

Select Committee on the Operation of Capital Gains Tax Discount



Submission, December 2025

Dear Chair and Committee Members,

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. We are a Community Legal Centre specialising in residential tenancy law and policy, and the main resourcing body for the state-wide network of Tenants Advice and Advocacy Services (TAASs) in New South Wales.

The TAAS network assists more than 35,000 tenants, land lease community residents, and other renters each year. We have long-standing expertise in renting law, policy and practice. The Tenants' Union NSW is a member of the National Association of Tenant Organisations (NATO), an unfunded federation of State and Territory-based Tenants' Unions and Tenant Advice Services across Australia. We are also a member of the International Union of Tenants.

We have a long-standing interest in reforms to the capital gains tax settings for a fairer, more stable renting experience.

For more information regarding this submission, please contact Leo Patterson Ross, CEO or Eloise Parrab, Policy and Advocacy Manager.

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Recommendations

1. Ensure the tax treatment of property ownership, including for investment purposes, aligns with community expectations for residential occupation of housing to be stable, long-term and affordable for occupiers.

2. In particular, remove capital gains tax discounts and other tax settings which incentivise owner behaviour away from providing stability of tenure for renters or prioritise the financial treatment of housing above its usage.

- a. The Capital Gains Tax Discount should be reduced by 5% each year for 10 years until it is removed and indexation adjustment reinstated for capital gains tax through transition.
- b. Negative gearing reform should be considered if other recommendations are not followed.
- c. Interaction with state property taxes - such as land tax and stamp duty - should be considered with reference to incentives geared towards long-term residential availability and stability rather than empty, underused or commercial use of residential dwelling.

3. Revise lending practice standards to ensure loans take proper consideration of costs and risks of owning property for investment purposes, including loans which facilitate an over-reliance on future (tax-free or reduced) capital growth at the cost of occupants' stability, health.

4. Re-direct expenditure previously funding tax discounts towards:

- a. funding gold standard energy-efficient public and community housing to meet existing and projected unmet need,
- b. funding work to
 - i. ensure compliance with the Better Deal for Renters by State and Territory Governments and
 - ii. revise the Better Deal towards ensuring stable, long-term and affordable housing,
- c. ensuring funding of local tenants advice and advocacy services in each jurisdiction meets the needs of each population and the National Association of Renters' Organisations to provide national coordination and expertise to support and engage with renters experience of federal housing issues.

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Negative impacts of the capital gains tax discount

We have seen first hand the inequality of our housing system and the negative impact the capital gains tax discount has on housing affordability. Our current tax system and in particular capital gains tax discounts and their interaction with negative gearing has contributed to that inequality.

Both tax settings encourage speculation in housing investment which impact the cost of buying a property, for owner occupiers and for investors. Most concerning to us is the flow on impact it has on both rental prices and the quality of the housing experience.

Tax settings and lending practices have facilitated an ability to borrow large amounts of money and contribute to fast-rising property purchase prices. The capital gains tax discount, particularly in conjunction with negative gearing, has made highly leveraged property investment method a viable and attractive option. This increases purchase prices for both investors and owner occupiers, which further embeds highly leveraged investments as not only a normal but for many, a required, route to ownership.

For investors these tax settings have encouraged groups of people to either purchase property with the intention to lease it out, or retain property which they either previously occupied or inherited and lease it out, without necessarily engaging with the responsibilities that come with facilitating, for money, a home for another household. Their attention is instead dominated by the potential financial return - significantly increased through the capital gains tax discount.

Table A: Property return v equity return

Portfolio	100% equity (without debt financing)	20% Equity (with debt financing)
Initial capital (deposit)	\$1,000,000	\$200,000
Debt amount	\$0	\$800,000
Remaining equity after the sale of the property	\$1,100,000	\$300,000
Net income in Year 1	\$30,000	\$30,000
Interest expenses	\$0	\$40,000
Net income in Year 1 after the interest expenses	\$30,000	-\$10,000
Return	13%	45%

Source: Lee (2017)

The ability to borrow large sums of money creates a higher potential return on investment than monitoring sale prices ordinarily indicate. Assoc. Professor Dr Chyi Lin Lee demonstrated the difference between return on equity rather than property, that is with and without debt financing, and its impact on further investment.¹

¹ Lee, Chyi Lin (2017) *Investors are exploiting returns on debt financing to muscle out home buyers*, The Conversation. Accessed at <https://theconversation.com/investors-are-exploiting-returns-on-debt-financing-to-muscle-out-home-buyers-77402>

