



Submission to the NSW Department of Customer Service's Consultation Paper on Keeping Pets in Residential Tenancies

2 December 2022

Acknowledgement of Country

The St Vincent de Paul Society acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of the land on which we live and work, with deep respect. May Elders, past and present, be blessed and honoured. May we join together and build a future based on compassion, justice, hope, faith, and reconciliation.

About the St Vincent de Paul Society in NSW

In 1833 in Paris, 20-year-old student Frederic Ozanam resolved to do what he could to bear witness to his Christian upbringing by assisting those less fortunate in the community. Together with a group of friends, he sought the advice of Sr Rosalie Rendu, who guided their approach towards one that affirms the dignity of each human being and invites a deep relationship of solidarity.

Declaring that no form of charity would be foreign to their work, the first 'Conference of Charity' has since grown into a worldwide movement that continues to seek out and address poverty in all its forms.

In NSW, the Society was established over 140 years ago. It now has over 3,500 members who offer material and financial assistance to people in their communities as well as companionship and social support. Members of the Society who visit people who need help in their homes, refer those at risk to our services, where we offer case management, support services, and referral to other agencies to help keep people at home. Specialist responses are provided for women and children wishing to leave family and domestic violence while retaining existing housing.

Professional services have been established in response to the needs of people at risk of or experiencing homelessness, people with disability, people seeking support in relation to alcohol and other drug use, and people experiencing other forms of exclusion. In 2021-22, our specialist homelessness services supported 8,607 people. A further 29,124 people accessed our drop-in homelessness hubs in Northern NSW.

Through our community housing provider, Amélie Housing, we provide social and affordable housing with tailored support to meet the needs of the growing number of people locked out of the private rental market. Amélie Housing manages approximately 1,000 dwellings in NSW.

1. Introduction

The Society thanks the NSW Government for this opportunity to provide feedback on current NSW residential tenancy laws about keeping pets in rental properties.

We believe that everyone in NSW has the right to have a home that feels like home, and this right includes being able to choose whether to keep a pet. In our work assisting some of the most vulnerable people in our society, we see how pets play a vital role supporting many people's social, mental and physical wellbeing. We also see the impact when people with pets are left homeless or stay in unsafe relationships or inappropriate accommodation due to a lack of pet-friendly options. Many then disengage from services and are pushed further to the peripheries of society.

Our submission responds to the discussion questions set out in the consultation paper. We begin by outlining why we think that NSW residential tenancy laws should be changed to allow tenants a presumption in favour of having a pet. We then respond to the models for establishing a legal right for tenants to keep pets in rental properties in other jurisdictions. Finally, we provide some additional comments about principles that could underpin an approach to keeping pets in rentals in NSW.

2. Recommendations

1. That the NSW Government amend NSW residential tenancy laws on keeping pets in rental properties to prohibit blanket 'no pets' clauses in tenancy agreements.
2. That the NSW Government replace no-grounds evictions provisions with 'reasonable grounds' evictions to protect renters with pets from being unfairly discriminated against.
3. That the NSW Government adopts the approach proposed by the Tenant's Union of NSW for keeping pets in rentals. This is based on establishing animal welfare guidelines to determine whether a property is appropriate for a pet and the Tribunal, on application by the landlord, only disallowing a pet at a rental property where those animal welfare guidelines have not been met.

3. Response to the Consultation Paper

3.1. Should NSW residential tenancy laws on keeping pets in rental properties be changed?

The Society strongly supports changing NSW residential tenancy laws on keeping pets in rental properties.

The current ability of landlords to include blanket ‘no pets’ clauses in tenancy agreements impedes the rights of the growing number of renters who now have pets, and disproportionately impacts low income and vulnerable people in NSW. Prohibiting people from keeping pets has adverse consequences for their health and wellbeing. It forces people to stay in unsafe relationships, to live in inappropriate or unaffordable accommodation, and in some cases to become homeless and disengage from services.

People who rent should have the right to make the place they live in feel like home.

More people are renting and are renting for longer than ever before. More than 2 million people in NSW call their rental property their home, including families with children, and older renters.¹ At the same time an increasing number of people have a pet, estimated to be around 70% of all Australians.² A place to call home for these people, owners and renters alike, is one that includes the choice to have a pet.

Pets play a vital role in people’s lives and in supporting their wellbeing.

For many of the people that the Society assists, their pet is their most trusted and loved companion. In consultations conducted with the Society’s Housing and Homelessness Division to inform this submission, several Case Management Team Leaders noted the deep emotional connection that many people have with their pets and their role in providing important social connections. They stressed the need for pets to be understood like family members for many vulnerable renters.

