Improving NSW Rental Laws Consultation Paper
Property Investors Council of Australia Submission

New Rental Laws in the Consultation Paper Noted

- *amend a landlord's ability to end a lease without a reason,*
- *make it easier for renters to have pets,*
- *increase protections for renters' personal information, and*
- *design of the portable rental bond scheme.*
- *collecting more timely data about rent increases and making this publicly available,*
- *strengthening existing limits on rent increases,*
- *telling renters about a rental property's use of embedded networks,*
- *strengthening laws about free ways to pay rent, and*
- *considering how automated decision making may unfairly affect renters.*

We welcome opportunity to provide evidence-based insights and feedback on behalf of the nation's 2.2 million everyday investment property owners who are private landlords providing rental accommodation to 90% of renters.

PICA is pleased to have the opportunity to provide relevant and important feedback in this submission into the current rental market in Australia.

Engaging in evidence based constructive dialogue in the interests of improving the current rental accommodation situation is just as much in the interests of Australia's investment property owners, as it is the renters and more broadly the economic and social interest of this great country.

For property investors, ownership of a property asset is akin to running a small business, with equivalency in decisions around managing that asset to deliver an adequate investment return in concert with their overall investment goals and financial wellbeing. Note most property investors invest in this asset class to become self-funded retirees and not a burden on the government.

Introduction:

The Property Investors Council of Australia (PICA) is the peak not-for-profit body representing the nation's 2.2 million property investors.

We provide this submission as a direct voice for the majority of rental property owners, both living and investing in NSW property, for the consideration in relation to the rental market.

About Property Investor Council of Australia (PICA)

We have a dual purpose: 'Advocate & Educate.'

1. Ensure our property investors are informed and educated with their investment decisions, whilst avoid financial risks and pitfalls, when providing tenants with safe and quiet enjoyment to the property asset.

2. Help inform and educate government, regulators, and the public about the positive social and economic impact these investors have on the communities in which they provide important accommodation. Without this supply of short- and long-term accommodation by these owners, no town or city would form, develop, or continue to grow, to reach their full potential of serving the people who choose to reside within them.

How Did We Get There?

There is a mix of reasons why NSW currently finds itself in a challenging rental environment.
It is clear in the data that respective NSW Governments have failed to invest in the adequate supply of social and public housing spanning some decades.

Looking at the shorter-term factors our evidence points to the following summarised reasons which have resulted in decreased rental property volumes across NSW.

- Higher interest rates, forcing the sale of investment properties, as these increased costs are shouldered primarily by the investor and not the tenant,
- APRA's macro-prudential lending restrictions introduced from 2014 and targeted primarily at investors, has resulted in investors now paying higher interest rates for investor loans compared to owner occupier loans,
- The introduction in NSW of new tenancy law reforms in March 2020 has resulted in increased costs,
- The increasing costs of insurance premiums which continue to escalate substantially year on year,
- Other states having more competitive investment cost bases (lower stamp duties and land tax) has seen property investors buy in other jurisdiction instead of NSW for the time being,
- Federal Liberal Government changes to Depreciation and Travel expense claims for property investors which has reduced ability to claim legitimate expenses in running these investments,
- An increase in investors switching properties over to short-term accommodation to help recovery increase cost or avoid new 'restrictive' tenancy reforms,
- Compelling evidence of investors currently selling up and the risk of this divestment accelerating, given the lack of certainty about the future property investment landscape and property marketplace, both looking forward, but also the retrospective impacts on their investments,
- A risk of further intervention, such as the proposed removing 'no grounds' termination, rental increase caps or longer rental freezes, which all would have a material impact on property investors.

The appointment of the *'Rental Commissioner as an advocate for renters' rights'* is welcome however this needs to encompass the landlords' rights too as 90% provide private rental housing to renters across our country.

Acknowledgement

PICA fully recognises and appreciates there are people within NSW residing in private rental accommodation and higher rents for these tenants makes for a very challenging and difficult scenario at present.

