



RESIDENTIAL REAL ESTATE – ESTABLISHED DWELLINGS FOR REDEVELOPMENT

Foreign persons (temporary residents and foreign non-residents) generally need to apply and receive foreign investment approval before purchasing established residential dwellings for redevelopment.

Foreign persons will normally be allowed to purchase an established dwelling for redevelopment in Australia, provided the redevelopment genuinely increases the housing stock. An increase in Australia's housing stock is generally taken to mean that at least one additional dwelling will be created.

This Guidance Note sets out the factors that will normally be considered when assessing an application to purchase established residential dwellings for redevelopment and the conditions that will normally apply to an approval.

REDEVELOPING AN ESTABLISHED DWELLING WITH MULTIPLE DWELLINGS

A redevelopment proposal will normally be approved where an established dwelling or dwellings will be demolished and replaced with more dwellings than will be demolished. Such proposals are normally approved subject to conditions that:

- the existing dwelling(s) must remain vacant prior to demolition and redevelopment;
- the existing dwelling(s) is demolished and construction of the new dwelling(s) is completed within four years of the date of approval; and
- evidence of completion of the dwelling(s) is submitted within 30 days of it being received by the applicant. This could include a final occupancy or builder's completion certificate.

If plans for redevelopment or intentions on the use of the property change after receiving approval, foreign persons will generally be required to seek a variation.

In exceptional circumstances where the development cannot be completed within the required four years, the foreign person could apply for a variation to the condition. The application for variation must be made at least two months before the end of the four years. A fee will apply for this. Variations will be considered on a case-by-case basis.

Example 1

Brendan wants to purchase one established dwelling to redevelop into four dwellings. He applies for approval to purchase the property and redevelop it, and pays the relevant application fee. As the redevelopment will genuinely increase the housing stock in Australia, Brendan is given approval to go ahead with the purchase subject to the normal conditions for redevelopment into multiple dwellings.

To comply with the conditions of the approval, Brendan and his associates cannot occupy the dwelling or rent it to tenants from the time of settlement to demolition of the dwelling. Brendan also has to make every effort to complete the redevelopment within four years of the date of foreign investment approval.

Example 2

Gina wants to purchase three established dwellings on adjacent blocks to redevelop into a twenty dwelling complex. She applies for approval to purchase each property and redevelop them, and pays the relevant application fee. As the redevelopment will genuinely increase the housing stock in Australia, Gina is given approval to go ahead with the purchase subject to the general conditions for redevelopment into multiple dwellings.

RETAINING AN ESTABLISHED DWELLING AND BUILDING AN ADDITIONAL DWELLING

Proposals to retain an established dwelling and build an additional dwelling will normally be approved when the additional dwelling will be of a comparable size and value to the existing property and, once constructed, either one or both dwellings would be made available for use by independent third parties (by renting or selling to a third party).

Proposals for additional developments which are intended only as an expansion or refurbishment of an existing dwelling, or are linked to an existing dwelling, such as accommodation for an existing family member in the form of a granny flat, entertainment space or other private guest accommodation, will not normally be approved.

Example 3

James wants to purchase one established dwelling to retain and build an additional dwelling on the property. The additional dwelling is planned to be a separate, standalone house located on the back of the block and be similar in size to the existing dwelling. James plans to make both dwellings available for rent when the redevelopment is complete.

James applies for approval to purchase the property and pays the relevant application fee. The proposed redevelopment will genuinely increase the housing stock in Australia and James is given approval to go ahead with the purchase subject to the general conditions including that one of the dwellings will be rented or sold to independent third parties.

Example 4

Celina wants to purchase one established dwelling to retain and build a granny flat on the property. While the granny flat will be a separate, standalone dwelling on the property, it will be substantially smaller than the established dwelling. Celina plans on using the granny flat primarily as holiday accommodation to house family members and friends.

This type of proposal would not normally be considered as a genuine increase in Australia's housing stock, and would not normally be approved under the foreign investment framework.

REDEVELOPING AN ESTABLISHED DWELLING WITH A SINGLE NEW DWELLING

Foreign persons will generally not be given approval to purchase an established dwelling to redevelop into a single new dwelling, regardless of the condition of the existing dwelling.

This consideration will extend to situations where a foreign person seeks to purchase two established dwellings to redevelop into two new dwellings, three established dwellings to redevelop into three new dwellings, and so on.

Vacant land that previously had a dwelling on the land will generally not be considered vacant for the purposes of Australia's foreign investment framework. As such, foreign persons will generally not be eligible to purchase vacant land that previously had a dwelling built on it (unless they are proposing to construct multiple dwellings on the land which will increase the housing stock).

FEES

An application for approval to purchase residential property will not be considered until the relevant application fee has been paid in full.

For more information on fees, see Guidance Note 29.

PENALTIES

Strict penalties (including civil and criminal penalties and disposal orders) may apply for breaches of Australia's foreign investment rules. For more information, see Guidance Note 11.

Cases of non-compliance with Australia's foreign investment framework may also be brought to the attention of law enforcement agencies and other Commonwealth departments such as the Department of Immigration and Border Protection.

HOW TO APPLY

If you would like to apply for foreign investment approval for:

- A new dwelling
- Vacant residential land
- A second hand or established dwelling
- An exemption certificate for established dwellings
- An exemption certificate for residential land (other than established dwellings)

Please use the [Australian Taxation Office's foreign investment application form](#).

Foreign persons should take care to ensure they supply the correct details and all required information as part of their application, as changes to details such as name or property address after an approval has been granted may require foreign persons to seek a new approval and be subject to further fees.

FURTHER INFORMATION

Further information is available on the FIRB website at www.firb.gov.au or by contacting 1800 050 377 from Australia or +61 2 6216 1111 from overseas.

Important notice: This Guidance Note provides a summary of the relevant law. As this Note tries to avoid legal language wherever possible it may include some generalisations about the law. Some provisions of the law referred to have exceptions or important qualifications, not all of which may be described here. The Commonwealth does not guarantee the accuracy, currency or completeness of any information contained in this document and will not accept responsibility for any loss caused by reliance on it. Your particular circumstances must be taken into account when determining how the law applies to you. This Guidance Note is therefore not a substitute for obtaining your own legal advice.