

AUSTRALIA'S FOREIGN INVESTMENT POLICY – A BRIEF SUMMARY – RESIDENTIAL REAL ESTATE

All acquisitions of residential real estate in Australia by foreign interests require prior foreign investment approval.

- All contracts of sale to acquire residential real estate by foreign interests must be made conditional on foreign investment approval and must allow at least 30 days for a decision to be granted.

FURTHER INFORMATION: For a full outline of Australia's foreign investment policy, including an application form for straightforward residential real estate proposals, as well as other related information, visit the Foreign Investment Review Board website at: www.firb.gov.au, or Phone enquiries : 02 6263 3795.

Following is a **brief outline** of the Government's foreign investment policy in relation to residential real estate acquisitions.

What is residential real estate?

Residential real estate means Australian real property (including vacant land), other than (i) developed commercial properties (i.e. offices, factories, warehouses, restaurants, shops, recreation facilities, but not accommodation facilities such as hotels) and (ii) land which is integral to a commercial farming business. Acquisitions of hobby farms and rural residential blocks by foreign interests are included in the residential real estate category.

Who should apply?

All proposed acquisitions of residential real estate should be submitted for examination regardless of value unless the purchaser is an Australian citizen, permanent resident or a foreign national entitled to "special category visa" (such as a New Zealand citizen) and purchasing in their own name. Other persons wishing to purchase residential real estate (including temporary residents, or companies with foreign shareholders or trusts with foreign management and/or beneficiaries) must apply in advance to the Government through the Foreign Investment Review Board for approval.

Australian citizens and foreign spouses

Acquisitions by Australian citizens and their foreign spouses to purchase residential property as joint tenants do not require foreign investment approval.

Developed residential real estate

Developed residential real estate means houses, flats or units that have been occupied. Acquisitions of developed residential real estate by foreign interests are not normally approved except for:

- (i) foreign nationals temporarily resident in Australia for more than 12 months purchasing a residence for use as their principal place of residence while in Australia (and not for rental purposes), subject to the sale of the property when they cease to reside in Australia, their visa expires or they no longer reside in the property. This category includes long-stay retirees, and students 18 years of age and over studying courses of more than twelve months duration at recognised tertiary institutions. Normally a \$300,000 limit applies to acquisitions by students; and
- (ii) foreign companies with an established substantial presence in Australia buying for their named senior executives resident in Australia for periods longer than 12 months.

Residential real estate for development

- (i) Vacant land

Acquisitions of vacant land are normally approved subject to a specific condition requiring ongoing construction to commence within 12 months of foreign investment approval and provided that the equivalent of at least 50 per cent of the acquisition price of the land is expended on development.

- (ii) Redevelopments

Applications to acquire existing residences for redevelopment may be approved provided that the proposal provides for substantial redevelopment expenditure in relation to the acquisition cost of the property and an increase in the housing stock. Additionally, the existing house must remain unoccupied pending redevelopment.

For both the above categories, once the development condition has been fulfilled, there is no restriction on the subsequent use of the property by the foreign investor, i.e. it may be rented out, sold or retained for the foreign investor's own use.

Off-the-plan purchases

Foreign interests may apply to acquire home units, town houses, house/land packages etc either off the plan, during the construction phase or when the dwelling is newly completed, provided that it has never been occupied or sold and provided no more than 50 per cent of the dwellings in any one development are sold to foreign interests.

- However, when the property is to be onsold, it is treated as developed residential real estate and its sale is subject to the restrictions applying to that category of residential real estate.

Developers of more than 10 unit/townhouse projects may apply in advance to sell up to 50 per cent of the residences to foreign investors. Where such approval has been granted, it is not necessary for individual foreign interests to apply for approval.

Applications

The Board is unable to give in principle approval to persons wishing to acquire property, so an application for foreign investment approval must specify the particular property to be acquired.

Electronic lodgement of straightforward residential real estate applications should be available through the website by January 2002.

To make an application for approval to purchase residential real estate, write to:

The Executive Member
Foreign Investment Review Board
Department of the Treasury
Langton Street
Canberra ACT 2600
Australia

Facsimile: +61 2 6263 2940
Telephone inquiries: +61 2 6263 3795
Website at: www.firb.gov.au
Email: firb@treasury.gov.au

Prepared by:
REIA

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