



## **Australian Pet Welfare Foundation Submission to Queensland Government’s Review of the By-law Prohibiting the Keeping of Pets in a Lot or on Common Property**

The Australian Pet Welfare Foundation improves the health and welfare of companion animals by creating new knowledge through research. We share that knowledge with the community, shelters and pounds, state and local governments and veterinarians to create change to save lives.

The Options Paper prepared by the Commercial and Property Law Research Centre of QUT for the Queensland Government presented two options to address the issue of pets in tenancy agreements.

- 1) Leave the existing provisions as is, continuing the situation that bodies corporate cannot enforce by-laws prohibiting pets, but may grant consent for pets on a case by case basis subject to particular reasonable conditions.
- 2) Allow bodies corporate to enforce a “no-pets” by-law, if that by-law has been adopted by a resolution without dissent, or if it was in place when the scheme was created.

The Australian Pet Welfare Foundation fully supports that bodies corporate cannot enforce by-laws prohibiting pets. However, we do not support granting the consent for pets on a case by case basis subject to particular reasonable conditions. Given that it often takes around 4-6 weeks for a body corporate to meet and decide on individual cases, most pet owners cannot wait to be informed if they are successful in their application, effectively discriminating against pet owners in their bid to find rental accommodation. It also disadvantages the landlord to delay approval, and it facilitates discrimination based on the pet size and breed. We do not support restrictions on breed and size of dog, because they are not based on scientific evidence that some breeds and larger size are more problematic in rental properties, or that larger size or breed of dog per se represents a welfare issue relative to the size of property.

The Australian Pet Welfare Foundation strongly advocates that “no-pets” clauses in tenancy agreements are banned under the Queensland *Government Property Law Review 2017 (QLD)* review. Therefore, bodies corporate

should not be allowed to enforce a “no-pets” by-law, whether or not it is adopted by a resolution without dissent, or if it was in place when the scheme was created.

As a national organization, the Australian Pet Welfare Foundation aims to influence policy decisions to benefit the health and welfare of pets and their owners. The Australian Pet Welfare Foundation argues that banning ‘no-pets’ clauses in tenancy agreements is in the interests of animal welfare and the community, including landlords, and would represent evidence-based legislative change. The following scientific evidence supports this claim.

### **1. Banning “no pets” clauses in tenancy agreements will reduce surrender of pets to shelters and pounds.**

- In Australia, the lack of rental accommodation allowing pets, or highly restrictive rental policies governing breed and size of dog, is one of the most common reasons people surrender pets to pounds or shelters.
- Lack of rental accommodation allowing pets accounts for 20 to 28% of all dog surrenders to shelters, and 36% of cat surrenders (Marston et al 2004; Alberthsen, 2014, 2016).
- Although 33% of Australians live in rented accommodation (ABS, 2016), only 4% of advertised rentals specifically allow pets (Danaher, 2016).
- Research led by Emeritus Professor Jacquie Rand, Executive Director and Chief Scientist from the Australian Pet Welfare Foundation shows that approximately 20,000 dogs and cats are euthanased in Australia each year because their owners could not find suitable rental accommodation (Alberthsen, 2014).
- In Queensland, we calculate 2,142 dogs and 4,127 cats are surrendered annually due to “no-pets” clauses in tenancy agreements. This results in the euthanasia of approximately 428 dogs and 1563 cats annually because their owners were unable to find pet-friendly accommodation (Chua et al 2013, Rand 2015). This unnecessary euthanasia of approximately 2,000 owned dogs and cats annually has adverse mental health effects on shelter and pound staff responsible for euthanasia, and results in unnecessary costs to municipalities and tax payers.
- Banning “no-pets” clauses in tenancy agreements would allow more pet owners to obtain rental accommodation, thus reducing the number of dogs and cats surrendered to shelters and pounds, and reduce the numbers euthanased. With the large percentage of the Australian public that own a pet, “no-pets” clauses adversely affect a very substantial proportion of renters. Given the close bond people have with their pets, with 88% saying they regard their pet as a family member (Franklin, 2006; Power 2015), “no-pets” clauses cause unnecessary distress to people seeking rental accommodation.

## 2. Community costs associated with “no pets” clauses

- The Animal Welfare League in South Australia estimates the cost of shelter care to be \$245/dog per week, and when additional costs of preventive and veterinary care are included, the average cost to rehome a dog after one week of care is \$1056 (AWL, 2016).
- The estimated cost for municipal councils of admitting, rehoming or euthanasing a dog ranges from \$250 to in excess of \$1000, and this cost may increase when external pound service providers are used (Darebin & Moreland City Council, 2015).
- Based on the average minimum cost of care in a pound or a shelter of \$1,000 for a dog and \$500 for a cat until it is adopted or euthanased, this results in an estimated unnecessary \$4.2 million of costs to municipalities and welfare agencies in Queensland annually as a result of “no-pets” clauses in tenancy agreements. These funds could be better spent on other community programs.
- Reducing intake into shelters and pounds is the most effective way to reduce euthanasia and costs to the community. In a US study, 98% of the decrease in euthanasia in shelters and pounds was accounted for by the decrease in intake (Marsh, 2010). Therefore, it behoves governments to focus more on decreasing intake, given this reduces both operational costs and euthanasia.
- In addition, “no-pets” clauses in tenancy agreements means that fewer homes are available to adopt pets from shelters and pounds, further contributing to unnecessary pet euthanasia.

