

Unravelling of Australia's Foreign Investor Tax Regime: From workarounds to reform

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ECONOMICS

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Executive Summary

The New South Wales Government's decision in the 2026-27 Budget to remove the 9 per cent foreign purchaser duty surcharge for eligible build-to-rent and retirement living developments deserves far greater attention than it has received.

This reform represents more than a tax concession. It is a recognition that foreign investor taxes can impede the delivery of new housing and that attracting additional capital is essential if Australia is to address its housing shortage.

For more than a decade, state governments have imposed increasingly punitive stamp duty and land tax surcharges on foreign investors. These taxes were introduced rapidly, escalated over time, and applied broadly, with little distinction between speculative investment and investment that directly delivers new housing supply.

The problem is that foreign investors have been prohibited from purchasing established dwellings in Australia since 1975. Foreign capital therefore participates overwhelmingly on the supply side of the market, financing, developing and constructing new housing.

Taxing foreign investment in new housing does not reduce demand for existing homes. It reduces the amount of capital available to build new homes.

The NSW Budget reform implicitly acknowledges this reality. By removing the surcharge for eligible build-to-rent and retirement living developments, the NSW Government has accepted that housing supply objectives and foreign investor tax settings can be in conflict.

This report argues that the significance of the NSW decision extends well beyond build-to-rent and retirement living.

Over recent years, governments have increasingly introduced exemptions, concessions and administrative relief measures to prevent foreign investor taxes from discouraging housing development. Queensland's reforms in 2025 streamlined and expanded relief pathways for residential development projects. NSW already operated relief mechanisms for residential development and has now extended that logic to major institutional housing investments.

Taken together, these changes raise an obvious question. If foreign investor taxes require exemptions for residential development, exemptions for build-to-rent, and exemptions for retirement living, why should they continue to apply to any investment that demonstrably increases housing supply?

The answer becomes even less convincing when the broader economic impacts are considered.

Unlike many housing policies that merely reallocate an existing pool of domestic capital, foreign investment increases the total pool of capital available to the Australian economy. Additional foreign investment means more equity, more development finance, more projects reaching financial close, more homes being built and more jobs being created.

The result is not only greater housing supply. It is also likely to be higher government revenue through increased GST, income tax, payroll tax, company tax and ordinary stamp duty collections associated with additional construction activity.

In economic terms, this is unusually close to a Pareto-improving reform. Housing supply increases, economic activity increases, government revenue increases and housing affordability improves over time, without increasing foreign competition for established homes because foreign investors remain prohibited from purchasing them.

The NSW Government's decision should therefore be viewed as the beginning of a broader reform process rather than an isolated concession.

The next logical step is for all states and territories to adopt equivalent arrangements for housing that adds to the dwelling stock. If even one additional large state were to replicate the NSW approach and extend relief to new housing supply more broadly, the resulting increase in housing construction and associated government revenue could rival, and potentially exceed, the housing supply benefits expected from many of the headline housing initiatives announced in the 2026-27 Federal Budget.

The report concludes that foreign investor taxes have become one of the most damaging own goals in Australian housing policy. The evidence increasingly suggests that governments recognise this reality. The remaining question is whether policy settings will continue to rely on exemptions and workarounds, or whether Australia will return to the simple principle that has existed since 1975: foreign capital should be prevented from competing for established homes but encouraged to help build new ones. This report should be read as an addition to: [Foreign Investor Taxes and Housing Supply?](#)

1. The central issue: housing needs capital

The construction of new housing is capital intensive. Before a home is built, capital must be committed to land acquisition, planning, design, infrastructure, approvals, financing, construction and marketing. For apartment projects, capital requirements are larger again, and lenders often require substantial pre-sales or equity before debt finance is available.

This means housing supply is highly sensitive to policy settings that affect capital availability, risk and return.

Australia's housing policy debate often treats capital as if it is fixed and domestic. Much policy effort is directed toward reallocating Australian investment between competing asset classes. Tax changes may encourage investors to favour new housing over established housing, or equities over property, or superannuation funds to favour one infrastructure class over another.

Those policies can affect allocation, but they do not necessarily expand the total capital pool available to build homes.

