

Submission
No 6

**INQUIRY INTO RESIDENTIAL TENANCIES
AMENDMENT (PROTECTION OF PERSONAL
INFORMATION) BILL 2025**

Organisation: Property Owners Association NSW

Date Received: 6 March 2026



6/3/26

(Protection of Personal Information) Bill 2025 - Invitation to make a submission

The NSW Legislative Council's Portfolio Committee No. 8 – Customer Service is conducting an inquiry into the Residential Tenancies Amendment (Protection of Personal Information) Bill 2025. The inquiry is examining possible unintended effects of the proposed legislation on pet owners, and how they may be better protected.

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POANSW BACKGROUND

The Property Owners Association of NSW has been the peak body representing the interests of the private residential accommodation providers in the NSW market since 1951.

We thank you for reaching out to us to submit. The submission was prepared by the POANSW committee of management who are owners of short to long term residential accommodation across the Sydney metropolitan marketplace and throughout NSW. The committee comprises licensed real estate agents, valuers, rooming and boarding house operators, boutique hotel operators and single to multiple investment property investors who either self-manage their own tenancies or engage property managers to do so. Residential tenancies consist of 35.4% of the NSW population who are either renting or landlords.

The Residential Tenancies reforms and its regulations require review to meet tenancy challenges to reduce the pressures of housing in NSW. So far from what we have read and reviewed in this latest Bill addresses none of those pressures and as far as what we can read penalises the accommodation provider further and deeper towards selling their investment property and thus reducing the rental stock available.

These pressures include:-

1. Rapid rise in housing prices during the last decade of Australia's biggest housing and construction boom especially in the Sydney metropolitan area and other parts of NSW.
2. Inability of many people to fund their own a home, especially first home buyers who are attempting to move from the rental market and become owner occupiers.
3. Restricting the supply of rental properties which places pressure on rising rents due to the lack of capacity of private citizens to own more than one investment property.
4. Restrictions and challenges surrounding the new financial environment post APRA and Royal Commission interventions as well as recent RBA/banks moves on interest rates in an upward trajectory given rising inflation.
5. Lack of planning and inability of the State Government to expand the private, affordable and social housing supply to match the needs and demands of those seeking to occupy state and privately owned rental properties.

SWOT Analysis of the 2025 Amendment Bill (Protection of Personal Information)

Strengths (Internal Positives)

- **Regulatory Alignment:** Adopting the Australian Privacy Principles (APP) provides a standardised framework for data handling, potentially reducing legal ambiguity by aligning state requirements with federal standards (pp. 7, 9).
- **Enhanced Database Integrity:** New requirements for database operators to ensure information is "not misleading" and "relevant" can protect landlords from making decisions based on faulty or out-of-date tenant data (pp. 12-13).
- **Clearer Advertising Protocols:** Mandating disclosure of "exclusive supply networks" (embedded networks) and "digitally altered images" protects landlords from future claims of misleading conduct by ensuring transparency at the outset (pp. 4-5).

Weaknesses (Internal Negatives)

- **Substantial Penalty Increases:** The Bill introduces significantly higher maximum penalties for non-compliance. For example, a "residential tenancy entity" (landlord/agent) breaching a Privacy Principle faces up to 450 penalty units (for a corporation) or 100 units (for an individual) (p. 9).
- **Increased Administrative Burden:** Requirements such as providing a full "rent record" to every tenant within 7 days of termination add mandatory administrative tasks to the end-of-tenancy process (p. 6).
- **Restricted Application Processes:** The mandate to use only "approved forms" for collecting application data and the prohibition on accepting applications prior to inspection (unless waived in writing) limit the flexibility of the leasing process (p. 10).

Opportunities (External Positives)

- **Reduced Litigation Risk:** By strictly defining "identity verification information" and when it can be collected, landlords have a clearer legal "safe harbour" for their vetting processes, provided they follow the notice requirements (p. 10).
- **Formalised Pet Approval Grace Period:** Allowing tenants a 7-day window after signing to apply for a pet—and keep it while waiting for a response—creates a structured process that may reduce initial friction in pet-friendly tenancies (p. 7).
- **Digital Transformation:** The Bill authorises the use of digital identity verification services, potentially streamlining the vetting process if appropriate regulations are implemented (p. 16).

Threats (External Negatives)

- **Vicarious Liability for Third Parties:** The definition of "residential tenancy entity" includes any person "employed or engaged" to handle tenant data. Landlords may be held liable for the data breaches or mismanagement of third-party contractors (p. 8).
- **Expanded Tribunal Powers:** The NCAT can now award compensation for "economic loss" resulting from privacy breaches and issue orders to "destroy, amend, or de-identify" information, increasing the risk of costly litigation (pp. 7, 11).

