

Improving NSW rental laws consultation paper July 2023 Feedback from the Cat Protection Society of NSW

As a feline welfare organisation working within a One Welfare framework, our advocacy extends to people because people are the companions of cats.

Our mission is that every cat deserves a loving and responsible home. There is no reason why loving and responsible homes ought not include homes that are rented but current residential laws discriminate against people who own pets.

As we noted in our submission (attached) to the 2022 review on keeping pets in residential tenancies, landlords are not inviting guests into their own private home: they have a commercial investment, with protections at law and generous taxation benefits, as well as the capacity to insure their investment. The property might be the landlord's asset, but it is the renter's home.

Banks do not disallow pets in the homes of properties over which they have a mortgage. Landlords should not disallow pets in the properties they let.

While renters enjoy some protections at law, they experience housing insecurity, and several limitations on their rights to enjoy the property they pay to occupy.

Pet-friendly residential tenancy laws will:

- Respect the autonomy of renters to choose to have pets
- Improve the health and wellbeing of individuals and communities
- Lead to longer stays in rentals by faithful tenants with regularity of income for the landlord
- Keep families together (because people consider pets family)
- Ease the burden on the overwhelmed animal shelter sector
- Bring stability to the lives of people and their pets
- Prevent instances of homelessness where people choose pet over place
- Facilitate improvements in reporting on companion animals as people won't be afraid to register their pets
- Support responsible pet ownership (including keeping cats indoors).

Pets should not be unreasonably refused, and we agree with the consultation paper's suggested valid reasons for refusal to include that the pet is a restricted dog, or a dog declared to be dangerous or menacing; that keeping the animal is in contravention of another law or regulation, including local council requirements. Previous exclusion is more difficult as no two situations (or pets) are exactly alike.

We are concerned that the need to make application prior to consideration of a lease, while being ostensibly pet-friendly, will still provide every opportunity to refuse tenants with pets, without disclosing that as the reason.

Tenancy information and advocacy service, Tenants Queensland, warns that despite changes to the law, discrimination against pet owners remains easy:

“The Act declares that a pet cannot be refused on the basis that there is a “no pets” policy and it follows that a property cannot be advertised saying no pets. However, it is common for lessors, agents and providers to ask prospective tenants and residents whether they have a pet, how many pets, etc before a property is offered. In the case of agents, these questions are frequently contained in the application form. Unfortunately, there is nothing to prevent lessors or providers asking these questions and nothing to prevent them from refusing to give you a tenancy agreement because of this (you often won’t be told why you missed out, rather, you will be told they preferred another applicant).”

<https://tenantsqld.org.au/factsheets/pets-in-rental-properties/>

A “reasonable” pre-set permission could go some way to overcoming this. If, for example, a landlord declared a property could reasonably accommodate one or two desexed cats or dogs, a tenant could apply for that property without disclosing pets within that limit. Disclosure would not be required until after a lease was offered and then confirmation could be provisional on submission of a pet form, which the landlord could not reasonably refuse.

Cat Protection has successfully assisted tenants with pets to gain landlord permission with the use of our template pet resumé and agreement (attached).

Appendix A of the consultation paper, which lists the reasons (in Queensland) a landlord can refuse permission for a tenant to keep a pet is not supported as it is considered vague and subjective (“the tenant has not agreed to the reasonable conditions proposed”, “the pet is likely to cause damage”) or depends on professional assessment (whether conditions are “humane”).

Keeping of an animal should not contravene any law or strata scheme by-law. Many reasonable conditions can be set, for example, that the pet is desexed, microchipped and registered, regularly parasite-treated and vaccinated; that they are house trained and that the tenant undertakes to provide the pet with proper care and enrichment. A pet resumé and agreement can address these issues.

Damage and complaints can be dealt with as any damage and complaints are dealt with – as we noted in our 2022 submission, people in rental properties risk damaging property, with or without pets. Cooking accidents, appliance malfunctions, inconsiderate behaviour, malicious damage – these are all risks that have nothing to do with pet ownership. Risk mitigation is available through bonds, legal protections and insurance. Banning pet ownership does not protect landlords, it simply discriminates against pet owners who do not have the privilege of home ownership.

