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Community Support and Services Committee

CSSC@parliament.qld.gov.au**Animal Welfare League Qld Submission
regarding Renting with Pets reforms
in the two Bills simultaneously under review i.e.:**

- **Housing Legislation Amendment Bill 2021**
- **Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021**

Dear Community Support and Services Committee,

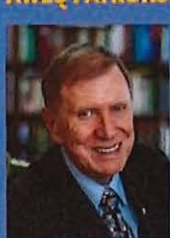
AWLQ has had an ongoing concern with the discrimination in the rental market and in body corporate situations against people who have pets as part of their family, which leads to insufficient pet-friendly accommodation. Nearly 36% of Queenslanders rent their homes, and are increasingly renting for longer periods. 84% of families either have, or would like to have, a pet i.e. 30% of Queenslanders who rent. Yet only 10% of Queensland's rental properties allow pets.

In 2019/20, 19% of surrendered cats and 25% of surrendered dogs (22% of all combined surrendered cats and dogs) to AWLQ in SE Qld were due to accommodation reasons. These included body corporate and landlord issues, inability to find pet friendly accommodation, moving or homelessness. These combined accommodation reasons were the 3rd highest reason for surrender of cats and 2nd highest reason for surrender of dogs. This proportion has not changed significantly since 2009/10.

In addition, comparisons of surrender data pre and post COVID show a 61% increase in surrenders due to body corporates' refusal to allow pets and a 32% increase in surrenders due to homelessness. Many people are homeless because they refuse to give up their pet. For example, in the past year, 51 animals were admitted to the AWLQ Emergency Boarding program due to the owner being homeless and not wanting to give up their pet. We have seen this increasing in the last few months with pet owners becoming homeless because they are unable to find pet-friendly accommodation or their rental house has been sold and they are unable to get back into the rental market.

It is inhumane to expect renters to give up their pets. Pets are considered their family. They are essential to their well-being and it is detrimental to their mental health to have to be separated from them. Often people's pets are their lifeline when they are struggling to cope with job and accommodation losses,





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and to lose their pet in difficult times due to a lack of supportive legislation, is unacceptable. With growing numbers of younger people and retirees who need to rent, many of whom are single and depend on a pet for company, along with the increase in pet surrender due to homelessness during COVID-19, **it is imperative to introduce legislation to protect vulnerable pet owners from discrimination.** The **Government's Housing Legislation Amendment Bill 2021 does not do that.**

We appreciate that both the Government's Housing Legislation Amendment Bill 2021 and the Residential Tenancies and Rooming Accommodation Bill are taking steps to address the issue.

However, we are very concerned that the **Qld Government's Housing Legislation Amendment Bill 2021** has not provided certainty, as the **Residential Tenancies and Rooming Accommodation Bill** does, that tenants are allowed to have a pet, provided they keep the pet responsibly and without nuisance.

While the **Government's Housing Legislation Amendment Bill 2021** has made it illegal to state "no pets allowed" and lessors must provide grounds for refusal or if they agree to pets, the conditions within 14 days, the **Government's Housing Legislation Amendment Bill 2021 is NOT going to alleviate the current situation for two reasons:**

1. The onus is still with the tenant to decide if the grounds the lessor provides for refusing their pet are appropriate or conditions for allowing the pet are appropriate, and to take action to argue their case when they are the less powerful party.

This is similar to the current Body Corporate situation. The Body Corporate Act states that: "A by-law must not be oppressive or unreasonable".

Even though body corporates should know and abide by the ruling that the Commissioner for Body Corporates has deemed it "unreasonable to have a 'no pets rule'" and that any decision should be made on the capacity of the tenant to provide adequate responsible care for the individual animal, this often does not occur.

From our experience supporting many tenants with pets, as well as pet owners who own their own homes in body corporate situations, many are not aware of the legislation or the Commissioner's ruling, and therefore feel powerless when body corporates refuse the keeping of their pet or impose conditions that are unfair. Many feel if they question the grounds for refusal, they may lose their accommodation.





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Research has shown that tenants feel powerless in negotiations with lessors, and feel discriminated against.¹ They often have to live in less desirable neighbourhoods and accept poor conditions in order to keep their pets, and often feel they have to hide their pets. This will continue if the Government's Housing Legislation Amendment Bill 2021 is passed in its current form.

Tenants usually lack sufficient knowledge of legislation and where to go to lodge a dispute or the confidence to argue their case. If the proposed Chapter 3 of the Housing Legislation Amendment Bill 2021 is passed, tenants will be in a similar powerless position often sufficiently intimidated by the situation that they move rather than argue their case. It can then be extremely difficult to find another place to live with their beloved pet.

