

Improving NSW rental laws consultation paper – REA submission

REA Group Limited (**REA**) welcomes the opportunity to comment on the NSW Department of Customer Service's Improving NSW rental laws consultation paper published July 2023 (**Consultation Paper**).

REA is a Melbourne-based, multinational digital advertising company specialising in property. REA's core business involves advertising properties on behalf of real estate agents and allowing property seekers to search for properties. REA operates (among other businesses) the residential property website www.realestate.com.au as well as equivalent mobile sites and mobile device apps, enabling property seekers to search and apply for rental properties. REA has developed its own rental application form in addition to an agent-facing portal allowing real estate agents and property managers to accept rental applications from prospective tenants.

Renters' personal information

REA supports increased protections for renters' personal information. While we continue to improve our products and services to provide greater protection for renters' personal information – including halving the data points collected via our new standardised rental application form – additional effort may be required to manage industry expectations and norms.

Protecting renters' personal information needs to be a priority given the often very sensitive and high-risk nature of the personal information, which renters feel obliged to provide in order to secure rental properties. Efforts to improve privacy practices in the industry would benefit from stronger Government regulation.

Question 10 of the Consultation Paper - Do you support limiting the information that applicants can be asked for in a tenancy application? Why/why not?

We support the principle of limiting the types of information that applicants can be asked for in a tenancy application and note this aligns with REA's strategy to collect fewer data points from rental applicants. Consistent with APP 3 of the Privacy Act 1988 (Cth) (**Privacy Act**), applicants should only be required to provide information that is actually needed to verify their identity and assess their suitability for a rental property. Ordinarily, there should be no reason that an applicant's marital status, health information, gender, sexual orientation etc would be relevant, and therefore, requesting such information from applicants should be prohibited.

REA's application form does not request such information and is standardised so that real estate agents are not able to customise or include their own questions. We note, other application form providers allow real estate agents and landlords to request some of these types of information or enable real estate agents and landlords to customise and include their own questions.

Some other states have already introduced similar limitations. We advocate for a consistent framework across the states to achieve greater standardisation of application forms and ease of administration for proptech companies and real estate agents. Such standardisation will also assist applicants who may be moving interstate.

Question 11 of the Consultation Paper - Do you have any concerns with landlords or agents only being able to collect the information set out in the table above to assess a tenancy application? Please explain.

REA is concerned that limiting applicants to providing no more than 2 documents in the "ability to pay rent" category of the proposed table may lead to unintended, adverse consequences particularly for more

vulnerable applicants. For example, providing only 2 data points with regards to the “ability to pay rent” column of the table would disadvantage applicants relying on multiple (and perhaps less traditional) sources of income (e.g. Centrelink payments, gig work and evidence of savings etc). We otherwise support the limitation of data collection for the proposed categories of ID verification and suitability assessment.

Question 12 of the Consultation Paper - Do you support the use of a standard tenancy application form that limits the information that can be collected?

We support standardisation of the questions that may be asked in an application form, but do not support standardisation to the extent of limiting the application forms to a particular pdf or paper format. Digital application forms that can be integrated into existing consumer and agent platforms and portals will reduce friction and improve efficiencies for agents, while also providing a more seamless experience for applicants in their property journey. We encourage Government to seek a more national solution for a standardised application form across all states and territories.

Question 13 - Do you think that limiting the information that may be collected from rental applicants will help reduce discrimination in the application process?

Yes, as per our response to question 10, rental application forms should be limited to only collecting the information that is actually necessary to verify an applicant's identity and assess their suitability for a rental property. Information collected from an applicant above that minimum threshold may pose a greater risk of subjecting the applicant to unfair discrimination based on attributes that are not directly related to the applicant's suitability for a rental property.

Question 14 of the Consultation Paper - Do you support new laws that set out how landlords and agents can use and disclose renters' personal information? Why/why not?

Generally, there is a power imbalance in a rental application process, which weighs against rental applicants. As such, we think it is appropriate for regulation to play a greater role in protecting renters' personal information by limiting the uses of renters' personal information. In particular, given the sensitive nature of the personal information included in a rental application, it should be used only for the assessment of that applicant's suitability for the rental property they applied for, and not for other agency marketing or re-targeting purposes.

Question 15 of the Consultation Paper - What should applicants be told about how their information will be used before they submit a tenancy application? Why?

As in most other facets of Australian life and business, and consistent with the Privacy Act, consumers should be provided with appropriate transparency regarding how their personal information may be used and disclosed. REA supports new laws that would provide renters with greater control and transparency over their own personal information.

Question 16 of the Consultation Paper - Do you support new laws to require anyone holding renter personal information to secure it? Why/Why not?

Renters' personal information included in a rental application form is often sensitive or high-risk in nature. Australians would expect that, regardless of who holds their information, it is properly secured. REA is obligated under the Privacy Act to secure renters' personal information, and while there are benefits for a new law to be consistent with the Privacy Act, we recognise the prohibitive impost such a law would have on many businesses in the property industry. As such, we strongly encourage Government to consider industry assistance in this area, including but not limited to providing easy to follow, clear and prescriptive rules regarding minimum security requirements.

Question 17 of the Consultation Paper - How long should landlords, agents or proptechs be able to keep renter personal information? Please explain.

Renter personal information should only be kept as long as is necessary for a landlord, agent or proptech to assist the renter or applicant with their property journey. Unsuccessful application data should be retained only for a short period, whereas we believe it would be reasonable for application data for a successful applicant to be kept for the duration of the lease.

At REA, we have set timeframes for the destruction of renter personal information based on the sensitivity of the information. For example, identity documents will be destroyed in a short timeframe, whereas less sensitive information, such as basic contact details, will be retained for a longer period to assist a prospective applicant find a suitable rental property. We encourage Government to seek a more nationally consistent approach to renter personal information retention periods to ensure ease of administration for agencies and proptechs, which will hopefully result in greater compliance with such rules.

Question 18 of the Consultation Paper - Do you support requiring landlords, agents or proptechs to: (a) give rental applicants' access their personal information, (b) correct rental applicants' personal information? Please explain your concerns (if any).

We support new laws that provide renters with greater control over their personal information. However, we are aware that corresponding rights under the Privacy Act to request access and correction of personal information are at times used in a vexatious manner by consumers and accordingly, would encourage Government to consider appropriate safeguards for landlords, agents and proptechs to rely on in such circumstances.

To the extent helpful, we would welcome further discussion with Government on the topics set out in our submission.

Andrew Chen

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