During Covid, property investors who owned property in NSW, and right across Australia for that matter, demonstrated their commitment to tenants during this unprecedented time, accepting the moratorium on evictions and in thousands of demonstrated cases, and offering up reduced rents during this period. All this was done at a financial loss borne by our investors who themselves where challenged during this unprecedented period.

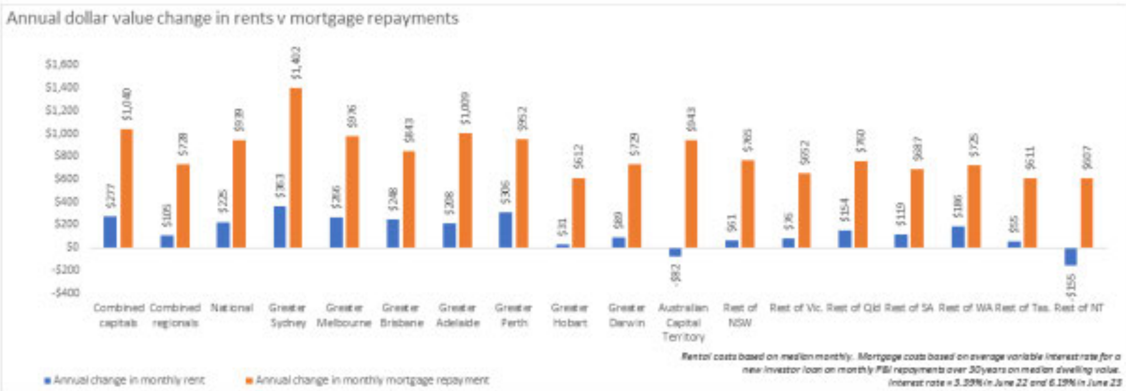
Unsustainable Costs for Many

Property owners invest hundreds of thousands of dollars via savings and borrowings, to make these significant investments in real estate. With extremely high entry costs (including stamp duty) and on-going holding costs, namely mortgage repayments & insurances and taxes, the return-on-investment results occur over a gradual time period. With this understanding, any property investment purchase is made with a long-term investment horizon to accommodate for the 'risk-adjusted' returns versus the opportunity costs of an alternative investment available to them, with their money and their time.

As highlighted in the summary above, with the 12 (to date) increases in the cash rate, inflation and the introduction of higher regulatory compliance costs, along with insurance premiums, increased ongoing operating costs have put many property investors in very difficult financial situations.

The impact of higher holding costs

The biggest cost challenge for most property investors over the past 12 to 15 months has been the rapid increase in mortgage payments. The following chart from CoreLogic shows the comparison between increased holding costs for the owner and the increased rental costs being passed onto the tenant (when contractually and legally available to the owner and supported by market forces) across all capital cities and rest of state.



By way of a simple yet powerful example:

A typical $400,000 outstanding mortgage on an investment property has, at the time of preparing this submission, seen an interest rate increase of 400 basis points since May 2022.
This has resulted in an increase of $16,000 over a 12-month period in interest costs alone. If that same property saw a rent increase of $100 per week over this 12-month period ($5,200), this reflects an interest cost increase recovery of just 32.5%, leaving the property owner to cover the additional $10,800.
Money they either need to find from their existing family budget. If they can't find it, they may be forced to sell the property, thus reducing the available rental stock pool further.

The outcome is property owner are carrying the majority of the increased cost burden and it's certainly not the case that property owners are profiteering from renters.

Most investors are trying to do what they can to keep rental supply available. There is no profiteering happening for most when costs are blowing out. Our own investigations have yet to uncover any materially significant or systemic price gouging or profiteering of renters by these small business property investors.

Regulatory Changes Will Have Direct Impact on Future Supply

Property investors are becoming more suspicious and concerned about the increased level of government and regulatory intervention occurring at both the Federal and State levels and, as such, many have changed their decision to invest in Australian residential real estate.