No grounds evictions should be disallowed. Whether or not it is intended or expressed, the threat of eviction for no reason (especially in a tight rental market) acts to inhibit tenants from seeking to protect their rights, whether that is to ask for necessary repairs to the property or permission to keep a pet.

Responsible pet owners make committed tenants, and research has shown they're not only unlikely to cause problems but in fact can benefit landlords:

<https://theconversation.com/as-pet-owners-suffer-rental-insecurity-perhaps-landlords-should-think-again-63275>

Increasing numbers of Australians will never own their own homes, and circumstances will mean many will move from home ownership to renting. The continued discrimination against renters, as though renting were somehow only ever a short-term proposition, and that the discrimination were without consequences, must end. In return for fair rent and reasonable care and consideration, tenants should be entitled to enjoy their homes and that enjoyment should include the right to responsible pet ownership.

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(Attachments on the following pages)

Submission from the Cat Protection Society of NSW to the consultation by NSW Fair Trading: Keeping pets in residential tenancies – 2 December 2022

Should NSW residential tenancy laws on keeping pets in rental properties be changed? Yes. The current system actively discriminates against people who own pets.

Landlords are not inviting guests into their home. They have a commercial investment, with various protections at law and taxation benefits.

Renters pay for a home.

Renters enjoy some protections at law, but they also experience housing insecurity, and limitations on the extent to which they can use the property they pay to occupy.

Denying or limiting responsible pet owners the opportunity to rent is to deny or limit their capacity to be housed.

The consultation paper notes that “some stakeholders ... state that keeping a pet in a rental property risks damaging the property. There is also a potential for excessive noise that could bother neighbours ...” (page 4).

People in rental properties risk damaging property. Cooking risks damaging property. Appliances can malfunction and risk damaging property. Stereos, musical instruments, televisions and crying babies create a potential for excessive noise. These are not banned.

All investments have risks that cannot be eliminated. Landlords have risk mitigation available through bonds and legal protections, as well as insurance.

Mitigating risk should not extend to limiting the human rights of renters to the reasonable peaceful enjoyment of a property that the renter pays money to occupy.

Rental properties are insecure, with few to no tenants enjoying any guarantee of long-term occupancy. Therefore, permitting unreasonable restrictions on pet ownership by tenants effectively stops people who rent from having pets. A renter might have permission to keep pets from one landlord but not the next ... The inability to find pet-friendly accommodation is a significant contributor to the relinquishment of pets to shelters and pounds. It is also a reason people who rent and would like to have pets opt not to have pets.

ABS data on housing mobility demonstrates that insecurity, finding renters move more frequently than home owners, and that “In 2019–20, almost two thirds (65%) of private renters had a fixed period lease of 6 or 12 months and a further 19% had either a month-by-month or other fixed period lease arrangement. For all renters, six month leases were most common in the Northern Territory (18%) and Queensland (17%), while month-by-month leases were most common in Victoria (22%), followed by New South Wales and the Australian Capital Territory (both 18%). (Australian Bureau of Statistics. (2019-20). Housing Mobility and Conditions. ABS.

<https://www.abs.gov.au/statistics/people/housing/housing-mobility-and-conditions/latest-release.>)

Data for the same period shows that 64% of NSW households owned their own home; (34% of households had a mortgage, 30% did not) and 33% were renting. While owners with a mortgage were paying 17% of gross weekly income on housing costs, renters were paying 22% of gross weekly income. (Australian Bureau of Statistics. (2019-20). Housing Occupancy and Costs. ABS. <https://www.abs.gov.au/statistics/people/housing/housing-occupancy-and-costs/2019-20.>)

It is incorrect to assume that people rent as a short-term, temporary housing option before they buy a property (especially as the data show renters pay a greater percentage of their income on housing, leaving less capacity to save). Many people rent forever, and people can and do move between renting, home ownership, and homelessness – recently and tragically demonstrated by the impact of floods and bushfires.

Emergency services well-understand that safe evacuation means supporting people with pets. People will take great risks to ensure they're not parted from their pets, which is why we see evacuation centres now ensuring pets are provided for. The NSW Government's Get Ready Animals initiative is excellent, but what happens afterwards? What happens when a person has no habitable home to return to and they need rental accommodation with their pets?