**Banning “no pets” clauses in tenancy agreements is an important strategy to reduce council and community costs, and unnecessary euthanasia of pets.**

## 3. Lack of evidence that pet-owning tenants are more detrimental to landlords’ properties than non-pet owners

- Many landlords have a preconceived notion that pet owners cause more property damage than non-owners (Carlisle-Frank et al, 2005), and conclude that pet owners will be a financial burden. However, research conducted in USA demonstrates that pet owners stay twice as long, pay more rent and are no more likely to cause damage than non-pet owners. In contrast, renters with children cause an average of \$150 more damage per unit per year (Carlisle-Frank et al, 2005), yet in Queensland, it is illegal to discriminate against tenants with children (Anti-Discrimination Act Queensland, 1991).

The findings in USA are consistent with the experiences of First National in Australia. Stewart Bunn, a First National spokesperson stated that ‘what we observe is that pet owners generally sign longer leases and pay more rent’ (Quelch, 2015).

In summary, there is no evidence to support the notion that pet owners are a greater risk to cause property damage than non-pet owners, and there are many potential benefits from engaging with a high demand and financially rewarding pet-owning tenant’s market including less vacancy time and less costs for advertising (Carlisle-Frank et al, 2005).

**The inclusion of “no pets” in tenancy agreements clauses is based on the myth that pet owners cause more property damage than non-pet owners. This myth is not supported by research.**

#### **4. Community and health benefits**

Pet ownership in the community has well-documented physical, psychological and social benefits for individuals and the community as a whole (RSPCA, 2015, Franklin 2006, Power 2013, 2015). Pet ownership decreases loneliness and stress amongst elderly pet owners (Keil, 1998), improves community neighborhood interactions and relations (Power, 2013), and enhances the sense of community (Wood et al, 2007).

Pet ownership also results in health benefits to the community.

- For example, total health care savings associated with pet ownership were estimated at \$1.813 billion or 5% of Australia’s total health expenditure in 1999 (Headey, 1999).
- Pet owners have reduced doctors’ visits and reduced use of medication for high blood pressure, high cholesterol, sleeping difficulties, and heart problems (Headey, 1999). “No-pet” clauses means many renters miss out on the health benefits of pet ownership.

**“No pets” clauses reduce the health benefits to the community of pet ownership.**

## 5. “No-pets” clauses in tenancy agreements are a cause of human homelessness

Lack of pet-friendly accommodation increases human homelessness, as people on a low income have in some cases chosen to live on the street or in their car, rather than surrender their pet (Danaher, 2016). Being forced to choose between a beloved pet and having a home also has detrimental impacts on physical health and emotional well-being.

**Banning “no pets” clauses will mean renters are no longer faced with opting to be homeless instead of surrendering their pet.**

## 6. Adoption of Strata Scheme Reasoning from Victoria and Queensland

In a decision welcomed by the Tenants Union of Victoria (Tenants Union of Victoria, 2017), the Victorian Civil and Administrative Tribunal (VCAT) recently held that a body corporate ban on residents having pets was invalid (Owners Corporation SP24474 v Watkins, 2016). This was decided on the basis that the ban unfairly discriminated against pet owners and as such, could not be effective under the *Owners Corporations Act 2006*. Queensland’s Civil and Administrative Tribunal has also reached a similar decision, holding that blanket bans on pets in body corporate schemes are unreasonable (Brown 2016).

Although these cases were decided according to their specific facts and different legislation, the Australian Pet Welfare Foundation submits that the same reasoning from these cases should apply to tenancy agreements under the *Residential Tenancies 1997 Act (QLD)*. The reasoning is that although it is not unreasonable to expect the imposition of rules that ensure that pet ownership does not interfere with the right of neighboring owners and occupiers to use and enjoy their land, a blanket ban on pets living in rental properties unfairly discriminates against pet owners.

## 7. Tenant liability

The Australian Pet Welfare Foundation supports the approach presented by the Tenants’ Union of New South Wales in a similar submission to the NSW Government, that ‘companion animal ownership is fundamentally a matter of personal responsibility’. Subject to the law, ‘an individual should be free to choose to keep a companion animal ... and an individual who chooses to keep a companion animal should be liable for any costs or losses that arise from their keeping the animal’ (Tenants Union of New South Wales, 2016, McCarroll, 2016).

## Conclusion

In light of the substantial costs to municipalities and welfare agencies for managing surrendered pets as a result of “no-pets” clauses, and the loss of individual and community health benefits of pet ownership, the Queensland government should legislate against “no-pets” clauses, in the same way it is illegal to discriminate against tenants with children. Consent for pets on a case by case basis is also a form of discrimination and should be banned, as should discrimination based on dog size and breed because this is not based on scientific evidence.

If legislating against “no-pets” clauses is unsuccessful, an alternative that could be considered is taxing rental properties that do not allow pets. This could cover the costs for managing surrendered pets by shelters and pounds, and the loss of community health benefits, much the way that taxation is used on cigarettes to raise funds for medical costs subsequently incurred by smokers. This would provide an incentive for landlords to allow pets, and might be less contentious than mandatory anti-discrimination laws, but would be more difficult to enforce. Mandating against discrimination is preferred.

***In the words of Mahatma Gandhi, 'the greatness of a nation and its moral progress can be judged by the way its animals are treated'.***

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