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Community Land Trust Advocacy

Submission to the Select Committee on the Operation of the Capital Gains Tax Discount

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This submission examines the operation of the Capital Gains Tax (CGT) discount and its effects on housing markets, investment behaviour, and Australia's economic structure. It demonstrates that the CGT discount, particularly when combined with negative gearing, has become a structural driver of land price inflation, investor dominance, and widening inequality, while actively undermining productivity and fiscal integrity. The policy intent has been exhausted. The ongoing cost is systemic.

Negative gearing functions as the welcome mat. It allows investors to enter the housing market with losses subsidised by the tax system, enabling them to outbid owner-occupiers who must rely on after-tax income. The CGT discount then operates as the exit reward. Together, they form a one-way ratchet favouring leveraged speculation over productive or shelter-oriented investment. This pairing is not incidental. It is cumulative, reinforcing, and uniquely skewed toward existing housing assets.

The 50 percent CGT discount introduced in 1999 coincided with a structural break in Australian land price trajectories. Prior to that change, housing prices broadly tracked incomes over the long term, with cyclical deviations. Following the halving of CGT, land prices decoupled from wages and began compounding at rates far in excess of household income growth. This was not driven by construction costs, population alone, or planning constraints in isolation. It was driven by a repricing of after-tax speculative returns on land.

The CGT discount did not merely reduce tax on realised gains. It capitalised directly into land values. Rational investors price assets based on expected after-tax returns. When those returns were abruptly lifted by policy, the market adjusted immediately. The benefit flowed not to renters, first home buyers, or productive enterprise, but to landholders and those positioned to leverage into existing assets.

The original policy justification for the CGT discount was to replace inflation indexation of capital gains and to offset the introduction of the GST on construction inputs. Whatever merit that argument once had, it has long since been exhausted. The GST has been absorbed into prices across the economy. The CGT discount has delivered benefits in the tens of billions of dollars, overwhelmingly to higher-income households and investors in established assets. It now functions as a permanent windfall, not a transitional offset.

There is no credible evidence that the CGT discount improves productivity. On the contrary, it suppresses it. By boosting post-tax returns on passive asset appreciation, it diverts capital away from productive investment, business formation, innovation, and labour-intensive activity. Housing becomes the dominant store of value not because it is productive, but because it is tax-advantaged. This is a classic case of rent-seeking crowding out real economic activity.

The distortion created by the CGT discount is evident in what the tax system fails to support. Community Land Trusts and other land stewardship models are designed to deliver stable, affordable housing tied to incomes rather than speculative price growth. These models rely on patient capital, long-term returns, and low land price volatility. Yet they are systematically disadvantaged by tax settings that privilege leveraged capital gains over yield, stewardship, and productive use. The CGT discount tilts investment away from such models and toward existing asset inflation, reinforcing a housing system optimised for extraction rather than affordability or resilience.

The distributional effects are stark. The majority of the CGT discount accrues to the top income deciles and to households that already own multiple properties. Younger households, renters, and those without access to leverage are structurally excluded. The discount amplifies intergenerational inequality by inflating the value of inherited assets while raising the entry price for new participants. It is not neutral. It is regressive.

The use of the CGT discount through trusts further entrenches inequality and opacity. Trust structures allow income and gains to be distributed in ways that minimise tax liability while obscuring the true incidence of benefits. This complicates oversight and undermines confidence in the integrity of the tax system. The discount interacts with trusts in ways that were never part of the original policy intent and are poorly monitored.

Oversight failures are not incidental. They are structural. There is widespread anecdotal and industry knowledge of postcode hopping, where investors temporarily occupy an investment property to access the main residence exemption, reducing CGT liability (see ANAO). Similarly, the use of interest-only loans combined with short holding periods, often around the 12 to 18 month mark, allows investors to flip properties with minimal carrying cost and maximum tax advantage. Yet there is no comprehensive public reporting on how frequently these strategies are used, by whom, or at what fiscal cost. This absence of data is itself a policy failure.

The committee should recommend materially stronger data collection and transparency as a core safeguard in the AI age. This must include compulsory reporting on holding periods, short-term use of main residence exemptions, occupancy claims, interest-only lending linked to rapid turnover, trust structures, and post-acquisition behaviour. In an increasingly algorithmic property market, privatised data, real-time analytics, and machine learning enable well-capitalised investors to identify and extract residual rent gaps with growing precision, often ahead of infrastructure announcements, rezoning decisions, or demographic shifts.

Maintaining a large CGT discount in this environment does not merely reward past speculation, it actively incentivises algorithmic front-running and accelerated rent extraction. Without granular, enforceable transparency, policymakers are effectively blind while tax advantages are weaponised at scale. Preferential tax settings without matching oversight will ensure housing markets are shaped by algorithms rather than households, a trajectory that guarantees the outcome described in The Algorithm Ate My Neighbourhood.

This is precisely the domain of government futurists and strategic foresight units, whose role should be to anticipate these dynamics and ensure technology serves households and the real economy, not the accelerated extraction of economic rent from shelter.

The CGT discount has no clear role in Australia's future tax mix. It is not efficient. It is not equitable. It is not targeted. It undermines housing affordability, productivity, and fiscal sustainability. It has become the single most damaging tax carve-out in the nation's history because it directly inflates the price of a non-substitutable essential good: land.

The appropriate policy response is not abrupt abolition, but a clear signal that the era of preferential treatment for speculative housing investment is ending. Certainty matters. Markets respond to expectations. A phased reduction of the CGT discount, scaled down from 50 percent to 10 percent over seven years, would allow adjustment while reorienting capital toward more productive uses. This would dampen speculative demand, reduce price pressure, and restore some balance between investors and owner-occupiers.

Such a transition would also send a necessary signal that housing is shelter first, investment second. It would align tax settings with broader economic goals rather than working against them. Importantly, it would begin to unwind the capitalised advantage currently embedded in land prices, without triggering disorderly shocks.

In summary, the CGT discount no longer serves its stated purpose. It amplifies inequality, suppresses productivity, distorts investment choices, and undermines housing affordability. When paired with negative gearing, it creates a structural advantage that locks out home buyers and rewards speculative behaviour. The policy has done its work many times over. The costs now far exceed any conceivable benefit. The responsible course is to acknowledge this reality and begin a managed, transparent withdrawal of the discount from its current scale.

The party has gone on long enough.

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