Public policy increasingly recognises the importance of pets to people, but the Residential Tenancies Act does not. Public policy increasingly recognises the importance of good animal welfare, but the Residential Tenancies Act does not.

The unreasonable refusal of pets in rental accommodation has profound consequences for the health and wellbeing of people and animals.

It can influence a person's decision to leave a situation of violence, because they can't take their pets with them. It can leave people lonely and isolated because they cannot have a companion animal. It can cause psychological harm when people are compelled to choose between relinquishing a pet or housing. It can cause endangerment when a person chooses pet over place.

It denies both individuals and communities the health and social benefits of pet ownership: "Extensive international evidence and an emerging evidence base in Australia indicates widespread social, health and economic benefits of companion animal ownership for individuals and communities ... Health economists have quantified these at national levels (Hall, Dolling et al. 2016), suggesting substantial on average reduction of lifetime personal and service costs." (AHURI Final Report No 350 Housing and housing assistance pathways with companion animals: risks, costs, benefits and opportunities)

Cat Protection is a no-kill shelter taking in mostly stray cats and kittens, but we also see a significant number of much-loved family pets surrendered because their people can't find pet-friendly housing. We see their distress, we hear their stories of grief, guilt, and despair. They are not 'bad' or 'irresponsible' cat owners, they have

been forced to give up their cat because they have no choice of housing that will allow them to keep their cat.

Their cats are also distressed but thankfully, coming to our shelter, they will be given the time they need to find a new home; this is not the case everywhere. The consequent death toll isn't just an animal welfare issue, it's an ethical issue and a human health issue – for the relinquishing owners; for the pound and shelter workers; and for the vet nurses and vets who are expected to perform the task of killing healthy cats and dogs. There is a cost for laws that discriminate against responsible pet owners, and it's paid highly by many.

We need to consider pets and housing in a One Welfare context: good animal welfare is also good human welfare. When an animal's welfare needs are met, when they have a good and healthy life, they're also less likely to have a negative impact on anyone else (the happy dog won't be howling due to separation anxiety; the desexed cat won't be yowling due to being on heat). Responsible pet owners make committed tenants, and research has shown they're not only unlikely to cause problems but in fact can benefit landlords: <https://theconversation.com/as-pet-owners-suffer-rental-insecurity-perhaps-landlords-should-think-again-63275>

The keeping of pets in rental properties should be allowed, with a requirement for a reasonable undertaking by the pet owner to ensure their pets are kept responsibly: for example, in compliance with the Companion Animals Act (eg pets are registered and not declared dangerous or restricted); the Prevention of Cruelty to Animals Act; and with additional safeguards; for example, that the pets are desexed and parasite-treated. Standard pet resumes and pet agreements could cover these issues.

We do not submit that landlords must accept all pets in all properties, but we do submit that permission to keep a pet should not be unreasonably withheld.

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DRAFT PET AGREEMENT

(This guide is only a draft to assist in developing an agreement. It is not a legal document.
Independent legal advice is recommended)

This agreement, dated _____, forms part of the residential lease dated

_____, between _____, (tenant) and

_____, (landlord) for the property at _____

_____ (address)

The tenant is permitted to keep the following pets on the property:

_____ (name; age; species; breed)

_____ (name; age; species; breed)

The tenant has provided the landlord with documented evidence that the pet/s are desexed; microchipped; registered; (and for dogs, not a restricted or dangerous dog).

The tenant agrees that they will:

1. Keep their pet/s under control at all times
 2. Care for their pet/s in accordance with all applicable laws including but not limited to the Companion Animals Act and Prevention of Cruelty to Animals Act
 3. Not leave their pet/s unattended for any unreasonable periods
 4. Regularly treat their pet/s for parasites and make every reasonable effort to keep their pet/s flea- and worm-free at all times
 5. Maintain a high standard of cleanliness and sanitation at all times
 6. Ensure their pet/s do not unreasonably cause annoyance or disturbance to neighbours
 7. Accept all responsibility for their pet/s and indemnify the landlord against any claims that result from or in connection with the tenant's pet/s
 8. Be liable for any damage or injury whatsoever caused by their pet/s
 9. Pay for any damage, loss or expense caused by their pet/s
 10. Provide up-to-date contact details of a person whom the landlord may contact to provide care for the pet/s in the event of an emergency. This in no way obliges the landlord to arrange care for the pet/s in any situation
 11. Keep only the pet/s listed on this agreement, unless otherwise agreed.
- (For strata: 12. Abide by the by-laws of the strata scheme).

