

**Law  
Update**  
January 2009

# Changes in the FIRB Policy

On the 18<sup>th</sup> December 2008, the FIRB announced changes to its policy concerning the acquisition of residential real estate by foreign persons.

The changes are designed to streamline the administrative process for FIRB approval and notification arrangements, reduce compliance costs and post-purchase conditions on development of single blocks of vacant land.

The policy changes are to be implemented progressively. Those changes that do not require a change to the legislation will be implemented immediately and those that require changes to the legislation will come into effect after the amendments are made which are expected in February of 2009.

## 1. TEMPORARY RESIDENTS PURCHASING SECOND HAND DWELLINGS

- The definition of “temporary resident” has been widened to include all foreign persons living in Australia on a valid visa, irrespective of the expiry date of the visa, but will not include short-term visitors such as tourists, business people and those here for a medical procedure.
- Temporary residents will be exempted from notification of proposed acquisitions of:
  - (a) Established residential real estate for their own residential purposes.
  - (b) New residential real estate.
  - (c) Vacant residential land.
- However the rule preventing the purchase of more than one established dwelling will be maintained.

## 2. NON-RESIDENTS

- There has been a streamlining of administrative procedures to reduce approval timeframes. The FIRB policy statement currently advises of approval time of up to 40 days, but this is to be substantially reduced.
- It is our experience in recent times that FIRB approvals are being processed within 7 to 14 days if not sooner for certain cases.

## 3. VACANT LAND AND BUILDING

- The conditions previously applying to the purchase of single blocks of vacant residential land will no longer apply after the regulations are amended.

- The current conditions for non-resident foreign persons, foreign-owned companies and trust estates concerning the purchase of single blocks of vacant residential land will be removed with the exception of the requirement to commence building on vacant residential land which has been extended from 12 months to 24 months.

## 4. OFF-THE-PLAN SALES

The existing requirement applying to developers that only 50% of new dwellings in a development be sold to foreign persons on an “off-the-plan” basis has been removed provided that the developers market locally as well as overseas.

## 5. NEW DWELLINGS

The previous definition of a “new dwelling” as a dwelling that has never been occupied or sold has been extended to include those dwellings that have not been sold but that have been rented for no more than 12 months. An example provided is the temporary rental of units by developers until a buyer is found.

## 6. FOREIGN COMPANIES

- Foreign companies will be allowed to purchase established dwellings for the use of their Australian based staff, provided that it sell or rent the dwelling if it is to remain vacant for more than 6 months.
- There is to be no limit to the number of established dwellings which can be purchased in this regard.