- Regulatory Uncertainty: Much of the operational detail (e.g., specific types of information prohibited from collection, security requirements, and data destruction timelines) is left to future regulations, creating a "wait and see" risk for property owners (pp. 15-16).
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Executive Summary: Red Tape and Risk Overreach

The *Residential Tenancies Amendment (Protection of Personal Information) Bill 2025* represents a significant shift toward the over-regulation of private property management. By reclassifying every landlord as a "Residential Tenancy Entity," the Bill subjects mum-and-dad investors to the same complex compliance standards as multi-billion dollar corporations, without providing the necessary resources to manage them.

1. Excessive and Punitive Penalties

The Bill introduces a "guilty until proven innocent" fee structure. Minor administrative errors in data handling can now trigger staggering fines:

- Privacy Principle breaches: Up to 450 penalty units (\$49,500+) for corporations and 100 units (\$11,000) for individuals (p. 9).
- Advertising errors: Failing to disclose an "exclusive supply network" (embedded network) or using a "digitally altered" marketing photo can cost up to 200-300 penalty units (pp. 4-5).

2. Weaponisation of the Tribunal (NCAT)

The proposal expands NCAT's power to award damages for "economic loss" resulting from privacy breaches (p. 7). This creates a "litigation trap," where tenants can sue for perceived data mishandling, even if no physical or financial harm has occurred, turning the Tribunal into a tool for tenant leverage during disputes.

3. Administrative Deadlines and "Red Tape"

The Bill mandates that landlords provide a written "rent record" statement within 7 days of termination (p. 6). This adds a mandatory, time-sensitive hurdle to the "make-good" period, where owners are already focused on repairs and re-leasing. Failure to meet this arbitrary deadline is a finable offence.

4. Interference in Risk Assessment

The Bill severely limits how owners can vet their own tenants:

- Prohibition on Pre-Inspection Applications: Landlords are generally forbidden from accepting an application until *after* an inspection is held, unless the tenant waives this in writing (p. 10). This slows down the leasing process in a high-demand market.
- Strict Identity Rules: Identity verification information can only be collected *after* the landlord intends to enter an agreement and has notified the tenant in writing (p. 10). This prevents the early screening necessary to ensure a property is fit for a specific applicant.

5. Vicarious Liability for Third Parties

The definition of "residential tenancy entity" is so broad it includes anyone "employed or engaged" by a landlord to handle data (p. 8). This means a property owner could be held legally and financially liable for the data-security failures of a third-party software provider or a sub-contracted agent, over whom they have no technical control.

CLOSING REMARKS

To keep existing rental stock in the market, many of our members have had to deal with significantly higher holding costs. Primarily due to higher interest rates costs, but also because of increased insurance, increased mortgage repayments, increased minimum standards upgrades, property compliance costs & more broadly reaching land tax bills due to the removal of indexing. The NSW Government is treating property owners and investors as cash cows for tax and penalties when all the average mum and dad investor wants to do in the marketplace is supply it with rental stock to meet the ongoing demand.

This is not going to be good news for the renters of NSW. As so happened already in Victoria, investors will sell up – fed up with the ever-increasing costs and less control over their property. Some investors will switch their properties to short-term rental, away from long-term rental markets. Less private investment - Some new investors will boycott investing in NSW, in the short term, taking their investment dollars to alternative state or territory property markets, with 'favourable' investing conditions & more 'accommodating' governments looking to attract more mum and dad private investors and adding to rental supply in that market. Reduced rental supply, increased household density per investment property, sky rocketing rents & increased risk of more homelessness are all very real outcomes. The current housing planning system and the whole housing eco-system is broken.

Here is a quote from one of our members:

"I can't believe the short sightedness of government, laws now favour tenants' way too much I haven't been given a fair go at tribunal as they side with tenants all the time regardless of the issue as they see them as the underdog. The system is broken!

The way I see it x 2 less rentals in western Sydney (these properties were built as rentals and have been rentals for 30+ years).

I know a lot of people selling up they have also had enough - better places to put your money with less headaches and government intervention".

The POANSW, in existence since 1951, has worked with NSW Government on the legislative front with a focus on achieving equitable and balanced outcomes for all stakeholders. Though some effort has been made to achieve those objectives from legislators over those years, little has occurred in recent years to have a balanced approach to residential tenancies.

The POANSW raises very strong concern with matters raised in this new amendment Bill which we believe has been rushed, implications and practicalities that will cause the reverse effect of its intent and purpose which is to offer some fairness and relief in a rental crisis. We can only hope these consultation processes are taken more seriously with proper and adequate stakeholder consultation periods.

The POANSW executive committee would like to thank the minister and his subordinates for our participation in this submission.

Yours Faithfully,

The POANSW Executive Committee