It’s our confident view that political and regulatory interference in the marketplace is having a direct and meaningful impact on the current and future supply of rental accommodation in the state of NSW.

Compelling evidence of property investors exiting the market

It is clear there is a direct connection between this series of Government/s and Regulator interventions in terms of the number of willing small business property owners to remain invested in private rental accommodation, as evidenced by the examples shown below.

Example 1: ATO Data - Individuals with Rental Property Income

Year	Individuals	# Previous Yr. Chang	% Pervious Yr. Change			
2011/12	1,854,519	88,639	5.02%			
2012/13	1,942,339	87,820	4.74%			
2013/14	2,010,923	68,584	3.53%			
2014/15	2,051,517	40,594	2.02%	5 Yr Avg		
2015/16	2,097,382	45,865	2.24%	66,300		
2016/17	2,156,319	58,937	2.81%			
2017/18	2,207,893	51,574	2.39%			
2018/19	2,227,174	19,281	0.87%			
2019/20	2,226,841	-333	-0.01%	5 Yr Avg	Var #	Var %
2020/21	2,245,539	18,698	0.84%	29,631	-36,669	-55.3%

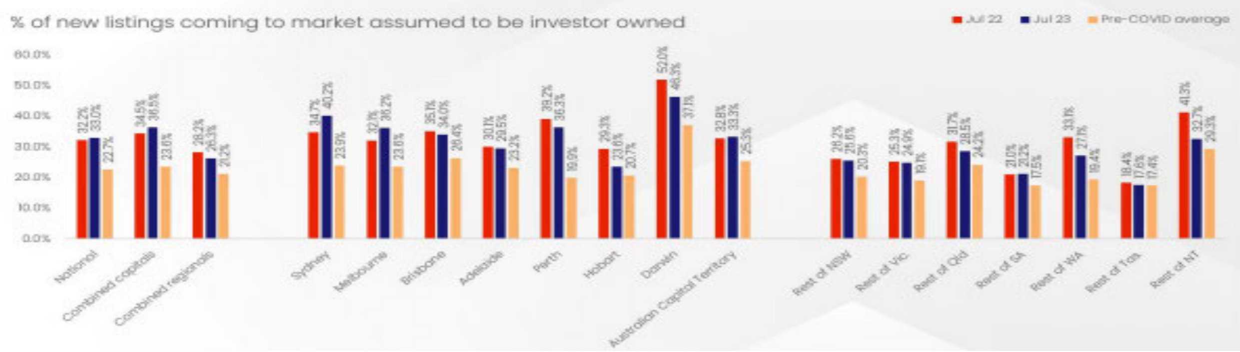
Source: ATO

Individual investors numbers are slowing, as the impact of actual market interference or threatened market interventions, are seeing less investors choosing rental property as one of their preferred investment options. These slowing investor numbers in concert with other ATO data, which also shows that 71.5% own one investment property and a further 18.8% own two, is resulting in the number of investors and overall stock levels falling below growing demand for rental properties. All while our population continues to increase.

Example 2: CoreLogic Data – Diminishing Stock of Rental Supply

Even despite what economists and commentators would say are improving investment property market conditions, this recent chart from CoreLogic provides further evidence of the diminishing stock of rental properties across Australia, as more investors sell up on the back of the key reasons we have set out in this submission.

This selling trend right across Australia must be a wake-up call for Governments, politicians, and regulators that their actions are having an impact on tightening supply.



Example 3: Victorian Tenancy Reforms

In March 2021 Victorian Government introduced the most aggressive rental reforms of any state or territory – 133 changes. Some were welcomed by property investors, but some changes were very strongly opposed ***including the removing the 'no grounds' termination*** which saw property investors report their very serious concerns about losing control of their own asset.

