Australian Property Institute Ltd.
ABN 49 007 505 866
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20 August 2026

The Treasury
Lodged via the Treasury consultation hub, consult.treasury.gov.au/c2026-792170

Supplementary submission on the Capital Gains Tax and Negative Gearing Tranche 2 exposure draft legislation and the draft apportionment determination

Dear Sir or Madam,

This supplements the Australian Property Institute's submission of 7 August 2026 on the Tranche 2 exposure draft legislation and the draft apportionment determination. It raises one further point, which is operational rather than a matter of policy.

The materials use two labels for the same moment

Sections 112-155, 112-165 and 112-175 of the Income Tax Assessment Act 1997 deem the asset to have been sold just before 1 July 2027. Note 1 to section 112-155(2) states that the sale happens on 30 June 2027 and the reacquisition happens on 1 July 2027. The note to section 112-160(1) describes the sale as happening at the end of 30 June 2027. Treasury's public explainer on negative gearing and capital gains tax refers instead to a valuation of the asset as at 1 July 2027.

Both descriptions are correct. They describe a single moment, using two labels. The difficulty is practical. A valuation report states one date of valuation, and that report is what the ATO will examine, in many cases years later. Valuers and their clients are already receiving conflicting instructions on whether it should read 30 June 2027 or 1 July 2027.

This should be settled before the guidance issues. Millions of reports will carry a date of valuation. If that date differs from the one used in the guidance, the difference invites argument about otherwise sound valuations, at avoidable cost to the ATO and to compliant taxpayers, and with no integrity benefit. A single sentence in the explanatory materials resolves it.

Recommendation

6. That the explanatory materials, and the ATO guidance foreshadowed in the explanatory statement, nominate one of the two dates as the date of valuation for the market value pathway, and confirm that a report using the other date is still acceptable. API will adopt the nominated date in its guidance and member communications.

This point sits alongside recommendation 5 of API's 7 August 2026 submission, on retrospective valuations, and API would welcome the opportunity to assist Treasury and the ATO with both. Please contact Harriet Warr, General Manager Policy and Standards, on 0474 772 291 or hwarr@api.org.au.

Kind regards,

John Winter
Chief Executive Officer
Australian Property Institute Ltd.