“I became homeless, and was couch surfing sleeping on people’s verandas in my car and in a tent and caravan park and I picked up that puppy ... And I said to myself I made a promise, whatever happens to me, it is me, and the dog. And that’s how wonderful it is. And he was an absolutely saviour for me in many ways, and we managed, and it’s me and the dog to this day, so that’s why it would be only an option if pets were allowed ... I don’t know where I would be without my dog to be honest...” (Private renter)³

This feedback is supported by a substantial body of international evidence and emerging evidence in Australia about the social, health and economic benefits of companion animal ownership for individuals and communities.⁴ The Australian Housing and Urban Research Institute (AHURI) notes:

“Pet ownership is associated with enhanced outcomes for dementia patients and older persons, lower blood pressure and cholesterol levels, faster heart attack recovery, lower mental stress, and

¹ (2022) *Community Sector Blueprint: National Framework for Minimum Energy Efficiency Rental Requirements*, Healthy Homes for Renters

² NSW Department of Customer Service (2022) *Consultation Paper: Keeping pets in Pets in Residential Tenancies*, NSW Government, Sydney.

³ James, A., et al. (2022) *Housing aspirations of precariously housed older Australians*, AHURI Final Report No. 390, Australian Housing and Urban Research Institute Limited, Melbourne, 69.

⁴ Stone, W., Power, E.R., Tually, S., James, A., Faulkner, D., Goodall, Z. and Buckle, C. (2021) *Housing and housing assistance pathways with companion animals: risks, costs, benefits and opportunities*, AHURI Final Report No. 350, Australian Housing and Urban Research Institute Limited, Melbourne, 1.

reduced asthma risk in children. Health economists have quantified these at national levels, suggesting substantial on average reduction of lifetime personal and service costs.”⁵

The benefits of pet ownership are shown to be particularly significant for people who are socially isolated. This includes older people, people with disability and people who are homeless. For these people, keeping a pet is a source of companionship and a means to connect with community.

“...I approached Amélie and I said, “I have a dog. I never told you I have a dog. Is there a possibility...?” “Of course you can have a dog” ... So I was very happy... My dog came and lived with me. So he lives with me now. That’s my company and I live by myself.” (Tenant, Amélie Housing)⁶

NSW tenancy laws result in discrimination against renters with pets

While the *Residential Tenancies Act 2010 (NSW)* does not expressly prohibit a tenant from keeping a pet, the Act does allow landlords to include a clause in the tenancy agreement prohibiting pets. In practice this means that rental properties are frequently subject to blanket ‘no-pets’ clauses and landlords refuse tenants requests for a pet without reason.

Feedback from some of the Society’s Housing and Homelessness Team Leaders in Wagga Wagga and the Hunter was that none of their clients with pets had been accepted into private rentals. The Team Leaders said that the lack of rental vacancies meant that landlords had their choice of applicants and in practice they choose applicants without a pet over those with a pet.

NSW residential tenancies no-grounds eviction provisions are also a barrier preventing current tenants from approaching their landlord to request a pet. The current no-grounds eviction provisions means that tenants can be asked to leave without reason. Given the power imbalance between landlords and the tenants in the current rental market, many tenants fear making any requests of their landlord, including for a pet, in case it may prompt their lease agreement to be terminated.

Vulnerable people who own pets are at greater risk of housing instability and insecurity

Increasing rates of pet ownership combined with the lack of affordable rental accommodation that is pet-friendly has the greatest impact on low-to-middle income earners and vulnerable people. This is at a time where around 42 per cent of low-income households are experiencing housing stress⁷ and have little to no capacity to pay more for their housing. Consequently, low-income and vulnerable renters are often faced with impossible choices when looking for a new home with their pets.

The lack of affordable pet-friendly rentals means that many people are forced into inappropriate or unhealthy properties or move to locations without good access to employment and education opportunities. Others make a heart-breaking choice between a roof over their heads and their life-long companion animals. It is estimated that 15–25 per cent of people give up their pets when they move due

⁵ Stone, W., Power, E.R., Tually, S., James, A., Faulkner, D., Goodall, Z. and Buckle, C. (2021) Housing and housing assistance pathways with companion animals: risks, costs, benefits and opportunities, AHURI Final Report No. 350, Australian Housing and Urban Research Institute Limited, Melbourne, 1.

⁶ Blunden H, & Valentine K. (unpublished) *A longitudinal study of the wellbeing of Amélie Housing Social and Affordable Housing Fund social housing tenants*, Baseline Report, Social Policy Research Centre UNSW, Sydney.