The Victorian Labor Government was warned this would result in some investors selling up and less future investment in private rental accommodation in Victoria or a switch to short term rental accommodation – the trending data now supports this outcome based on the latest Bond Registration which are detailed in the table below.

Date	Count	Qtrly %		Annual %	
Jun-16	562151	0.61%		4.51%	
Sep-16	569950	1.39%		4.82%	
Dec-16	575442	0.96%		5.00%	
Mar-17	585559	1.76%		4.80%	
Jun-17	589897	0.74%		4.94%	
Sep-17	596895	1.19%		4.73%	
Dec-17	601438	0.76%		4.52%	
Mar-18	608763	1.22%		3.96%	
Jun-18	611057	0.38%		3.59%	
Sep-18	616635	0.91%		3.31%	
Dec-18	619172	0.41%		2.95%	
Mar-19	627822	1.40%		3.13%	
Jun-19	631708	0.62%		3.38%	
Sep-19	637769	0.96%		3.43%	
Dec-19	640057	0.36%		3.37%	
Mar-20	645579	0.86%		2.83%	
Jun-20	643222	-0.37%		1.82%	
Sep-20	638471	-0.74%		0.11%	
Dec-20	642314	0.60%	Avg. Qtrly % Last 5 Years until March '21	0.35%	Avg. Annual % Last 5 Years until March '21
Mar-21	645256	0.46%	0.72%	-0.05%	3.27%
Jun-21	645480	0.03%		0.35%	
Sep-21	642498	-0.46%		0.63%	
Dec-21	647088	0.71%		0.74%	
Mar-22	655685	1.33%		1.62%	
Jun-22	657731	0.31%		1.90%	
Sep-22	664820	1.08%		3.47%	
Dec-22	666731	0.29%	Simple Avg. Since tenancy Reforms (June '21 - March '23)	3.04%	Simple Avg. Since tenancy Reforms (June '21 - March '23)
Mar-23	666237	-0.07%	0.40%	1.61%	1.67%
			Avg. Qtrly % Long Term Avg: (March '99 - March '21)		Avg. Annual % Long Term Avg: (March '99 - March '21)
			1.09%		4.22%

Source: 'dataset/rental-report-quarterly-data-tables

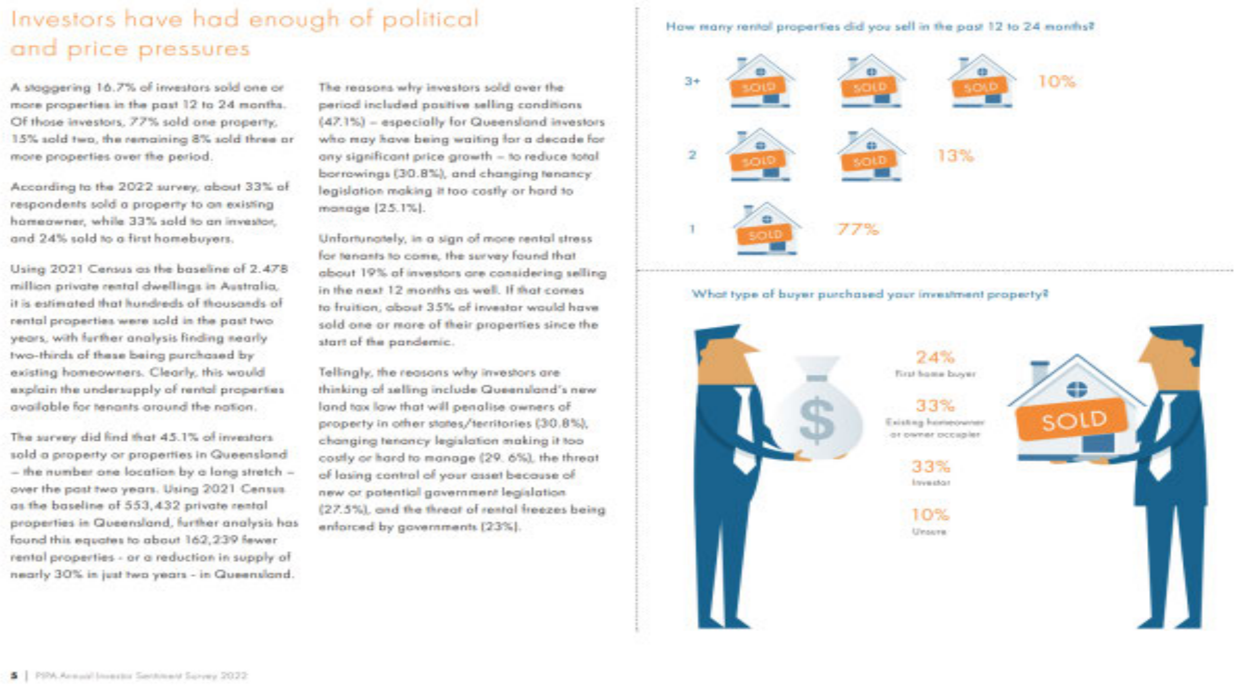
We expect the exodus of property investors to continue in Victoria, as they look for more property-investor-friendly states or territories to invest in (or alternate investments outside of residential property altogether).