The landlord reserves the right to revoke permission to keep the pet/s should the tenant violate this agreement.

Tenant: _____
(name)

Landlord: _____
(name)

Signed: _____

Signed: _____

Witness: _____

Witness: _____

Date: _____

Date: _____

PET RÉSUMÉ

When trying to find pet-friendly accommodation, there are internet search engines that can help you. Sometimes a landlord might be happy to consider renting to a responsible pet owner but the real estate agent has their own anti-pet mindset. It's really important to try to make a direct approach to the landlord (and the real estate agent), demonstrating at the outset that not only would you make a great tenant but that your pet is also a great tenant. The way to do this is to prepare a résumé for your pet.

For example:

My pet (species, name) is a good tenant because:

- They are desexed – so they don't spray, wander, go on heat or multiply! (attach desexing certificate)
- They are registered and microchipped, compliant with the Companion Animals Act (attach copies of documentation)
- They are well-behaved and well-cared for: my vet has explained this in the attached reference (ask your vet to provide a reference attesting to your pet's behaviour/temperament; vaccinations and regular health checks and that states that you are a responsible pet owner)
- I flea- and worm-treat them regularly; they do not have parasites
- I provide them with good care at all times
- I provide them with environmental enrichment so they are not bored and do not become destructive
- They are toilet-trained and clean, and I ensure hygiene is maintained at all times
- I board them/arrange for their care if I go away
- I take responsibility for them. If there is an emergency (name and phone numbers of contact person who has agreed to provide emergency care for your pet) can be contacted to provide care for my pet.

If you can, also attach references from previous real estate agents or landlords; neighbours; and also include any training certificates in relation to your pet (eg dog obedience training, kitten kindy). A photo showing them calm and happy could also be helpful.

For multi-pet families, it is useful to explain (and also ask your vet to explain in the reference they write) that the pets get along and the fact they have each other's company alleviates boredom and has a positive impact on their behaviour.

For dogs, explain how you meet the needs of the particular breed (eg exercise/walks, dog day-care) or how that breed is well-suited to your chosen living environment (attach copies of independent information eg from a breed club, vet or behaviour specialist). There is an unfortunate tendency for dogs to be assessed as suitable or unsuitable for apartment living based on size, irrespective of breed, and you will need to present good solid facts to counter this prejudice.

Further references

A recent study prepared for The Human Animal Bond Research Institute (HABRI) conservatively estimated “total annual health care cost savings in the US related to pet ownership is now at least \$22.7 billion per year” and that “the evidence of pet ownership health benefits is increasing”. <https://habri.org/pressroom/20230523>

In their study *The pet connection: pets as a conduit for social capital?* Lisa Wood et al found “Pet ownership was found to be positively associated with some forms of social contact and interaction, and with perceptions of neighbourhood friendliness. After adjustment for demographic variables, pet owners scored higher on social capital and civic engagement scales.”
<https://www.sciencedirect.com/science/article/abs/pii/S0277953605000535>

Research led by Professor Michelle Clearly, *The Unbreakable Bond: The Mental Health Benefits and Challenges of Pet Ownership for People Experiencing Homelessness*, examines the issues affecting people experiencing homelessness with pets, including making the choice to keep pet over having a place to stay (“Would you give up your children?”).
<https://www.tandfonline.com/doi/abs/10.1080/01612840.2020.1843096?journalCode=imhn20>

The AHURI report *Regulation of residential tenancies and impacts on investment* <https://www.ahuri.edu.au/research/final-reports/391> notes in the executive summary that tax policy and financial regulation strongly shape the private rental sector, and that residential tenancies law is accommodating of small-holding landlords and properties transferring in and out of the private rental sector. It recommends that tenancy law reform should centre housing rights and reject the disinvestment threat: “if landlords were to leave the sector because they cannot meet standards, it is a good outcome.”