

**DATE** 11 August 2023

RSPCA NSW is a not-for-profit organisation that cares for, treats, protects, and rehomes animals across the state. We strongly support any measures that reduce barriers to pet ownership in NSW and welcome the Government's election commitment to amend tenancy laws and make it easier for renters to keep pets.

A reported 69% of Australian households have pets.<sup>1</sup> However, housing market constraints, high cost of living and other pressures post COVID appear to be impacting the rate of animal adoption. The same survey noted that 72% of pet owners are homeowners and 36% are renters. From this imbalance, we can draw the conclusion that rental laws and other rental market conditions are inhibiting individual tenants from having a pet.

RSPCA NSW regularly receives enquiries from concerned pet owners who have difficulty finding pet-friendly rental properties. There is a view expressed that the low vacancy rate coupled with a concern amongst landlords that pets will damage property thereby reducing the value of their investment, has resulted in fewer pet friendly leases available.

A lack of pet-friendly accommodation causes significant obstacles for pet owners seeking stable accommodation. Currently, 20% of animals surrendered to RSPCA NSW are surrendered on the basis that they are not permitted to have pets in their rented home and up to 50% report surrendering due to cost-of-living pressures. Housing availability and affordability informs cost of living pressures, making it increasingly difficult for individuals to afford the expenses associated with responsible pet ownership.

Considering these challenges, RSPCA NSW considers it appropriate to utilise statutory reform to permit animal ownership as a standard feature of rental agreements RSPCA NSW advocates for the implementation of proposals to support pet-friendly rentals while safeguarding the interests of landlords. We also advocate for measures that alleviate the financial burdens faced by pet owners, ensuring that responsible pet ownership remains accessible and attainable in NSW.

### **The Benefits of Pet Ownership**

Numerous studies have demonstrated the positive impact of pet ownership on mental health. Interacting with pets triggers the release of neurotransmitters<sup>2</sup> associated with elevated moods and reduced stress and anxiety levels. This finding has important implications for public health,

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<sup>1</sup><https://www.petfoodindustry.com/news/newsletters/pet-food-news/article/15469415/national-survey-reveals-australians-spend-more-on-pets#:~:text=From%202020%20to%202022%2C%20Australia's,or%2069%25%20of%20Australians%20households.>

<sup>2</sup> J.S.J Odendaal, R.A Mendl, Neurophysiology of the Correlates of Affective Behaviour between Humans and Dogs, The Veterinary Journal, Volume 165, Issue 3, 2003, Pages 296-301

as mental health challenges continue to be a significant concern in our society. Encouraging responsible pet ownership can provide a source of comfort and support for individuals facing such challenges, promoting overall mental wellbeing.

Pets play a vital role in encouraging physical activity<sup>3</sup> among their owners. Whether through daily walks with dogs or interactive play with cats, regular interactions with pets promote an active lifestyle. Increased physical activity not only helps maintain a healthy weight but also contributes to improved cardiovascular health, reduced blood pressure<sup>4</sup>, and a decreased risk of chronic diseases.

### **Responding to the Discussion Paper**

Standard lease terms should permit animal ownership. Where a landlord proposes to refuse a lease to a new tenant or refuse a current tenant permission to have a pet, the situations where refusal is permitted, and conditions for agreeing should be regulated carefully.

In response to the questions outlined in the discussion paper:

#### **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?**

RSPCA NSW proposes that a landlord should consider the request within 14 days. Where further information is sought by the landlord from the tenant, it would be appropriate to afford the landlord a further 7 days to consider the application.

If it is considered that pets pose an unacceptable risk to property such that some capacity to restrict pet ownership is necessary, then a regime similar to the ACT model might be considered. A determination by a landlord to refuse permission would require the landlord to seek ratification of that decision from NSW Civil and Administrative Tribunal Consumer and Commercial Division within 14 days of the receipt of a request. Of course, this has structural consequences, NCAT is experiencing significant delays post COVID-19, with applications proceeding to mediation reportedly taking three months for a mediator to be assigned.<sup>5</sup>

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

1. The discussion paper refers to the available reasons for refusing permission for a tenant to have a pet in Queensland. Please see the table below for comments in relation to each of those:

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<sup>3</sup><https://www.thedomestrust.org/healthandwellbeing/emotionalwellbeing/positiveimpactofpets/#health>

<sup>4</sup><https://news.nhs.uk/2018/02/power>

<sup>5</sup> <https://www.smh.com.au/national/nsw/the-extra-obstacle-for-owners-cashng-with-body-corporates-over-bulldog-defects-20230713-p5do1u.htm>

QLD prescribed reasons for refusal:	RSPCA NSW comment:
<p>1. Keeping the pet would exceed a reasonable number of animals being kept at the property</p>	<p>1. There are welfare implications associated with excessive pet ownership. The RSPCA NSW Inspectorate is involved in many matters each year before the NSW Local Court where tenants experiencing poor mental health and hoarding disorders are accumulate large numbers of animals in rental premises. Reasonable limits can apply in residential tenancies, for example, the Local Council may be called upon to make a determination as to appropriate residential occupation, and Local Land Services can assess carrying capacity for Property Identification Code land holders. The rationale being that tenants would have some measure of certainty and landlords could also be supported in sensible decision making around reasonable populations of pets. There needs to be an acceptance that pets are not just companion animals.</p>
<p>2. The property is unsuitable for keeping the pet because of a lack of appropriate fencing, open space or another item necessary to humanely accommodate the pet.</p>	<p>2. See comment 1 above. There is an element of subjectivity as to a standard of acceptable welfare afforded animals in tenancies and landlords may not be the appropriate arbiter of that standard. The RSPCA supports evidence based decisions around proper shelter for animals. However, lack of fencing would not provide a sufficient reason for refusing permission for one indoor cat.</p>
<p>3. Keeping the pet is likely to cause damage to the property and in addition could or would be likely to result in damage that could not practically be repaired for a cost less than the rental bond for the premises.</p>	<p>3. RSPCA NSW does not support the inclusion of this factor. Historically this has been the argument which has least served pets and their owners in NSW. There are a vicissitudes associated with property ownership, and pets are only one of them.</p>
<p>4. Keeping the pet would pose an unacceptable risk to the health and safety of a person, including, for example, because the pet is venomous</p>	<p>4. RSPCA NSW does not support the inclusion of this factor. If the owner possesses an appropriate license, a reptile license for example, there is nothing unlawful about the keeping of venomous animals.</p>

