

The logo for Nevett Ford, featuring the name 'Nevett' in a black serif font, 'ford' in a red script font, and 'LAWYERS' in a small black sans-serif font below it, all on a white background with a teal bar at the bottom.

LAWYERS

## Foreign investors homing in

Article appearing in *The Age*, 12 April 2010

Rule changes mean foreign investors are now free to move away from the CBD and into suburban property.

New rules making it easier for foreign residents to invest in local real estate, along with an influx of overseas students, are changing the property market.

The relaxation, in late 2008, of restrictions on the right of foreign residents to buy Australian residential real estate has come under fire in the media recently for its purported effect on the housing market.

Stories of prices being pushed up by overseas buyers are causing some people to ask whether the relaxation needs to be re-examined.

Foreign investment in residential property is not new. For many years foreigners have been allowed to buy Australian real estate under rules prescribed and tightly administered by the Foreign Investment Review Board. Penalties for an infringement of the rules can be significant.

Until the 2008 changes, the most common way for overseas residents to buy Australian properties was to purchase "of the plan" – that is, based on the architects' drawings, and often before construction began, or while it was in progress.

Under the old rules, developers could sell up to half of a project to foreign investors. Many projects that might have otherwise been unviable not only came to fruition but prospered. In fact, it would probably be true to say that Melbourne's boom in inner city residential apartment developments throughout much of the '90s had a lot to do with the influx of foreign investment.

In my capacity as a specialist immigration lawyer working within a commercial legal practice, I have spent a lot of time travelling to Asia with property developers and agents. From my experience, sources of overseas investment interest in Australia are changing. In the early days most of the selling activity took place in Singapore and Indonesia. These days China is very much at the forefront, and given the increasing affluence of its citizens, there is no reason to believe it will lessen soon.

Such investment is monitored by the Foreign Investment Review Board. The changes to the Foreign Acquisitions and Takeovers Regulations that were announced in late 2008, and became effective from March last year, aim to simplify and streamline the board's role.

Perhaps the most significant change gives temporary residents the right to buy established dwellings for use as a principal place of residence. The definition of "temporary resident" includes skilled workers and executives.

Notification requirements have also been abolished, along with some conditions on the development of single blocks of vacant land. Australian developers are no longer banned from foreign investors homing in.

If you require any further information in relation to this issue, please contact David Stratton, Helen Zheng or Ryan Curtis-Griffiths.

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