Because of this power imbalance, AWLQ strongly believes that the legislation must allow tenants to keep pets and the onus should be on the landlord (or body corporate) to provide reasonable justification to an independent authority for refusing owners to keep particular pets. The property owner should only be able to refuse with approval from the Queensland Civil and Administrative Tribunal (QCAT) based on prescribed and fair grounds. **Similar legislation has already been introduced in Victoria and ACT.**

We therefore strongly support the proposal in the Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021 (Sections 221B and 221C) be accepted, which reflects the Victorian and ACT legislation i.e. that a tenant is allowed to keep a pet and when they apply to the lessor, if the lessor wants to exclude the pet, the lessor can apply to the Queensland Civil and Administration Tribunal (QCAT) for an order to exclude the pet based on reasonable grounds and conditions.

Tenants must be assured by legislation that they are allowed to keep their pets provided they do so responsibly. To protect lessors, tenants should be given the opportunity to demonstrate responsibility and be judged on their individual capacity to care for their particular pets.

2. Although the **Qld Government's Housing Legislation Amendment Bill 2021**, now includes specific grounds that the lessor can use to refuse a pet, these grounds are broad, which will continue to enable lessors to exclude pets without any redress e.g.

(a) keeping the pet would exceed a reasonable number of animals being kept at the premises

¹ Graham, T.M., Milaney, K.J., Adams, C.L., & Rock, M.J. "Pets Negotiable": How Do the Perspectives of Landlords and Property Owners Compare with those of Younger Tenants with Dogs? *Animals* 2018, 8, 32.



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How is "reasonable" to be decided? Lessors may make a random decision that for example only one animal can be kept, even though some animals are quieter and may be more contented and more easily kept if they have a second animal for company, depending on the circumstances.

(b) the premises are unsuitable for keeping the pet because of a lack of appropriate fencing, open space or another thing necessary to humanely accommodate the pet;

Tenants should be given an opportunity to provide appropriate temporary fencing e.g. dog fencing attached to the side of the house or cat netting around a deck area, which can easily be installed and removed at the end of the tenancy without damage to the property.

(c) keeping the pet is likely to cause damage to the premises or inclusions that could not practicably be repaired for a cost that is less than the amount of the rental bond for the premises;

This broad ground for exclusion of pets can be used as an excuse by any lessor and does not encourage lessors to assess the level of individual tenants' responsibility in caring for their particular pets, and the age, temperament and training of the particular pet. Some dog breeds are discriminated against as well as larger breeds, despite some larger breeds being quieter and calmer than some smaller breeds.

(d) keeping the pet would pose an unacceptable risk to the health and safety of a person, including, for example, because the pet is venomous;

This is a reasonable condition if an animal is dangerous or menacing (classified as such through local government laws) thus limiting a lessor or agent access to the property, or the lessor has allergies, for example, and is planning to move back into the property soon.

(e) keeping the pet would contravene a law;

This is reasonable.

(f) keeping the pet would contravene a body corporate by-law or park rule applying to the premises;

There is already confusion and misuse of body corporate laws which cause tenants to be excluded or have to move if they wish to acquire a pet. The body corporate legislation also needs revision to make it clear that a body corporate must assess each individual tenant's application to have a pet, based on their capacity to keep the pet without damage or nuisance.

(g) the tenant has not agreed to the reasonable conditions proposed by the lessor for approval to keep the pet





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The conditions in the **Government's Housing Legislation Amendment Bill 2021** are once again open to enabling blanket refusal. For example, the lessors approval for the tenant to keep a pet on the premises may be subject to conditions such as:

(a) if the pet is not a type of pet ordinarily kept inside—a condition requiring the pet to be kept outside at the premises;

Lessors may argue that cats or a certain dog breed should ordinarily be kept outside based on their own perceptions, not on the capacity of the tenant to care responsibly for the pet indoors. How can the tenant respond to this?

(b) if the pet is capable of carrying parasites that could infest the premises—a condition requiring the premises to be professionally fumigated at the end of the tenancy;

All cats and dogs are capable of carrying parasites. If this condition is imposed, tenants will have to pay for fumigation of the premises regardless of how careful they have been with regular flea and tick prevention to prevent the need for fumigation. This is unfair. Instead a condition could be that: *"the pet is treated to prevent parasite infestation"*. Lessors should be required to consider Individual responsibility in terms of use of parasite prevention, and/or references from previous tenancies. The clause could further be amended as follows: *"if the pet is carrying parasites or has infested the premises with parasites- a condition requiring the premises to be professionally fumigated at the end of the tenancy"*

(c) if the pet is allowed inside the premises—a condition requiring carpets in the premises to be professionally cleaned at the end of the tenancy.