Foreign investment is different. It brings additional capital into Australia. It increases the amount of finance available to support housing construction, rather than merely reallocating existing Australian savings.

This distinction is critical. In a market where project feasibility is constrained by high construction costs, rising holding costs, planning delays, limited debt capacity and weak pre-sales, additional capital can determine whether a project proceeds or remains unbuilt.

2. Why foreign investment is different from reallocating domestic capital

The 2026-27 Federal Budget illustrates the limits of domestic reallocation. The Australian Government has sought to focus tax support toward new supply by limiting negative gearing to new builds from 1 July 2027. That may shift some domestic investor demand from established housing toward new housing. It does not, however, increase the overall pool of capital available to the Australian economy. It changes incentives within an existing pool.

The Budget also includes a \$2 billion Local Infrastructure Fund that has been reported as supporting around 65,000 new homes over a decade. This shows how costly it is for governments to generate additional supply through public expenditure.

By contrast, removing barriers to foreign capital can unlock private investment at no direct fiscal cost. If overseas pension funds, banks, sovereign funds or global asset managers allocate capital to Australian housing, that capital adds to Australia's capacity to finance new supply.

This does not mean foreign investment should be unregulated. Australia's long-standing framework, which prohibits foreign investors from purchasing established dwellings while directing foreign capital toward new housing, remains sound. But it does mean that taxes that deter foreign investment in new supply are economically counterproductive.

The policy goal should be clear: prevent foreign capital from competing for existing homes, but welcome foreign capital that builds new ones.

3. What NSW has changed

The NSW Government's 2026-27 Budget includes a significant change to foreign purchaser duty settings for large-scale housing investment. The Government has announced that the 9 per cent foreign purchaser surcharge duty will be waived for eligible build-to-rent and retirement living investments of more than 50 dwellings from 1 July 2026.

This follows earlier NSW build-to-rent concessions, including surcharge land tax relief and existing arrangements for build-to-rent projects that meet eligibility requirements. Revenue NSW describes build-to-rent as an initiative designed to increase purpose-built rental housing held in single ownership and professionally managed, with the aim of providing more housing options, greater certainty for renters, boosting construction and supporting jobs.

The new duty relief extends the logic of those concessions. It recognises that a 9 per cent foreign purchaser duty surcharge can materially affect the feasibility of institutional housing projects and can discourage global capital from investing in NSW.

For build-to-rent and retirement living, this matters because these are capital-intensive sectors. Projects are typically held for long periods, require institutional ownership structures and often involve global capital managers. The legal structure of the investment can trigger foreign purchaser surcharge rules even where the underlying capital includes Australian superannuation savings.

Removing the surcharge for eligible projects therefore lowers a major barrier to investment.

4. What Queensland has changed

Queensland has moved in the same direction. In December 2025, the Queensland Government announced reforms to streamline and simplify relief from Additional Foreign Acquirer Duty and the land tax foreign surcharge.

The Queensland reforms include lowering the number of dwellings required to qualify for relief from 50 to 20, expanding eligibility to better reflect contemporary corporate structures, creating a pre-approval process for residential developers, and publishing service standards for relief applications.

The stated objective was explicit: increasing the flow of capital to boost housing supply, supporting investor certainty and improving Queensland's competitiveness as an investment destination.

This matters because Queensland's reform is not merely an administrative tweak. It is a public acknowledgment that uncertainty, delay and foreign investor surcharges can discourage housing investment. It also makes clear that global capital is now necessary to support the delivery of housing and jobs.

Together, the NSW and Queensland reforms show that the policy direction is changing. Governments are moving from imposing foreign investor surcharges to creating pathways around them.

5. The policy pattern: work-arounds are becoming the policy

The evolution of foreign investor taxes now follows a clear pattern.

First, states introduced foreign investor taxes, generally justified on fairness, affordability or revenue grounds.

Second, it became apparent that these taxes imposed costs on businesses and investors that were delivering new housing.

Third, states began creating exemptions, relief mechanisms and refund pathways to prevent the taxes from stopping projects.

Fourth, those work-arounds are now expanding across categories of housing supply.

Queensland and NSW have provided relief pathways for foreign-owned or foreign-backed businesses involved in residential development. Both states are now also creating pathways for build-to-rent and related institutional housing investment.

