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## **UDIA Submission to the Senate Inquiry into the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 and related bills**

The Urban Development Institute of Australia (UDIA) welcomes the opportunity to provide this submission to the Senate Inquiry into the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 and related bills. UDIA is the peak body representing the interests of the development industry around Australia, acting on behalf of over four thousand members across the country, from a wide variety of fields and professions.

UDIA believes that foreign investment is a highly beneficial to the Australian economy and broader community. In the case of residential real estate, foreign investment drives jobs and economic growth in the development and construction industry, and supports the supply of new housing.

UDIA believes Australia's current foreign investment framework, which aims to increase Australia's housing stock by directing foreign investment into newly constructed dwellings, whilst limiting investment into pre-existing dwellings, is appropriate, and supports beneficial foreign investment. As such, UDIA supports aspects of the Legislation Amendment Bill designed to strengthen enforcement of the existing foreign investment framework to reduce incidences of non-compliance, and improve community confidence in the policy.

However UDIA believes that foreign investors and developers who abide by the policy should not be unduly disadvantaged. In this regard, UDIA is strongly opposed to provisions within the Legislation Amendment Bill and related bills that would impose significant new "application fees" on both foreign investors and developers, and could act as a significant disincentive to beneficial foreign investment in new dwellings.

### There should be no application fee for new residential dwellings

Under Australia's foreign investment policy framework, foreign investors are permitted to buy new dwellings, which makes applications and approvals for new dwellings routine from a compliance

perspective. Purchases of new dwellings by foreign investors do not require ongoing monitoring as is the case with pre-existing dwellings, and are therefore subject to much lower administrative costs.

Potentially, a different fee should apply to foreign investment applications that do not relate to new residential property (e.g. existing residential dwelling or other forms of real estate), to reflect their higher compliance and enforcement costs. Australia's development industry is a productive sector of the economy, and developers of new residential dwellings should not be subsidising compliance and enforcement in other real estate sectors.

**UDIA believes that there should be no application fee for new residential dwellings - Australia's development industry should not subsidise compliance and enforcement activities around existing residential dwellings and other forms of real estate.**

#### The proposed fees on foreign investment Applications are too high

In 2014, the House of Representatives Economics Committee report on foreign investment recommended introducing a modest application fee of \$1500 to allow the Government to recover the costs of administering the foreign investment regime. UDIA recognises that Government incurs substantial costs in administering its foreign investment policy, and believes that the introduction of a modest fee, which reflects the direct costs of administering the foreign investment framework, could be an appropriate change.

UDIA has major concerns with the fee structure proposed by the Foreign Acquisitions and Takeovers Fees Imposition Bill, which includes a fee of up to \$5000 for properties valued under \$1 million, with properties equal to or greater than \$1 million in value subject to a fee of up to \$10,000, with the fee increasing by up to \$10,000 for every additional \$1 million in property value. UDIA believes that this fee structure is excessive, and may pose a real and substantial disincentive to foreign investment.

Additionally, UDIA believes that the proposed fee structure is unlikely to be reflective of the true costs borne by the Government in administering the foreign investment regime. The House Economics Committee Report references analysis by the Parliamentary Budget Office, suggesting that a \$1,500 per application fee would be appropriate. This is far less than the fees set out in the Fees Imposition Bill.

It is also unclear why the cost of administering an application should be positively correlated to the value of the property, as suggested by the fee regime.

If the fees charged are not reflective of the Government's administrative costs, then the introduction of those fees is essentially just a new tax on foreign investment. This would be both inconsistent with Australia's foreign investment policy, and likely to damage economic growth, jobs in the construction industry, and new housing supply.

**UDIA believes that if the Government introduces an application fee, the application fee should reflect the true costs of administration, and not be more than \$1,500 - otherwise it may unduly discourage legitimate foreign investment.**

#### Advanced Off the Plan Application Fee

The use of off the plan certificates simplifies administration of the foreign investment framework by allowing an entire development to be approved for foreign investment, and removing the need for every individual foreign investor to seek separate approval from the Government. As such, the overall administrative cost to the Government of issuing an advanced off the plan certificate for a particular development should be less than granting approval for every unit in that development on an individual basis.

This is not reflected in the Fees Imposition Bill, which proposes the introduction of a \$25,000 up front application fee on developers, in addition to the per dwelling fee structure, which would imply a much larger administrative cost from using advanced off the plan certificates, when this is not the case. As with the per dwelling fee structure, the advanced off the plan application fee is likely to be much greater than required for simple cost recovery, in which case it represents a significant new tax on beneficial foreign investment.

The fact that the overall cost of a dwelling sold under an advanced off the plan certificate would be more than if that dwelling were sold separately, along with the major up front cost, may see many developers simply choose not to seek an advanced off the plan certificate where they otherwise would have. This would result in more foreign investors seeking approval on an individual basis, and would create greater administrative costs for the Government than would have been the case had an advanced off the plan certificate been issued.

**UDIA believes up front application fees must not be levied on advanced off the plan certificates.**

#### Conclusion

UDIA thanks the Senate Economics Committee for the opportunity to provide this submission in response to the Foreign Acquisitions and Takeovers Legislation Amendment Bill 2015 and related bills. UDIA would welcome the opportunity to discuss any aspect of this submission in greater detail. For further information, please contact UDIA National on 02 6230 0255 or at [udia@udia.com.au](mailto:udia@udia.com.au).