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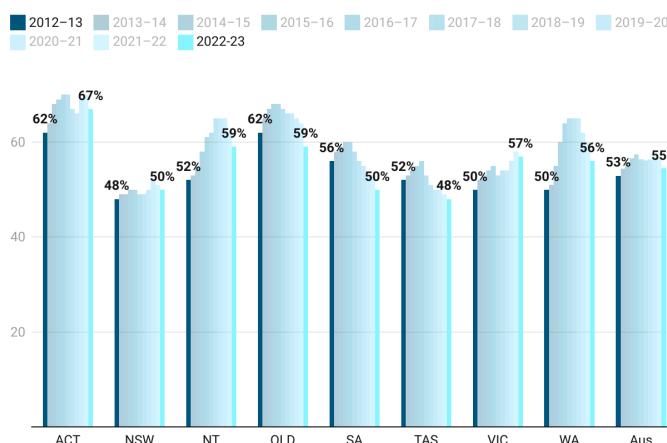
The Australian Tax Office publishes taxation statistics which demonstrate the issue (Graph A).² The most recent data for 2022-23 shows that as a proportion of rent collected, excluding interest payments and borrowing expenses (such as bank fees), landlords' operational costs are easily covered by the rent. Operational costs here include everything from repairs and maintenance items, property management fees, land taxes and council rates, and insurance. Just over one in every two dollars received in rent being spent on these costs.

Across Australia, the proportion moved from 53% in 2012-2013 to 55% of rent collected in 2022-23. The proportion has been relatively consistent within state and territories over 10 years, though there has been variation in the trend between states.

It is therefore borrowing costs, which we suggest are both a result and a cause of high property prices, that are a burden on income from the property (Graph B). Across Australia, \$213 billion has been reported in loan costs in the most recent 10 years of tax statistics which represents 47% of the rent collected in this time. In 2022-23 we can see that 44% of all rent collected - down from 63%

Graph A

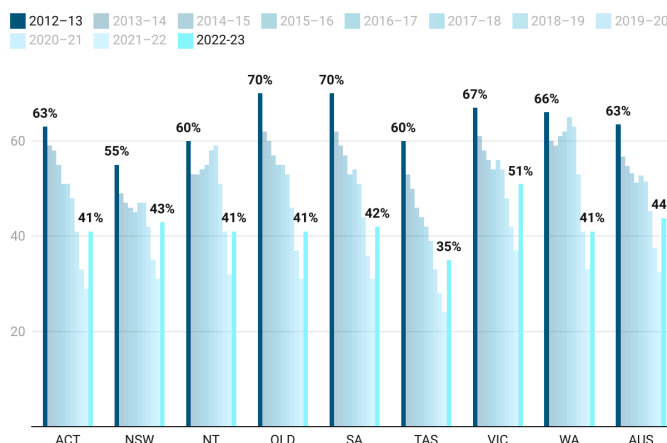
Landlord costs excluding loans, as a proportion of rent received



Source: ATO (2025), authors' own calculations

Graph B

Landlord loan costs as a proportion of rent received



Source: ATO (2025), authors' own calculations

² Australian Tax Office, (2025), *Individuals statistics for Taxation statistics 2022-23. Detailed Table 26: Rental property schedule items, by state/territory of property and net rent position, 2012-13 to 2022-23 income years*. Accessed at: <https://data.gov.au/data/dataset/03326c3f-c0d3-4af4-afc7-c6ccc0a02223/resource/348ce605-5c2b-45fe-a862-b4c77923288b/download/ts23individual26rentalpropertieschedules.xls>

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in 2012-13, however we know that subsequent years saw significant increases in interest rates and the historic average is likely to return.

Recent research conducted by CPRC highlights the mismatch of knowledge and practice by landlords with 26% of landlords (all Victorian based) reporting spending less than \$500 per year on maintenance costs, 50% reporting spending less than \$1500 per year.³ This aligns with the taxation statistics which indicate an average spend of \$1288 per year (likely a lower number due to double-counting of properties changing hands in each year).

The housing affordability crisis in Australia is hitting renters with many in the lowest 40% of household incomes living in housing stress and paying well over 30% of their income in rent. The capital gains tax discount disproportionately benefits higher income earners in Australia. The greater the number of properties and the higher ones income the greater benefits of capital gains tax discounts.⁴

Housing is being used as a tool to generate wealth with significant support from the current tax system to the detriment of housing being viewed as a human right and an essential service. The tax incentives in our housing system are increasing inequality in our communities in a number of ways. The presence of debt-financed housing investors on a large scale is a potential source of instability in the housing market.⁵ In our current system investors are encouraged to borrow money to invest in property as a leveraged investment will result in a higher capital gain where the growth in property prices exceeds the interest rate. This can also encourage people to over leverage and when interest rate rises it can create instability for renters who are renting these homes. This places further pressure on owner-occupiers as well.