This leaves a simple question. If the taxes require exemptions for detached housing delivery and exemptions for build-to-rent delivery, why should they continue to apply to any form of foreign investment that adds new homes?

A tax that must be avoided to allow supply to occur is not a well-designed tax. It is a distortion.

6. The Baptists and Bootleggers

There is a useful political economy lesson in these reforms. Baptists supported restrictions on alcohol because they believed prohibition was morally right. Bootleggers supported the same restrictions because prohibition protected their profits.

The same concept can help explain the politics of build-to-rent tax relief.

The NSW Government's immediate policy objective appears to be facilitating institutional investment into build-to-rent and retirement living, including investment by Australian superannuation funds. Australian superannuation funds do not typically build housing directly. They often invest through global fund managers, platforms and structures that may be considered foreign for state surcharge purposes. This can mean that Australian savings, deployed through global investment structures, face foreign investor taxes when used to build Australian rental housing.

Removing the surcharge helps those structures invest.

A second consideration is the development of a secondary market for build-to-rent assets. Institutional investors, including Australian superannuation funds, often assess projects on the basis of both their ongoing rental income and their eventual exit value. The value of a completed build-to-rent project is therefore influenced by the depth and liquidity of the pool of potential future purchasers. Foreign investor surcharges can materially reduce the number of potential buyers of completed assets by discouraging international institutional investors from participating in the market. By reducing these barriers, governments are not only facilitating the initial construction of build-to-rent projects but also supporting the development of a deeper and more competitive secondary market. This improves asset valuations, increases investor confidence and can enhance project feasibility at the commencement stage. In effect, the ability to sell completed build-to-rent projects to a broad pool of domestic and international investors increases the attractiveness of investing in new housing today.

HIA supports the reform for a different reason. The objective is not to privilege Australian superannuation funds, global fund managers or any ownership model. The objective is to increase housing supply.

In this case, the interests align. Governments want institutional capital to enter build-to-rent. HIA wants more homes built. The policy change helps achieve both.

In the Baptists and Bootleggers analogy, HIA is the Baptist. The support is based on the supply outcome, not the identity of the investor. If the concession results in more homes being built, more jobs being created and more renters having access to professionally managed rental housing, it should be supported.

But the analogy also reveals the inconsistency. If foreign investor taxes need to be waived when Australian superannuation capital invests through global structures, why should similar relief not apply to any foreign capital that delivers new housing supply?

The economic effect is the same. More capital enters housing. More projects become viable. More homes are built.

7. The next logical step: allow foreign investors to build all new homes

The NSW and Queensland reforms are welcome, but they remain incomplete.

The current direction of policy is toward category-specific exemptions. Detached housing may receive one form of relief. Build-to-rent receives another. Retirement living receives another. Large developers may receive administrative concessions. Smaller investors and ordinary new housing projects may remain exposed.

This approach is inefficient and complex. It requires governments to keep creating new work-arounds for each category of supply harmed by the tax.

A simpler principle would be more coherent: Foreign investor taxes should not apply to investment that adds to Australia's housing stock.

That principle would be consistent with Australia's long-standing foreign investment framework. It would preserve the prohibition on foreign purchases of established dwellings, while removing disincentives to new supply.

Under this approach, foreign capital used to finance, develop, purchase or hold newly built dwellings would not face punitive state surcharges, provided it results in additional housing supply and complies with Australian Government foreign investment rules. This would align tax policy with housing policy.

8. Apartments: the remaining anomaly

Recent reforms in New South Wales and Queensland have progressively reduced the impact of foreign investor taxes on housing supply. Relief mechanisms now exist for a growing range of residential activities including land development, detached housing construction, build-to-rent projects and retirement living developments.

As a result, apartment developments intended for individual sale increasingly represent the only major category of new housing supply that remains broadly exposed to foreign investor surcharges.

This creates a policy inconsistency. Governments across Australia have identified higher-density housing as a critical component of future housing supply. Apartment developments are also among the most capital-intensive forms of housing and are particularly reliant on external equity, institutional investment and pre-sales to secure finance.