The Victorian experience should be a warning to government in NSW.

Example 4: Voice of the Investor – Why they are selling?

The feedback was clear in a survey of property investors performed by the Property Investment Professionals of Australia (PIPA) Annual Property Investor Sentiment Survey in 2022 (8th Annual), which revealed that 25.1% of respondents cited changing tenancy legislation as a reason for selling their investment property in the last 12 to 24 months, stating that it had become too costly or difficult to manage.

Many others mentioned the loss of control over their property and increased compliance costs. Whilst this is a national survey, these changes are being felt across the NSW market as investors explore other markets or asset classes in response to growing administrative and financial burdens, not to mention narratives from some political parties referencing 'greedy property investors'.



Investors have had enough of political and price pressures

A staggering 16.7% of investors sold one or more properties in the past 12 to 24 months. Of those investors, 77% sold one property, 15% sold two, the remaining 8% sold three or more properties over the period.

According to the 2022 survey, about 33% of respondents sold a property to an existing homeowner, while 33% sold to an investor, and 24% sold to a first homebuyers.

Using 2021 Census as the baseline of 2.478 million private rental dwellings in Australia, it is estimated that hundreds of thousands of rental properties were sold in the past two years, with further analysis finding nearly two-thirds of these being purchased by existing homeowners. Clearly, this would explain the undersupply of rental properties available for tenants around the nation.

The survey did find that 45.1% of investors sold a property or properties in Queensland – the number one location by a long stretch – over the past two years. Using 2021 Census as the baseline of 553,432 private rental properties in Queensland, further analysis has found this equates to about 162,239 fewer rental properties - or a reduction in supply of nearly 30% in just two years - in Queensland.

The reasons why investors sold over the period included positive selling conditions (47.1%) – especially for Queensland investors who may have being waiting for a decade for any significant price growth – to reduce total borrowings (30.8%), and changing tenancy legislation making it too costly or hard to manage (25.1%).

Unfortunately, in a sign of more rental stress for tenants to come, the survey found that about 19% of investors are considering selling in the next 12 months as well. If that comes to fruition, about 35% of investor would have sold one or more of their properties since the start of the pandemic.

Tellingly, the reasons why investors are thinking of selling include Queensland's new land tax law that will penalise owners of property in other states/territories (30.8%), changing tenancy legislation making it too costly or hard to manage (29. 6%), the threat of losing control of your asset because of new or potential government legislation (27.5%), and the threat of rental freezes being enforced by governments (23%).

5 | PIPA Annual Investor Sentiment Survey 2022

From this we know that further intervention on rental laws will result in further divestment, reducing rental stock to critically low levels, all during a time of increasing demand led by population growth.

