards are already addressed in the Prevention of Cruelty To Animals Act (soon to be the reviewed NSW Animal Welfare Act 2023)
- Dangerous dogs are already addressed in the Companion Animals Act and monitored by local councils.
- Property damage is already addressed within rental laws Division 5A – Rectification Orders, and bonds are paid to cover this. Landlords also have rental property insurance in the unlikely event of a shortfall.
- Pet owners will be looking for properties that suit the needs of their animals. Where fencing or other improvements need to be made to keep animals contained, is also already addressed in the rental laws under Division 6: Alterations and additions to Residential premises.

### Use of a ‘Pet Form’:

In the first instance this is in opposition with *‘limiting the personal information that may be collected from rental applicants to reduce discrimination’*. (Question 13)

In the second instance, Animal Care Australia draws your attention to the Residential Tenancies Act 50: Tenant’s Right to Quiet Enjoyment, where it is our position the use of the pet form breaches this clause.

As stated in the Paper, discrimination against pet owners who rent is already high, with the consultation survey showing that real estate agents are the primary perpetrators of the discrimination – the most opposed to pet keeping (In the survey, 95% of tenants supported change. Landlords were split 48% against to 46% in favour. Real estate agents were the group least supporting change, with 72% against and only 23% in favour.) Yet, these are the people that will be reviewing the pet form and making their own determinations – likely without a landlord’s input.

Most rescues will not rehome animals to people who rent, as the level of discrimination, and difficulty finding pet friendly accommodation, is common knowledge despite the fact pets are less likely to cause damage and nuisance than children.

If pet owners looking for rental properties, feel they will be discriminated against this will continue to lead to additional animal welfare issues and higher rates of surrendered animals and abandoned animals – as is being reported across NSW (and Australia). It will also lead to higher non-compliance, as the number of people who will be forced to hide or lie about what pets they own to secure any roof over their head will continue to increase. If pet keeping was a such an issue for cleanliness and damage, this would have years of supporting evidence via records of eviction orders. Animal welfare is improved when animals are visible to others – pet owners should not feel the need to hide their animals, and the State should never introduce any policy that could lead to such outcomes. Open, non-judgemental policies lead to better animal welfare outcomes and a sounder society.

## **Appendix 2:**

### **Renters Personal Information**

Animal welfare, care and prevention of cruelty has its own legislation, as well as with councils and should not be duplicated in rental legislation. Pet keeping history should not be recorded or disclosed through rental privacy laws, or industry searchable databases.

Rental application apps and proptech are currently not regulated, have insufficient data privacy management, poor ADM outcomes, and should not include any information about pets or pet keeping.

This is not just for the pet owner's privacy and protection, but for the safety and security of the animals.

A tenant taking a landlord to the Tribunal should not be disclosed to searchable databases, irrespective of the outcome of the case. This would have a negative impact on the tenant's ability to secure rentals in the future, as most landlords will favour 'trouble free' tenants over those who assert their legal rights. This leads to impotent legislation, if tenants do not feel safe accessing their right to the Tribunal, due to the consequences of it being recorded in searchable databases.

It is reasonable that landlords who take tenants to Tribunal should be disclosed to searchable databases - but only where the outcome is in the landlord's favour.

#### **Renter's right to view and correct their personal information.**

Renters should have the right to view and correct their personal information, in the same way that they can with their Credit Score History.