The economic rationale for continuing to discourage foreign investment in apartment construction is therefore unclear. Apartment developments add to housing supply, increase rental availability, generate employment and produce substantial tax revenues. They do not increase foreign competition for established dwellings because foreign investors remain prohibited from purchasing existing housing.

The increasing use of exemptions for other forms of housing raises a fundamental question. If foreign investor taxes are inappropriate where they impede detached housing construction, build-to-rent developments and retirement living projects, why should apartment developments be treated differently?

The answer to that question should shape the next phase of housing policy reform in Australia.

9. The possible supply impact

The supply impact of removing foreign investor taxes from new housing could be substantial.

The NSW apartment market is particularly relevant. Sydney has experienced a sustained decline in apartment commencements since the mid-2010s, despite strong population growth and acute rental pressures. Apartment projects rely heavily on pre-sales, equity and institutional capital. Foreign capital historically played a material role in all three.

Removing the foreign purchaser surcharge for build-to-rent and retirement living will improve feasibility in those sectors. Extending that relief to all new housing would broaden the effect across the apartment market.

It would:

- increase the pool of capital available to housing
- improve pre-sales and equity availability
- reduce project costs
- improve NSW's competitiveness relative to other global markets
- help more projects reach financial close
- increase construction activity
- expand rental supply

It is reasonable to conclude that the potential supply impact of removing foreign investor taxes from new housing could be very large. It may be comparable with, or larger than, many headline housing initiatives announced by governments in recent years.

However, direct comparisons with the Federal Budget's estimate of 65,000 new homes from infrastructure funding should be made carefully. The exact impact of removing foreign investor taxes would require modelling. What can be said with confidence is that attracting additional foreign capital has a different and potentially more powerful mechanism than reallocating existing domestic investment. It increases the size of the capital pool available to build homes.

10. Fiscal effects: why this reform may raise revenue

Foreign investor taxes were introduced as revenue measures. Yet if those taxes prevent housing projects from proceeding, they may reduce revenue overall.

A new housing project generates multiple streams of public revenue:

- GST on new dwellings and construction inputs
- payroll tax from construction employment
- income tax from workers
- company tax from builders, developers and suppliers
- ordinary stamp duty from subsequent transactions
- land tax from completed assets where applicable
- local government rates and infrastructure charges

If a surcharge discourages a project from proceeding, governments may forgo all of these revenue streams.

This is why foreign investor taxes may be revenue negative in many circumstances. The direct surcharge revenue collected from a small number of transactions may be outweighed by the revenue lost when projects are delayed, reduced or cancelled.

The NSW and Queensland reforms implicitly recognise this. By reducing the tax burden on supply-adding investment, governments may increase total revenue through higher construction activity and a larger housing stock.

This is not a trade-off between revenue and housing supply. In many cases, increasing supply is the revenue-positive option.

11. Economic effects: a Pareto-improving reform

The reforms have the characteristics of a Pareto-improving policy change.

A Pareto improvement occurs where at least one party is made better off without making others worse off. In practice, most public policy involves trade-offs, but this reform comes close to that standard.

Removing foreign investor taxes from new housing can:

- increase housing supply
- increase construction activity
- create jobs
- improve project feasibility
- increase rental options
- reduce pressure on rents and home prices over time
- increase government revenue through broader tax bases
- attract global capital at no direct cost to taxpayers

At the same time, it does not increase foreign competition for established homes, because foreign investors remain prohibited from buying them.

This is the core economic point. The reform increases supply without increasing demand for established homes.

That is why foreign investor taxes on new housing are such poor policy. They impose costs without delivering offsetting benefits. They reduce supply without reducing demand. They discourage investment without protecting local buyers.

In this sense, foreign investor taxes remain one of the worst own goals in housing policy.

12. The Evolution of Policy: From restricting foreign investment to attracting foreign investment

The history of foreign investor taxes in Australia reveals an important policy lesson. The circumstances that motivated their introduction have changed substantially, yet many of the policies remain in place.

Over the past decade governments have progressively moved from attempting to discourage foreign investment in housing to creating exemptions and relief mechanisms designed to attract it.

This evolution reflects a broader shift in Australia's housing challenges.

The original framework: directing foreign capital toward new supply

Australia's modern foreign investment framework was established through the Foreign Acquisitions and Takeovers Act 1975.