Given the mounting evidence we have detailed above regarding the negative impact that Tenancy reforms and constant market interference is having already on existing supply levels, a policy of this nature will set back future supply for years, or even a decade, as investor will judge the private rental property market no longer safe, stable, or suitable for their goals. And if this was the case, who or where is the hundreds of billions of investment funds needed going to come to supply the millions of future rental properties that Australia will require to meet demand. Investors have already clearly demonstrated their waning appetite for investment in residential property.

We believe these reforms may well remove that appetite all together.

Unintended Consequences

Whilst PICA appreciates and, in some cases, has supported some of the reforms being introduced in the past, such as only annual rental reviews, it's clear the higher costs and reform agenda in the state of NSW is negatively impacting the supply of private rental accommodation, as these reforms have resulted in unintended consequences.

Any further reforms such as removing 'no grounds' terminations, changing rental increase periods or applying rent increase caps will have a similar, if not more damaging, impact on the rental supply in the NSW.

These unintended consequences will be:

- Further sell up of private rental property in NSW,
- Flight to short term rental by some investors,
- Chronic shortage of rental accommodation will become critical,
- Share homes will be overcrowded,
- Immigration will be impacted in attracting the best and brightest from overseas,
- The economy will be impacted on the back of human capital mobility,
- Higher taxes needed to pay for additional housing to supplement the decline of investment by private investors,

- Renter conditions may be impacted as landlords look to manage improvement costs,
- The risk of a 'shadow rental market' emerging as some desperate owners look to operate outside of the traditional property lease contractual laws.

And whilst some political and self interest groups might think it desirable to remove property investors from the market and replace them with 'Big end of town' corporate build-to-rent investment dollars, it will take decades, not years, for any meaningful volume of supply to make a material difference to the marketplace. This is time NSW cannot afford to wait for.

Further reforms like the removal of the 'no grounds' termination, extended rental freeze and the rental increase limits will negatively impact investors and, like Victoria who's now facing even greater property investor challenges, NSW will see more investors exit the market.

By removing 'no grounds' terminations as evidenced in Victoria, property investors feel like they are losing control over their asset – an asset they have spent hundreds and thousands on. As such, they then decide that it's not worth holding the property and exit the market. This is not something we want here in NSW. Investors are happy to provide private housing and the vast majority hold these properties for the long term.

Extending rental freeze periods and limiting rental increase caps reforms should not be introduced. The current law is sufficient and from March 2020 the tenant has had extra security knowing that their rent will not increase for 12 months. Rental prices are determined by market, location, property type and so on and we know that controlling rent (known as 'rent control' in other countries) has had major negative impacts both economically and socially. Our information shows that if any property investors do price gouge, the current law allows tenants to contact the Tribunal if they have a case. As such, current law protects tenants in this regard.

We urge NSW government to leave current tenancy laws as is.

Conclusion / Action

Current governments find themselves in a difficult position, but they are making conditions even more challenging by attacking and taxing their major stakeholder in the supply of rental accommodation and putting them off-side.

Small business property investors are not the cause of this current rental crisis. As documented, most are not even covering the increased costs to hold their properties so as to keep them in the rental pool. In fact, their actions to ensure they remain as active private rental accommodation providers should be applauded, not criticised. Without their efforts, the current rental situation would be even more dire. Investors should be thanked for their important contribution to housing, yet instead some politicians try to lay the blame at their feet, which is disappointing and not based in fact.

As the direct voice of private property investors, PICA believes it's important that we have an opportunity to part of the conversation and the solution to help address the issues being faced in NSW. We do not want further reforms. If further rental reforms and laws are passed, we believe this will further add to the rental housing crisis as property owners exit the market and furthermore potential investors may look to another state or another asset class.

For due consideration and kind regards,

NSW State Advisory Council
Property Investors Council of Australia