Over the last fifteen years, the amount of money borrowed and spent on housing has increased hugely. This speculative spending has inflated house prices and priced out many would-be owner-occupiers so they are renting longer. It has also distorted the shape of the rental market, with more high-value, high-rent stock being brought into the rental sector, and low-cost, low-rent properties dropping out and becoming scarcer and less cheap.⁶

³ Consumer Policy Research Centre (2025) *Renting in Reality – Insights from Victorian landlords*, October 2025

⁴ Daley, J., Wood, D., and Parsonage, H. (2016) *Hot property: negative gearing and capital gains tax reform*, Grattan Institute

⁵ Duncan, A.S., Hodgson, H., Minas, J., Ong-Viforj, R. and Seymour, R. (2018) *The income tax treatment of housing assets: an assessment of proposed reform arrangements*, AHURI Final Report No. 295, Australian Housing and Urban Research Institute, Melbourne, <http://www.ahuri.edu.au/research/final-reports/295>, doi: 10.18408/ahuri-8111101.

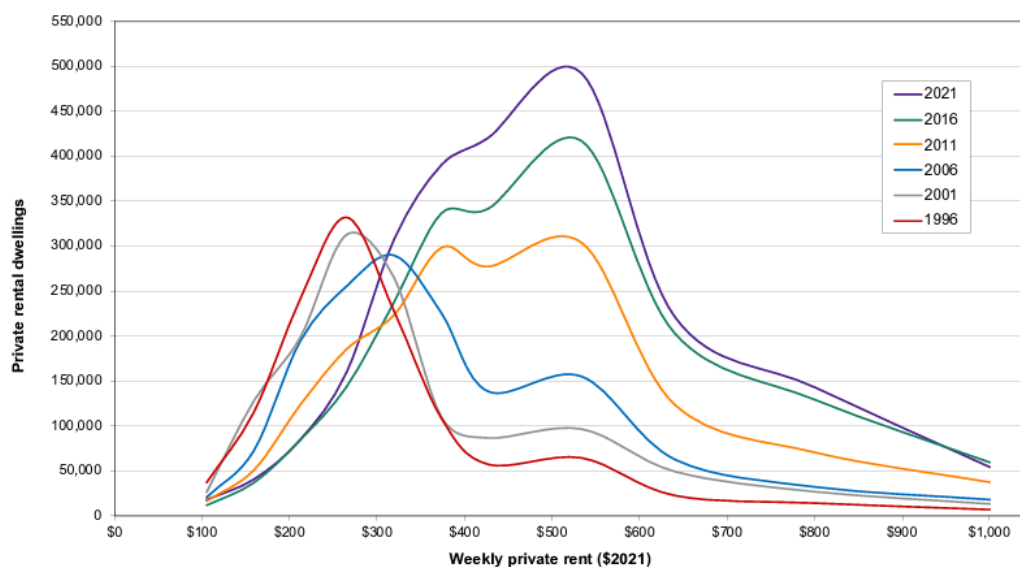
⁶ Reynolds, M., Parkinson, S., De Vries, J and Hulse, K. (2024) *Affordable private rental supply and demand: short-term disruption (2016–2021) and longer-term structural change (1996–2021)*, AHURI Final Report No. 416, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/finalreports/416>, doi: 10.18408/ahuri5128501.

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Reynolds et al. demonstrate from census data the significant loss of rents equivalent to \$300 or less evident in 1996 and 2001, and the growth in rents equivalent to \$500 per week or more.

Table B:

Figure 8: Distributions of private rental dwellings by weekly rent paid, Australia, 1996, 2001, 2006, 2011, 2016 and 2021



Note: Derived from 12 rent categories established for the 1996–2001 analysis that have been updated to 2021 dollars enabling real changes in the profile of rents paid to be evident.

Source: ABS customised matrices derived from the Australian Census of Population and Housing 1996, 2001, 2006, 2011, 2016 and 2021.