⁷ SGS Economics & Planning (2022) *Rental Affordability Index*, November 2022, SGS Economics & Planning, National Shelter, Beyond Bank, and Brotherhood St Laurence

to pet restrictions at the new rental property.⁸ AHURI notes the lack of pet-friendly rentals can prevent people from moving out of social housing.⁹

The lack of affordable pet-friendly accommodation has been a particular challenge for households impacted by recent natural disasters. A new UNSW research report on the impacts of the Northern Rivers floods on housing and homelessness found that following the disaster, low-cost rental market housing dissipated along with the availability of suitable rental housing for those with pets. The report noted that people's concern for, and desire to stay with, their pets during the recovery process made securing suitable housing much more difficult.¹⁰

Lack of rental properties that accommodate pets means that people stay in unsafe or precarious housing situations.

Research indicates significant numbers of people experiencing domestic and family violence remain in unsafe relationships because they are not able to secure alternative housing that allows them to bring their pets with them.¹¹

In the Society's work, the prohibition on pets is a particular barrier for people who are experiencing homelessness or at risk of homelessness. As noted, pets are a vital source of companionship and support for many people who are homeless. Some of our Team Leaders report that people will frequently choose to remain living in their car or a tent with their pets rather than accept housing that is not pet-friendly and have to relinquish the animal.

"Pets are so critical to people's health and their well-being and their mental health... And people will say, 'I'd rather sleep in my car so I can have my dog with me because I will not be separated', and we can't force accommodation providers to let them take pets."¹²

The longer-term effects of this shortage of pet-friendly accommodation across the spectrum of crisis, transitional and long-term housing means that some people who are homeless end up disengaging from support services due to the lack of options for them. Our staff have observed that these already vulnerable people are pushed to the peripheries of society, further entrenching disadvantage.

A forthcoming UNSW Social Policy Research Centre (SPRC) research report on Amélie Housing social housing tenants' wellbeing affirms that nexus between pet-friendly accommodation and housing insecurity. The study found that the Amélie Housing's policy of allowing pets was pivotal as to whether tenants decided to move in or not. Tenants had companion animals including cats, dogs, as well as birds, reptiles and an ant colony.

"Yeah, had to be somewhere where I could have her. I've always had a dog" (Amélie Housing tenant).

⁸ AHURI (2021) Research brief: *Understanding pet policies for Australian households: Reforms are happening across Australia, but how pet friendly is our housing market?*

⁹ AHURI (2021) Research brief: *Understanding pet policies for Australian households: Reforms are happening across Australia, but how pet friendly is our housing market?*

¹⁰ van den Nouwelant, R. & Cibirin, A. (2022) "The impact of housing vulnerability on climate disaster recovery: The 2022 Northern Rivers Floods" (Sydney: City Futures Research Centre)

¹¹ Stone, W., Power, E.R., Tually, S., James, A., Faulkner, D., Goodall, Z. and Buckle, C. (2021) Housing and housing assistance pathways with companion animals: risks, costs, benefits and opportunities, AHURI Final Report No. 350, Australian Housing and Urban Research Institute Limited, Melbourne, 1.

¹² van den Nouwelant, R. & Cibirin, A. (2022) "The impact of housing vulnerability on climate disaster recovery: The 2022 Northern Rivers Floods" (Sydney: City Futures Research Centre)

Amélie Housing, the community housing provider established by the St Vincent de Paul Society, has a policy to accommodate tenants with their pets where possible. Amélie Housing approves tenant requests to keep a single pet so long as the size, type and behaviour of the pet is appropriate for the property.

Tenant's may be required to comply with requirements about the animal's care, including being registered and having regular check-ups, and behaviour such as being on leash in common spaces.

Noise and damage concerns are already addressed through residential tenancy and local government legislation

The Society notes the consultation paper raises arguments against allowing pets in rentals, including concerns about property damage and excessive noise. We point to AHURI research which finds that evidence of pets causing property damage is limited, and damage is no more likely than for households without pets.¹³ As part of the rental agreement, tenants have a responsibility to return the premises in a similar condition as at the beginning of the tenancy, and any damage beyond reasonable wear and tear can be covered by the bond.

In relation to noise, there is no fair reason why concerns about potential pet noise should prohibit renters from keeping a pet compared to owner-occupiers who choose to keep a pet. Tenants have a responsibility not to cause or permit a nuisance, and not to interfere with the peace, comfort and privacy of a neighbour as part of their rental agreement. This obligation would extend to their pet. All pet owners, renters and owner occupiers alike, can be required by council order to prevent persistent, excessive noise from a pet under the *Companion Animals Act 1998*.

