

# IMPORTANT NEW CHANGES TO AUSTRALIA'S FOREIGN INVESTMENT POLICY

The Australian Government has announced it will shortly amend its Foreign Investment Policy.

This amendment will have a material effect on residential land buyers.

The big change is that temporary residents may purchase second hand dwellings. This took effect from 18 December 2008, but will change again shortly.

## THE LATEST CHANGES AND PROPOSED CHANGES ARE:

- **Temporary Resident**

The definition of 'temporary resident' includes all foreign persons living in Australia on a valid visa, irrespective of the expiry date of that visa. This includes people on bridging visas pending the outcome of a substantive visa application (eg if they have applied for permanent residency) but, for example, does not include short-term visitors such as tourists, business people and those here for a medical procedure.

Foreign students resident in Australia are no longer subject to a \$300,000 limit on the value of an established dwelling purchased as their principal place of residence.

- **Vacant Residential Land**

Acquisitions by foreign-owned companies, trust estates and non-resident foreign persons of single blocks of vacant residential land are required to build a dwelling within a period of 24 months (previously within 12 months and development expenditure of at least 50 per cent of land cost).

The conditions previously applied to acquisitions by temporary residents of single blocks of vacant residential land no longer apply (such acquisitions will be exempt after the Regulations are amended in early 2009).

'Single blocks' of vacant land generally refers to a block of land on which only a single dwelling could be constructed. This does not include large tracts of land (eg for the purpose of subdivision) or multiple adjacent single blocks (eg to develop a multi-dwelling apartment complex) – additional development conditions may apply to such acquisitions.

- **New Dwellings**

The existing requirement that only 50 per cent of new dwellings can be sold to foreign persons on an 'off the plan' basis has been removed provided developers market locally as well as overseas. Vendors are no longer required to have concurrently developed a similar dwelling in order to be able to sell a new stand-alone dwelling to a foreign person. This will be reviewed after two years.

A 'new dwelling' is currently defined as having never been occupied or sold; this now includes dwellings that have not been sold but that have been rented out for no more than 12 months.

- **Foreign Companies Purchasing Second Hand Dwellings**

Foreign-owned companies can now purchase established dwellings for the use of their Australian based staff provided that they sell or rent the dwelling if it is expected to remain vacant for more than 6 months. There is no limit to the number of established dwellings which can be purchased, where required for employee accommodation.

- **Temporary Residents (including the wholly owned Trusts or Australian Incorporated Companies) Exemption (Proposed Change)**

Temporary residents will not be required to notify proposed acquisitions of:

- an established dwelling for their own residence;
- any new dwellings; and
- single blocks of vacant residential land.

- **No Off The Plan Pre Exemptions**

Developers will no longer be issued advance approval for sales of new dwellings to foreign persons – all non-resident foreign purchasers must submit individual applications (although developers may submit these on behalf of the purchaser/s). Temporary residents will be exempt and not required to notify.

But you should remember that since December 2008 the 50% restriction has been removed.

## **MAKING THINGS EASY**

C-Property Conveyancing likes to make things easy for its referring agents and clients.

We have developed a questionnaire that can be distributed to readily identify whether a buyer or potential buyer requires an approval under Australia's Foreign Investment Policy for residential property. The questionnaire of course will be amended as soon as the proposed amendments take force.

If you have any concerns or need any assistance regarding Australia's Foreign Investment Policy please contact us.