Assisting owner occupiers is the stated aim of all parties of government in Australia. Reducing capital gains tax discount and making changes to negative gearing would assist in reducing the number of people competing in the property market and open the way for prospective owner occupiers to purchase a home. House prices in Australia have risen faster than incomes for several decades and the tax discounts primarily facilitate trading in existing homes rather than either incentivising new market supply, or funding directly the supply of public and community homes. The added revenue from reducing the capital gains tax discounts and negative gearing could be spent on building or buying dwellings to be used as public and community housing which will significantly improve rental affordability in the private rental market. ACOSS reported that for a few years now annual revenue foregone from the tax breaks for investment property has been greater than annual federal expenditure on all other housing assistance combined.⁷ At a time where we have an increasing housing affordability crisis this highlights the disconnection between our tax

⁷ Davidson, P and Hall, J (2025), *Homes for living, not wealth creation: Tax and expenditure reforms to improve housing affordability and equity*, ACOSS, Sydney.

policies and the need for everyone to have a home. Responsible governance requires shifting priorities and focus to reducing housing inequality and improving housing affordability.

Adding to the interference in the rental market, these settings directly impact long-term tenure. The capital gains tax discount '6 year absence' rule encourages landlords to sell property or move back in at specific times to maximise the tax discounts.⁸ Properties where owner occupiers lived and then rented out can be sold or the owner can move back in before the 6 year mark to maintain a 100% discount in capital gains tax. This particularly interacts with the popularity of first home owner grants and subsidies which have often set a requirement for only a brief period of occupation before the property can be leased out and the 6 year rule begins, setting a timer for the renters.

The discount in itself does not encourage landlords to sell or move back into their property at a particular time but this rule means that landlords are pushed to change their behaviour i.e. to sell or occupy at a set time. In Martin et al. 50% of investors listed as 'very important' in their decision-making that felt it was a good time to 'realise capital gains on the property' - the highest factor rated as 'very important'.⁹ This impetus to sell or move back in and the state of our current rental laws means that tenants can be issued a termination notice when the landlord is selling their property or moving back in to reset the capital gains tax exemption. There is no taking into account the circumstances or needs of the tenant. The primary factor at play is maximising profit from the sale of the property and reducing capital gains tax.

Research examining the mental health and wellbeing of renters found that housing insecurity has an impact on a renter's mental health. The study was undertaken over 20 years and found that a renter needs to live in a home for 5- 6 years to have the same mental health stability as that of an owner-occupier. Prior to the 5-6 year mark renters have poorer mental health outcomes than owner-occupiers.¹⁰ The incentives in capital gains tax treatment that encourages shorter holding periods directly impacts renters' ability to sustain a home for this minimum period. Martin et al. demonstrated that from 2000 to 2015, the number of properties still in the rental sector after 5 year increments had dropped dramatically. In

⁸ Australian Tax Office (2025) *Treating former home as main residence*. Accessed 18th December 2025 at

<https://www.ato.gov.au/individuals-and-families/investments-and-assets/capital-gains-tax/property-and-capital-gains-tax/your-main-residence-home/treating-former-home-as-main-residence>

⁹ Martin, C., Hulse, K., Ghasri, M., Ralston, L., Crommelin, L., Goodall, Z., Parkinson, S. and O'Brien Webb, E. (2022) *Regulation of residential tenancies and impacts on investment*, AHURI Final Report No. 391, Australian Housing and Urban Research Institute Limited, Melbourne, <https://www.ahuri.edu.au/research/finalreports/391>, doi: 10.18408/ahuri7124801.

¹⁰ Ang Li, E Baker and R Bentley (2022) *Understanding the mental health effects of instability in the private rental sector: A longitudinal analysis of a national cohort* <https://www.sciencedirect.com/science/article/abs/pii/S0277953622000818?via%3Dihub> (accessed 28 August 2025)

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Sydney, of properties entering the rental sector in 2000 46% remained after 20 years. Of those entering the rental sector in 2015, a similar proportion (45.3%) remained after just 5 years.

Table C:

Table 1: Properties no longer in the PRS, Sydney and Melbourne, 2000–20

No longer in the PRS	First observed			
	Q1 2000 %	Q1 2005 %	Q1 2010 %	Q1 2015 %
Sydney				
5 years later	31.7	53.8	63.2	54.7
10 years later	43.7	68.6	77.7	
15 years later	48.6	75.3		
20 years later	54.0			
Melbourne				
5 years later	42.4	49.3	49.3	51.4
10 years later	51.8	58.4	65.4	
15 years later	56.6	66.8		
20 years later	65.4			

Source: The authors' calculations, based on special request NSW and Victorian rental bonds data.

The capital gains tax discount and negative gearing also impacts rental affordability in the private rental market. Negatively geared landlords favour more expensive properties with greater prospects for high capital gains. Properties at the affordable end of the rental market have been in steady decline over the last decade or so, while the number of properties for rent at higher prices continues to grow, because of the type of investments landlords are encouraged to make.

