

14 October 2022

Ms Cassie Jacobs
A/Senior Policy Advisor
Policy & Strategy
Better Regulation Division
Department of Customer Service

By email: StrataReview@customerservice.nsw.gov.au

Dear Ms Jacobs,

Strata Legislation Amendment Bill 2022

1. The joint signatories to this submission thank the Department of Customer Service for the opportunity to comment on the Strata Legislation Amendment Bill 2022. This joint submission is limited to the issue of pets and domestic and family violence and abuse. We refer to and continue to rely upon our joint submission to the Department of Customer Service in response to the Strata Schemes Management Amendment (Pets) Regulation, dated 5 July 2021.
2. Our organisations may make separate submissions regarding other aspects of the Bill.
3. We have previously raised the importance of pets for victim-survivors of domestic and family violence and abuse and the need for pets to have time and support to recover from trauma through amendments to the *Strata Schemes Management Act*. We note the NSW Government has recently announced plans to conduct a consultation on the keeping of pets in rental properties. While welcoming this, there are already clear steps the Government can take through this process of the Strata Legislation Amendment Bill. These recommendations should be implemented as part of this process rather than delayed.

By laws – Pets and domestic violence

4. We note and commend Minister Dominello's recognition of the difficulties faced by survivors with pets who are escaping domestic and family violence and abuse who find it difficult to secure alternative safe housing with their pets. Problems in relation to pets and housing for victim-survivors can persist beyond the securing of accommodation.
5. Without explicit recognition and guidance on how to support victim-survivors with animals through a period of recovery, many will – after overcoming the first hurdle and securing housing with an animal – face a second hurdle of being threatened with a restriction on their pet due to their pet's behaviour during the recovery period.

6. Companion animals are present in 70% of domestic abuse cases in Australia.¹ Where pets are present in the household, perpetrators of domestic and family violence and abuse often threaten or actually harm pets as a way to coerce or control their partners and children or to cause fear. Most victim-survivors of domestic and family violence and abuse, including animals, experience trauma as a result of the abuse and need time and safe housing to recover and heal.
7. During recovery, animals who have experienced violence and abuse may be particularly anxious and hypervigilant or act in other ways consistent with experiencing trauma. This may include:
 - a. persistent barking,
 - b. an animal repeatedly defecating or urinating on common property,
 - c. aggression towards males and other behaviour.
8. We have previously highlighted that animals subjected to domestic and family violence and abuse must be supported in their recovery from such abuse and it is important for the healing of both adult and children victim-survivors and animals that they can remain together through this healing process.²
9. Strata laws on the keeping of animals should recognise that traumatised pets may need time to recover from domestic and family violence and abuse. Further, pets provide important emotional support to human survivors just as human survivors can help their pets to recover from such abuse. There needs to be greater flexibility in the keeping of pets in the circumstances of the human survivor and pet escaping domestic and family violence and abuse.
10. The key issues are that the resident/pet owner recognises their pet's behaviour needs to improve and they are supported to take steps to rectify the behaviour of their traumatised pet.
11. It is important there is sufficient time allowed for the pet's behaviour to be rectified in circumstances of domestic violence or prior circumstances of domestic violence, noting that generally behaviour can be improved with time and care. This is why the emphasis should be on the resident/pet owner *taking steps* to rectify the pet's behaviour.
12. The current Bill is an opportunity to consider how best to ensure protections are provided to victim-survivors and that appropriate guidance is given to owners' corporations to consider circumstances of domestic violence, including domestic violence prior to entering a new property where an adult survivor has escaped domestic violence with their pets.

¹ Tong, L. as cited in Lyla Coorey & Carl Coorey-Ewings (2018) "Animal Victims of Domestic and Family Violence: Raising Youth Awareness", *Animal Studies Journal*, 7(1), pp. 1-40 accessed at: <https://ro.uow.edu.au/asj/vol7/iss1/2>

² Monique Dam and Christine McCaskill, (2020) *Animals and People Experiencing Domestic and Family Violence – How their safety and wellbeing are interconnected*, (DV NSW, Sydney) accessed at: <https://www.dvnsw.org.au/wp-content/uploads/2020/11/Nov-DVNSW-Report-on-Animals-and-People-Experiencing-Domestic-and-Family-Violence.pdf>

13. To achieve this, we recommend an amendment to Part 8 Division 3 of the *Strata Schemes Management Act* which includes a provision with words to the effect:

In considering orders to be made under this section the following shall be taken into account where relevant:

(i) any circumstances of domestic violence including prior circumstances of domestic violence experienced by the resident/pet owner; and

(ii) any steps taken by the resident/pet owner to rectify the problem; and/or

(iii) the emotional support the companion animal provides the resident/pet owner.

14. It is important that this amendment occurs in the Act rather than the regulation to give it greater prominence and make it easier for tenants to be aware of this protection.

15. We suggest guidance also be provided within the regulations that circumstances of domestic violence, including prior circumstances of domestic violence, should similarly be considered by the Owners Corporation when considering “*circumstances of unreasonable interference*”. This could include a provision within Clause 36A of the Strata Scheme Management Regulation 2016:

In considering whether the keeping of an animal unreasonably interferes with another occupant’s use and enjoyment of the occupant’s lot or the common property the following circumstances must be taken into account where relevant:

(i) any circumstances of domestic violence including prior circumstances of domestic violence experienced by the resident/pet owner;

(ii) any steps taken by the resident/pet owner to rectify the problem; and/or

(iii) the emotional support the companion animal provides the resident/pet owner.

16. The intention is that if a resident raises domestic violence these steps are followed, not that the Owners Corporation proactively asks all residents if they have experienced circumstances of domestic violence.

17. The inclusion of such a provision should be complemented by the adequate resourcing and provision of supports to rectify the pet’s behaviour referred to in Clause 36A.

18. The NSW Government should consider how best to provide such supports, for example through subsidising free or low-cost veterinary fees, and access to free or low-cost behavioural change/training classes for animals and other supports.

Amendments to Strata Schemes Management Amendment Regulation

19. We note we previously provided comments about the Strata Schemes Management Amendment (Pets) Regulation 2021 recommending the use of the term “persistently” rather than “repeatedly” in Clause 36A (b) and (c).

20. We question if “repeatedly” may be narrowly interpreted which is why we make this recommendation.

21. In the interests of clarity and procedural fairness, we continue to recommend the Owners Corporation be required to notify the resident/pet owner of the particular concern about the pet and the resident/pet owner be given reasonable time to take steps to rectify the issue.

22. To achieve this, at the end of the list of keeping of animals - circumstances of unreasonable interference at Clause 36A we support inclusion of words to the effect:

For the purposes of this clause the circumstances cannot be found to be unreasonable interference unless the Owners Corporation has given written notice of the problem to the pet owner and the pet owner has subsequently failed to take steps to rectify the problem within a reasonable period.

If you would like to discuss any aspect of this submission, please contact Liz Snell, Law Reform and Policy Coordinator, Women's Legal Service NSW on Ph: 02 8745 6900 or email: liz.snell@wlsnsw.org.au, Jemima Mowbray, Policy and Advocacy Co-ordinator, Tenants Union of NSW on Ph: 8117 3723 or Renata Field, Interim CEO, Domestic Violence NSW on 9698 9777.

Yours faithfully,

Domestic Violence NSW
Tenants' Union of NSW
Women's Legal Service NSW