5. Keeping the pet would contravene a law.	5. See comment 4 (above). RSPCA NSW would support a requirement that landlords be provided or shown a copy of the relevant license (NSW wildlife carer's license, reptile license, greyhound racing registered participant etc) then that should provide sufficient reassurance for the landlord. Precisely which law would need to be identified if this rationale were to be adopted.
6. Keeping the pet would contravene a body corporate by-law, house rules or park rules applying to the property.	6. RSPCA NSW does not support the inclusion of this factor. The keeping pets in strata consultation (2021) considered these issues in depth.
7. The tenant has not agreed to the reasonable conditions proposed by the lessor for approval to keep the pet.	7. If the reasonable conditions, or factors to be taken into account when assessing the reasonable conditions imposed, were provided, RSPCA NSW might support the inclusion of this factor. However as it is, our respectful position is that it is vague, imprecise and likely to be misused as a reason to reject an application.
8. The animal stated in the request is not a pet.	8. RSPCA NSW does not support the inclusion of this factor. See comment to point 1 (above). There is no definition or criteria available for determining what animals are or are not pets.
9. If the property is a moveable dwelling, and keeping the pet would contravene a condition of a licence applying to the property.	9. If the relevant conditions were provided, RSPCA NSW might support the inclusion of this factor. However, as it is, our respectful position is that it is vague, imprecise and likely to be misused as a reason to reject an application.

**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**

No. It is inappropriate to restrict ownership at a certain property on an ongoing basis and the discussion paper doesn't provide a basis that would support such a determination. However, it is possible to conceive of properties, where they would not be suitable for certain types of animals. If that is the case the reasons discussed above would give landlords sufficient grounds to refuse permission. The landlord would not need to resort to seeking an ongoing ban. It would seem apt to misuse if landlords, particularly large corporate owners who have increased access to legal recourse, were permitted to seek ongoing bans on animals in their properties. With reasons that avoid the need to go to NCAT specified in the legislation/regulations, , we are

unable to see a situation where an ongoing pet ban would be necessary for a specific property.

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

RSPCA NSW strongly supports responsible pet ownership for all companion animals. While we do not accept that pets cause additional wear and tear on a property, it may provide comfort to the landlord to have it specified that any damages caused by the animal(s) must be repaired by the tenant, as is already the case with any other damages caused to the property during the term of the lease.

### **Power Imbalances for NSW Renters**

The argument that the contracting parties to an agreement are best placed to come to a decision about whether and in what circumstances tenants will be permitted to have pets may be initially attractive, however RSPCA NSW says that it is reasoning which has historically not served pets or their owners for several reasons:

- a. the power imbalance between landlords and tenants is so great, that the bargain is often not to the advantage of the less powerful negotiator;
- b. as tenants paying for the quiet enjoyment of the property they are leasing, there is an argument that as long as the use is lawful or not otherwise the subject of regulation (the *Companion Animals Act 1998* (NSW)) then it should not be within the remit of the landlord to dictate exactly how the property is inhabited by the tenant;
- c. risks to the investment can and often are ameliorated by the payment of rental bonds and requirements to clean and maintain a property in good order;
- d. pet owners surrendering their pets to RSPCA NSW often cite tenancy agreements as a reason for having to surrender their pet; and
- e. When taken in combination with other socio-economic factors, such as domestic and family violence, illness including poor mental health, and age-related factors, the barriers to pet ownership are sometimes insurmountable. For tenants, that might mean that the most disadvantaged members of society are precluded from owning a pet, in circumstances where they can really benefit from a pet in their home.

The appropriateness of the current regulatory approach needs to be considered in the current context. COVID-19 has been an unprecedented disruptive force, there has been a significant drop in the number of homes available to rent, and both the Sydney and NSW populations are forecast to continue to grow.

### **RSPCA NSW in the Community**

RSPCA NSW has an entire department, the Community Programs Team, which promotes the position that financial circumstances alone are not a reliable indicator of a person's capacity to love and care for a companion animal, and strong bonds between people and their pets make for stronger communities.

In circumstances where a combination of factors impact on those vital relationships, we advocate for a change in the regulation to remove barriers to pet ownership. Keeping pets and people together is often the best outcome for the pets, their owners, and the community – and this is what RSPCA NSW strives to achieve.

RSPCA NSW supports the proposal to change the current laws to make it easier for pet owners to successfully acquire rental accommodation. We consider that this can be achieved without creating unreasonable risk or onerous requirements for property owners.

We have recently completed three Social Return on Investment Reports, which outline the importance of this work and go into considerable detail regarding the importance of the human-animal bond, and how housing constraints impact animal owners in need.

We attach the three reports as part of our submission for the NSW Government to consider when amending our state's rental laws, which can be downloaded [here](#).

### **Conclusion**

RSPCA NSW encourages policy makers and human social support service providers need to consider the importance of the human/animal bond and the role that pets play as family and supporting people's mental health in times of crisis when creating policy, providing funding, and developing services.