The total exemption for owner-occupiers to pay any capital gains tax should also be closely examined. This exemption also contributes to inequality in Australia. It provides special treatment to those who are able to buy a property, or whose ancestors were able to, to generate wealth and those who rent are not provided sufficient special treatment to assist them in the same way. Full capital gains tax exemptions for primary residences raise the life cycle return to investment in housing assets and therefore increases demand and has implications for housing affordability and access.¹¹ In the first instance consideration should be given to making very high-value owner-occupied housing subject to capital gains tax.

¹¹ Nygaard, Christian (2025) *Is Housing Supply an Effective Remedy for Australia's House Price Affordability Trend?* City Futures Research Centre, UNSW Sydney

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If the reduction of capital gains tax discount causes some investors to change their minds and decide to exit the housing market and sell their investment property then the Government should be willing to buy the housing and convert it to public and community housing. This leads to a faster result in increasing supply of public and community housing than building new homes.

Reform options

The most common reform option, suggested by bodies such as ACOSS, Grattan Institute, and National Shelter is to reduce the Capital Gains Tax discount to 25%.¹² The intention behind choosing this level is generally to allow for a simplified calculation of indexation. However, this simplified approach risks a continuation of encouraging short-term investment, because the benefit of the deduction is significantly weighted towards holding property for less than 10 years.

Holding period	5 years	10 years	15 years	20 years
Effective indexation rate at 25% CGT discount	5%	2.5%	1.67%	1.25%

For this reason, it may be preferable to transition back to an actual indexation rate in which holding period will be neutral (all else being equal).

Benefits of reducing capital gains tax discount and negative gearing

The benefits of implementing our recommendations include facilitating a rental system which delivers on its purpose - homes. They do this through facilitating an approach to property investment that aligns with the community need for housing, rather than working against community need, and provides additional revenue for government to directly invest for increased availability of genuinely affordable homes.

Reducing the capital gains tax discount would encourage landlords towards longer rental periods which improves security of tenure for renters. Reducing speculation on rental properties shifts the focus to a regular stream of rental income away from quick capital gains. Therefore the removal of tax incentives to make quick capital gains by selling

¹² Daley, J., Wood, D., and Parsonage, H. (2016) *Hot property: negative gearing and capital gains tax reform*, Grattan Institute

Davidson, P and Hall, J (2025), *Homes for living, not wealth creation: Tax and expenditure reforms to improve housing affordability and equity*, ACOSS, Sydney.

National Shelter (2021) *Briefing Paper 5: Tax settings relating to housing in Australia*, National Shelter

investment properties can have other benefits aside from the additional revenue that is generated.

The additional revenue raised from reforms to capital gains tax discount and negative gearing could fund direct expenditure on public and community housing which will help address unmet housing need in Australia. Increasing public and community housing also improves housing affordability and security of tenure, along with other important benefits, especially for people on low incomes. A robust and healthy social housing system eases pressure on the private rental market. To ensure any new public and community housing meets the current and future needs of the population homes must be gold standard and energy efficient.

The Tenants' Union of NSW also recommends that the additional revenue raised be directed to implementing mechanisms to incentivise States and Territories to implement the nine principles outlined in the Better Deal for Renters. It's been over 2 years since the Better Deal was released by the National Cabinet and in order to ensure that there is consistency in the tenancy experience across Australia national coordination is required and transparency around engagement in this process.¹³

Additional revenue should also be directed to ensure renters across Australia have access to high quality tenancy advocacy advice and assistance. Tenancy Advice and Advocacy Services have demonstrated they are effective at sustaining tenancies, reducing evictions directly into homelessness, and reducing debts. Resourcing of services across Australia has not kept pace with the growth in the number of residential tenancies and the growth in the number of disadvantaged households in the rental market whose tenancies are especially precarious. There is also very limited resourcing provided to housing advocates with experience and expertise in residential tenancy systems to take part in consultation and conversations and ensure renters' voices are heard, in particular at the national level.

Regulation of banking and other financial institutions also received little to no attention, despite lending practices having contributed to the current crises where some investors are or feel unable to meet their contractual obligations, or entertain the idea of renting rules changing because of the size of their loans. It appears likely that many people have borrowed significant sums of money to access an investment without being advised of the likelihood of interest rate rises. Banking practices, primarily loans, and investment advice must also be made and regulated appropriate with the provision of an essential service.

¹³ National Association of Renters' Organisations (2025) *The Rental Report: a 2 year performance report on the progress of a Better Deal for Renters*. Accessed 18th December 2025 at <https://www.tenants.org.au/reports/two-year-performance-report-progress-better-deal-renters>