The central principle was straightforward. Foreign investors would generally be prohibited from purchasing established dwellings but permitted to invest in activities that increased housing supply.

This approach sought to ensure that foreign capital contributed to the construction of new homes rather than competing with Australians for existing housing stock.

For several decades this framework remained largely unchanged.

2014: growing concern about foreign investment

By the early 2010s, housing affordability had become an increasingly prominent political issue.

Rapid dwelling price growth in Sydney and Melbourne coincided with strong foreign investment activity, particularly from Asia. Public debate increasingly focused on the role of foreign purchasers in the housing market. Media reporting frequently highlighted concerns regarding foreign ownership, "ghost towers", allegedly vacant apartments and the possibility that foreign investors were contributing to rising prices.

The 2014 Parliamentary Inquiry into Foreign Investment in Residential Real Estate occurred in this environment.

The inquiry identified shortcomings in data collection, monitoring and enforcement. At the time, the Foreign Investment Review Board had limited resources available to monitor compliance with foreign investment rules. There was also relatively limited information available regarding the extent and nature of foreign participation in residential property markets.

Importantly, many of the concerns raised during the inquiry reflected uncertainty regarding the effectiveness of enforcement rather than evidence that foreign investors were driving housing affordability outcomes.

2015 to 2019: the expansion of foreign investor taxes

The response from governments was swift.

Victoria introduced Australia's first foreign purchaser surcharge in 2015.

New South Wales and Queensland followed in 2016.

Other jurisdictions progressively adopted similar measures over the following years.

At the same time, the Australian Government increased FIRB application fees, strengthened compliance measures and introduced the vacancy fee regime.

While the Australian government was the appropriate tier of government to regulate foreign investment, the slow pace had seen state governments move ahead of Federal regulation. The development of this Australian government response then duplicated existing, and poorly designed policies.

This period also coincided with broader concerns regarding apartment market oversupply. Following the Global Financial Crisis, policy makers and regulators were conscious of experiences in the United States, Ireland and Spain, where speculative housing development had resulted in substantial oversupply and financial instability.

Prudential regulators also introduced measures designed to constrain investor lending and reduce risks associated with residential property markets. The dominant policy concern during this period was not insufficient housing supply. These concerns of oversupply and 'Zombie apartments' have proven to be false and unfounded and the policy response exacerbated the shortage of housing stock and rising home prices.

2020 to 2024: the housing shortage emerges

Foreign investment activity declined substantially from the levels observed during the apartment boom.

Rental vacancy rates fell to historic lows across much of Australia. Housing shortages emerged as one of the most significant economic and social challenges facing governments.

The feared oversupply of apartments never materialised.

The narrative of widespread vacant dwellings was increasingly challenged by better quality data, including analysis from the Australian Bureau of Statistics demonstrating that most dwellings classified as unoccupied on Census night were vacant for legitimate reasons.

At the same time, the Australian Government significantly strengthened foreign investment compliance, monitoring and enforcement capabilities.

The conditions that had originally justified the introduction of foreign investor taxes were becoming less relevant.

2025 to 2026: the beginning of policy reversal

As housing shortages intensified, governments increasingly shifted their focus toward increasing supply.

13. Australian Government Review of Foreign Investment and Housing Supply

The Australian Government should undertake a comprehensive review of the interaction between foreign investment policy and housing supply.

The review should examine whether current foreign investment settings remain aligned with Australia's housing objectives, including increasing the supply of detached housing, apartments, build-to-rent developments and retirement living projects.

Particular attention should be given to:

- the operation of the Foreign Acquisitions and Takeovers Act 1975 and associated residential property rules
- the effectiveness of current compliance, monitoring and enforcement arrangements
- the role of foreign capital in financing housing supply
- the contribution of foreign-owned builders and developers to housing delivery
- the operation of the temporary resident pathway
- the impact of foreign investment restrictions on apartment construction and project feasibility
- the interaction between Australian Government foreign investment policy and state-based foreign investor taxes
- whether current restrictions appropriately distinguish between investment that adds to housing supply and investment that competes for existing housing stock.

The review should recognise that the housing market conditions that existed when many current restrictions were introduced differ substantially from those that exist today. Australia now faces a sustained housing shortage rather than concerns about oversupply, while regulatory oversight, data collection and enforcement capabilities have improved significantly.

