

FOREIGN INVESTMENT REVIEW BOARD UPDATE

On 18 December 2008, the Assistant Treasurer, Chris Bowen MP, announced a number of administrative changes to the Government's foreign investment screening arrangements for acquisitions of residential real estate by foreign persons. These changes were fully implemented on the 31 March 2009 and are now operative. They are intended to relax restrictions on the acquisition and development of single blocks of vacant land, provide a more flexible definition of temporary resident, and simplify notification arrangements.

Prior to these changes, all foreign persons and non-residents, including businesses, must seek approval from the Foreign Investment Review Board (FIRB) to purchase urban (including residential) land.

THE RELEVANT CHANGES

1. The 'Temporary Resident'

The definition of a temporary resident has been expanded to include to all foreign persons who are living in Australia with a visa of at least 12 months duration and those on long-term bridging visas. Those with tourist visa's or short term business visas will continue to not be considered as temporary residents.

Temporary residents are exempted from notifying FIRB of proposed acquisitions of:

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

2. Vacant Residential Land

The restrictions on acquisitions by foreign persons or companies of single block vacant land that a dwelling must be built within 12 months with development expenditure of half the land's value have been abolished. The land is now only required to be developed within 24 months and without an expenditure minimum.

3. Foreign Students

Foreign students are no longer subject to a \$300,000.00 limit on the value of an established dwelling purchased as their principle place of residence. However, students, as non-residents, are still prohibited from purchasing more than one established dwelling.

4. New Dwellings

A new dwelling is now defined as having been resided in less than 12 months, in place of the prior requirement that the dwelling had to be uninhabited. This allows developers to temporarily rent out premises until a buyer is found. There are now no restrictions on the number of dwellings/units that may be sold to a foreign entity in a new development. However, a separate FIRB approval must be obtained for each sale to a non-resident.

5. Notification Procedures

The amendments have focused on streamlining the FIRB's administrative procedures and notification arrangements. The new procedures now allow electronic notification to non-resident foreign persons for the approval of acquisitions, and allow for an application turn-around of 24-48 hours. The prior administrative system took up to 30 days to administer acquisition approval.

If you are a foreign individual or business, the team at Ferguson Cannon Lawyers are well-equipped to assist you in the acquisition or development of an Australian property. Please contact Byron Cannon on (07) 5443 6600 today to discuss your requirements.