This is a reasonable request as it is hard to keep fur and hair from cats and dogs from floor surfaces particularly if carpeted, and so this provides assurance to the lessor that the property will be thoroughly cleaned.

We appreciate that government needs to consider conflicting views of lessor and real estate bodies who argue against allowing tenants being allowed to have pets as the default position because they are fearful of damage to their properties. However, all tenants with pets or who seek to have a pet should not be grouped together as irresponsible and incapable of keeping pets without nuisance and damage to the property.

Many lessors currently state pets are not allowed without having tried allowing pets in their rental properties. A 2005 U.S. study found that 63% of landlords who cited concerns reported they have never permitted pets in their rental units and had never actually experienced the pet-related problems they stated as concerns. There was no statistically significant difference between the cost of





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damage for tenants with or without pets, although there was a difference between tenants with or without children.²

Lessors may also state pets are negotiable but have misconceptions about numbers and types of pets that can be responsibly kept. For example, some larger dog breeds are quieter and less destructive than smaller pets, yet they are often excluded. Several cats can be cared for indoors and with cat safe fencing attachments, that can be easily attached and removed by tenants from rental properties so that their animals can enjoy both indoors and outdoors and be kept without damage or nuisance.

Lessors already can ask for references from previous landlords regarding whether tenants are responsible. To help alleviate lessors' concerns, the Bill could require that owners provide pet resumes and references from previous lessors, vets, or other animal professionals who know the animal. If this is the first pet the tenant has had, a Pet Agreement can be created and tenants can be required to introduce their pet to lessors or their agents. Normal regular property checks can provide follow-up for reassurance. If landlords are not satisfied, they can then seek permission to refuse a pet on reasonable grounds through QCAT.

To encourage responsibility from owners, the Bill already makes it clear that the tenant is responsible for all nuisance, or damage to the premises. As well, rental bonds already exist to cover the cost of damage, and if damage is extensive, reasonable insurance cover for pets is also available to lessors. In addition, local government by-laws already exist to prevent and address nuisance issues with neighbours.

In Summary

The vast majority of people (85%) have, or want to have, a pet for companionship, safety, and physical and mental health benefits and out of care and compassion for animals.

Tenants should be able to keep pets as they are part of their family. Just as tenants have to show responsibility if they have children, and cannot be asked to relinquish their children due to increased potential for damage, tenants can be responsible with their pets, and can demonstrate they have shown responsibility both through their past tenancies, and current animal professional references and regular property inspections.

Landlords can protect their assets through requiring pet resumes, pet agreements, pet insurance and normal bonds; renters have little protection,

² Carlisle-Frank, P. Frank, J. & Nielsen L. Companion Animal Renters and Pet Friendly Housing in the U.S. The Foundation for Interdisciplinary Research and Education Promoting Animal Welfare, Inc, Williamstown MA





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currently battling to find somewhere to live with family pets which they rely on for companionship and comfort. They should never have to face a decision to relinquish a family member or be homeless.

Both Bills are aiming to provide more support for vulnerable tenants whilst supporting lessors who want to protect their assets and are facilitating the provision of accommodation.

However, the Government's Housing Legislation Amendment Bill will NOT achieve this due to the onus being on the most vulnerable and least powerful party, the tenant, to accept the landlord's grounds and conditions, or lodge a dispute process. Despite 90% of rental accommodation currently excluding pets, the grounds and conditions of lessors are not required to be scrutinized and determined reasonable by an independent party in the Government's Bill.

Since tenants are the more vulnerable group in this relationship between tenant and lessor, and can suffer far greater consequences, both physically and mentally, from being denied or having to give up a pet, it should be the lessors who have to provide reasonable grounds to an independent authority, to justify refusing a pet based on the individual case. This position has already been supported in legislation introduced in Victoria and ACT.

We therefore urge the Committee to support the Residential Tenancies and Rooming Accommodation Bill in making it clear that tenants are allowed to keep pets i.e. that a tenant is allowed to keep a pet and when they apply to the lessor, if the lessor wants to exclude the pet, the lessor can apply to the Queensland Civil and Administration Tribunal (QCAT) for an order to exclude the pet based on reasonable grounds and conditions.

Yours sincerely

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[Redacted signature area]

This submission is from an **incorporated state body** and is approved by the AWLQ Board:

Sue Spencer
President
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