The objective of the review should be to ensure that foreign investment policy supports housing supply while maintaining the long-standing principle that foreign investors should not compete with Australians for established dwellings.

14. Establish a principle of investment neutrality for housing supply

The Australian Government, in consultation with state and territory governments, should adopt a principle of investment neutrality for housing supply.

Under this principle, investment that demonstrably contributes to increasing Australia's housing stock should generally be treated consistently regardless of whether the source of capital is domestic or foreign, unless there is a clear and evidence-based public policy justification for differential treatment.

The principle recognises that housing supply is dependent on access to capital. New housing projects require equity, debt finance, development expertise and long-term investment. Where foreign capital contributes to the construction of additional dwellings, it performs the same economic function as domestic capital and should therefore be subject to the same policy presumption.

This principle would not alter Australia's long-standing restrictions on foreign ownership of established dwellings. The prohibition on foreign investors purchasing established homes remains an important mechanism to ensure that foreign capital contributes to new housing supply rather than competing with Australians for existing housing stock.

Rather, the principle would apply to investment that increases housing supply through activities such as:

- residential land development
- detached housing construction
- apartment development
- build-to-rent projects
- retirement living developments
- purpose-built student accommodation
- institutional investment in newly constructed residential assets

The principle reflects the reality that foreign-owned builders, developers and investors utilise the same infrastructure, employ the same Australian workers, purchase the same materials, and generate the same GST, payroll tax, income tax and company tax revenues as their domestic counterparts.

A presumption of investment neutrality would also improve policy consistency. In recent years governments have progressively introduced exemptions and relief mechanisms for foreign investor taxes where those taxes were found to impede housing supply. This suggests an emerging recognition that housing supply objectives and differential taxation of foreign capital can be in conflict.

Establishing investment neutrality as a guiding principle would provide a coherent framework for future policy development and reduce the need for ongoing exemptions, concessions and administrative workarounds.

The overarching objective should be simple: foreign capital that contributes to increasing Australia's housing supply should be encouraged on the same basis as domestic capital, while restrictions on foreign participation in established housing markets should remain in place.

15. Policy recommendations

The recent NSW and Queensland reforms should be welcomed, but they should also be treated as the beginning of a broader reform process.

The following policy steps are recommended.

Recommendation 1: Extend surcharge relief to all new housing

Foreign purchaser duty and land tax surcharge relief should apply to all investment that demonstrably adds to the housing stock, not just selected categories such as build-to-rent, retirement living or large-scale residential development or projects undertaken by Australian superannuation funds.

Recommendation 2: Maintain the prohibition on foreign purchases of established dwellings

The existing Australian Government framework should remain in place. Foreign investors should not compete with Australians for established homes.

Recommendation 3: Replace discretionary workarounds with clear rules

Relief should be rules-based, transparent and available wherever investment results in additional housing supply. This would reduce uncertainty and improve investor confidence.

Recommendation 4: Coordinate state and Australian Government policy

The Australian Government should lead a National Review of foreign investor taxes, including their impact on housing supply, GST, income tax and overall public revenue.

Recommendation 5: Publish revenue and supply impact data

States should publish annual disaggregated data on revenue collected from foreign purchaser duty and land tax surcharges, as well as the number and value of transactions affected.

Recommendation 6: Assess the full fiscal impact

Governments should assess not just surcharge revenue, but also forgone GST, payroll tax, income tax, company tax and stamp duty from projects that do not proceed.

Recommendation 6: Investment neutrality

The Australian Government, in consultation with state and territory governments, should adopt a principle of investment neutrality for housing supply.

16. Conclusion

The NSW reforms are welcome because they move policy in the right direction. They recognise that foreign investor taxes can block housing supply and that exemptions are needed to allow capital to flow into new homes.

But these reforms also expose the deeper problem.

If foreign investor taxes need workarounds for detached housing, build-to-rent, retirement living and residential development, then the taxes are misaligned with housing policy.

Australia cannot solve its housing shortage by taxing the capital required to build homes. The next step is to move from category-specific exemptions to a clear national principle: foreign capital that adds to housing supply should be welcomed, not penalised.

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