

Dear Sir/Madam,

1. In response to this consultation paper, I am extremely concerned that there appears to be no method included to enforce the law against foreign investors who have already unlawfully purchased properties, either as investments or with the intention of allowing them to deteriorate, then apply for demolition and replacement with one or more dwellings which may be totally inappropriate to the area in which they are located, e.g. replace one decent house on a large block with a tower block of minute flatlets. It appears that these offenders will continue to own their properties unmolested and probably make a large windfall profit if/when they sell them. Does this comply, in any way, with the Government's stated intention to increase the supply of houses?
2. I suggest that a punitive approach should be taken when unlawful purchases are identified, NOT by ordering the owners to divest themselves but by placing a compulsory purchase order on the property on the grounds that the Public Interest is being served by placing the house on the market to be purchased by a legitimate buyer. The price paid under such a compulsory purchase should not be more than 20% of the current value of that property, which will provide an incentive for unlawful owners to divest themselves quickly instead of waiting until they are identified and caught out. Any profits from the resale could go to pay the cost of maintaining the enforcement office
3. I am, however, very pleased that the enforcement of both existing and future legislation will be undertaken by the Australian Taxation Office, as the personnel in that department are already conditioned to anticipate wrong doing, unlike the F.I.R.B. staff who appear to work on the basis that people will respect laws passed by Parliament, even when it is widely known that those laws are not enforced.
4. The following is a hypothetical situation which MAY come to life. I would be interested in hearing just how the new enforcement office would identify and deal with this type of situation!
  - If a foreign individual, not being entitled to purchase an existing residential property, enters into an agreement on the following lines how will the enforcement office recognise that the situation exists and what steps will they be able to take to resolve the situation?
  - The foreign investor (or speculator) has one prime objective - to transfer a considerable part of his assets to Australia in advance of any restrictions by his home government to control or prevent the transfer overseas of such assets.
  - He/she enters into an agreement with an Australian citizen (or holder of a Permanent Residency Visa) for that individual to purchase an existing residence, with the foreign 'investor' providing a 100% mortgage to cover the entire cost of the purchase. The mortgage amount to be refundable in full on the resale of the property in question plus a major share of any capital gains.
  - The ostensible purchaser MAY be permitted to reside in the property at a nominal rent (which is treated as the interest on the mortgage loan) provided that he/she pays all ongoing bills (Rates, water, power, etc.) AND maintains the property in good condition.
  - The mortgagor retains the right to foreclose the mortgage if the mortgagee fails to meet his/her obligations and then sell the property, pocketing any capital gains - which are likely to be tax free to the new (foreign) owner, who would NOT have breached the foreign purchaser restrictions since he would only be foreclosing on an existing mortgage.
5. How long does the A.T.O think it would take foreign investors to think of this, or a similar scheme, to avoid the proposed restrictions and enforcement?

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