Rather than unfairly discriminating against people based on their tenure status, AHURI identifies better use of existing urban legislation as a way to provide equitable and effective responses to potential antisocial behaviours or interferences with neighbourhood amenity associated with pets, applicable to all households equally within local areas.¹⁴

Tenancy and property management issues may increase with changes to rental laws on pets

The Society notes concerns raised by some of our Housing and Homelessness staff that allowing pets in rentals could give rise to increased tenancy and property management issues and the potential for more vulnerable tenants to be breached and risk losing their housing.

Some housing officers at Amélie Housing's Social and Affordable Housing sites have identified increased requests for pets since COVID and noted that this has led to a rise in pet-related tenancy and property management issues. This has included tenants not complying with requirements to keep animals on leads in common areas, animal faeces being left in common areas, noise complaints, and an attack by an animal on another resident. Consequently, more tenants are being breached for failing to comply with their agreements and some have been taken to the Tribunal.

The SPRC report into tenant wellbeing also identified dogs barking as a cause of complaints between tenants. However, this was just one of many sources of complaints, that also included smoking and cigarette butts, car parking spaces, noisy gates banging, loud voices, and people coming and going at night. While not a desirable situation, it highlights that communal and high-density living is associated with a range of challenges that require ongoing management.

¹³ AHURI (2021) Research brief: *Understanding pet policies for Australian households: Reforms are happening across Australia, but how pet friendly is our housing market?*

¹⁴ Stone, W., Power, E.R., Tually, S., James, A., Faulkner, D., Goodall, Z. and Buckle, C. (2021) Housing and housing assistance pathways with companion animals: risks, costs, benefits and opportunities, AHURI Final Report No. 350, Australian Housing and Urban Research Institute Limited, Melbourne

The Society acknowledges that there will likely be some increased property and tenancy management issues from changes to NSW residential tenancy laws to allow pets in rentals. However, we believe the benefits of keeping a pet, along with the disproportionate impact of current arrangements on pet-owning low-income and vulnerable renters outweigh any potential negative impacts.

Recommendations:

That the NSW Government amend NSW residential tenancy laws on keeping pets in rental properties to prohibit blanket 'no pets' clauses in tenancy agreements.

That the NSW Government replace no-grounds evictions provisions with 'reasonable grounds' evictions to protect renters with pets from being unfairly discriminated against.

3.2. A model for keeping pets in rentals

The Society is encouraged by other states and territories progress on this issue. While we do not endorse a specific model for keeping pets in rental properties, we would prefer to see a model that puts the onus on landlords to apply to the Tribunal to disallow a pet as per Victoria and ACT, rather than one that puts the onus on tenants to challenge a refusal as per the Queensland approach.

We are concerned that all models in other jurisdictions leave potential for discrimination against rental applicants with pets who are required to disclose they have a pet and request consent when applying for a new property.

We also remain concerned that renters with pets will remain vulnerable to being evicted by landlords without reason while no-grounds eviction provisions remain in force.

With these considerations in mind, we support the broad principles and approach identified by the Tenant's Union of NSW to determine whether a property is appropriate for a pet based on the welfare needs of the specific pet.

We understand this approach involves:

- Prohibiting blanket 'no-pet' clauses in residential tenancy agreements
- Establishing animal welfare guidelines around responsible pet ownership and appropriate standards.
- Renters having the right to determine whether to have a pet in consideration of the animal welfare guidelines and their rental property, without prior approval of the landlord.
- Protection against discrimination at application so that renters would only have to disclose the pet is at the property once they have entered into an agreement.
- Putting the onus on landlords to apply to the Tribunal to disallow the pet if they believe it is unsuitable for the property.
- Tribunal considering the suitability of a pet with reference to the established animal welfare guidelines.
- Renters remaining liable for damage or breach caused by pet.¹⁵

¹⁵ Brooke R. (2022) Blog: *The case to end blanket pet bans for renters in NSW*, Tenant's Union of NSW, <https://www.tenants.org.au/blog/case-end-blanket-pet-bans-renters-nsw>

Recommendation:

That the NSW Government adopts the approach proposed by the Tenant's Union of NSW for keeping pets in rentals. This is based on establishing animal welfare guidelines to determine whether a property is appropriate for a pet and the Tribunal, on application by the landlord, only disallowing a pet at a rental property where those animal welfare guidelines have not been met.

4. Conclusion

The Society thanks the NSW Government for considering our response to the consultation paper on keeping pets in residential tenancies. We strongly support prohibiting a blanket ban on pets in NSW to allow renters to choose whether to have a pet and to make the house they live in a home. As part of any rental reform we urge the NSW Government to end no-grounds evictions provisions to protect renters with pets from eviction for choosing to have a pet.

Should you have any questions please contact Rhiannon Cook, Manager, Policy and Advocacy, at Rhiannon.cook@vinnies.org.au.