

1. Became aware of the request for comment in the April Boronia and Basin News yet the website states a closing date of 20 March. Bit hard to make a comment under those terms.
2. I note the paper rightly makes a distinction between agriculture, business and residential developments yet the newspaper highlighted community concerns regarding "homes".
3. I note that national interest remains undefined; this plainly leaves a lot of manoeuvre room for the Government and its Mandarins when considering the merits of foreign investment. This creates uncertainty for two reasons; continued suspicion by Australian citizens regarding the adverse impact that is currently claimed for excessive housing prices, and the high probability that lip service will be paid to the Act when considering an application from a "favoured" applicant. Tie the Government to a clear definition of the national interest.
- 3.a. I don't necessarily agree that the currently perceived 'one-way' investment strategy is good for Australia. For example, unchecked/incompetent? construction of residential developments, along with unacceptable building practices and unsafe materials, may keep a construction industry happy for now but the resulting congestion (alleged to be worse than Hong Kong) disharmony and lack of safety is unacceptable. Further, we need to contemplate the real possibility that a lot of development is simply wrong in terms of usefulness, style, and location. A glut of high rise in the city will not help the battler in the 'burbs.
4. The FIRB is acclaimed to be a non-statutory advisory board. I see this as a complete waste and I think that is the main reason for Australia's inability to enforce the current rules.
5. The problem of knowing/identifying "foreign" investors is a concern. Shell companies and holdings to cloak an unscrupulous foreigner's activity is a very popular perception. This perception needs immediate and considerable attention and the proposed specialist arm of the ATO seems to be the best means to reassure the Australian public that the game's rules are being rebalanced and that unscrupulous operators will be detected and dealt with. This means that the (ATO) proposal needs to be implemented ASAP and regular public updates be made to reassure the public that justice is actually being done. Remember that "not only must justice be done but it needs to be seen to be done" remains a particularly valid concern for the public. This is all the more relevant considering a transition from "spin" to "outright lying" seems to be apparent these days.
6. Agricultural efforts in Australia these days is becoming much more important, especially with respect to our inadequate understanding of the causes and effects of adverse climate. People like Peter Andrews (natural sequence farming) who have convincingly demonstrated the inadequacies of conventional farming wisdom need to be given much more credence. How can we be sure that a foreign investor will not adversely impact reasonable sustainable farming methods in their investments; they could be looking for a short-term rape of the land before dumping the now useless land back on the Australian public. The American experience (very negative) with the plundering of their aquifers and our experience with artesian bores (not inexhaustible) alone may give us cause for concern.
7. How hard is it to suck up all the necessary information (titles and related transactions) from the States? How effective will be a Federal Act to get the necessary information so that the ATO can be effective in enforcing the Act and its regulations? Do the States need to be cajoled or can they simply be told?

8. Regarding penalties; their application to third parties is plainly a good idea because that should go a long way to obviating an expected plethora of slick schemes to get around any new regulations. As an aside, I know that maintenance providers to tenanted properties do not like absentee landlords because they are pretty much untouchable. A local business does not have the reach that, say, the ATO might have under new laws. The point here is that small business needs regulatory support too.
9. I don't necessarily agree that a civil penalty scheme would help ensure compliance but it certainly would, at least, help recover something back to the nation and emphasize the fact that Australia takes breaches seriously. However, I can't really see that a criminal penalty would be much use because of the difficulty in getting the main players into court.
10. Given the high value of residential property being traded, I think that the value attached to each penalty unit should be increased.
11. I take the view that all penalties should apply to all forms of foreign investment. I especially agree with the five times multiplier being applied to corporations.
12. The idea of attaching fees to applications makes sense because that is currently what the average Australian citizen contends with in seeking planning and building permits. It is right and proper that investors help fund the regulator to oversee foreign investment in Australia.
13. I suspect that agricultural land will need to be redefined to accommodate the growing trend of diversification on what was once purely agricultural land. e.g. definite primary production exists but there is another commercial venture attached to that land and its proprietors. Can't call it an agribusiness because that suggests primary production only, yet it isn't urban, commercial or industrial either.
14. Lack of awareness of foreign investment in agriculture is disappointing. We know that the UK particularly has a long and strong history of agricultural investment in Australia but actually quantifying its extent appears to be another matter. Plainly a one-time audit to establish a baseline would be required despite it being an onerous undertaking. The Australian community deserves to see competent management of the nation.
15. Ongoing confirmation/identification/registration of foreign investors at point of transfer of title will be onerous but it must be done. It makes sense that the lawyers/conveyancers be nominated to perform the check and that some of the application monies can be paid for the service. Essentially a two-tier system is required to differentiate between foreign and Australian national purchasers; a quick and easy identification of Australian national who intends to transfer a title to themselves versus the others who can't provide that assurance. Not all Australians have passports. Driving licences are often falsified. Birth and naturalisation certificates might be a start provided secondary identification confirmation can be provided. Company/corporation purchases need much more scrutiny lest they be a front for a foreign investor.
16. A simplified system - go/no go - could apply when there is doubt about the identity of any investor. That is, the sale is held up, or even denied, until satisfactory assurance is given.
17. It stands to reason that Australia needs a specialist organisation with all necessary clout available under legislation to enforce a reasonable outcome regarding foreign investment in Australia. It seems that an arm of the ATO is best placed to provide the skills and federal spread to achieve the outcome.

18. Regarding advanced plans and the like, perhaps a quota of foreign versus domestic investment should be mandated before development proceeds. I take the view that creating an inappropriate or unusable glut is not good sense. At the same time, opportunistic speculation needs to be discouraged as well.

19. On reflection, we possibly need classes of land zoning. For example, if a predominantly agricultural property also supports a commercial venture that sells either goods or services directly to the public that that could be, say, agricultural - commercial versus straight agricultural. Should the commercial venture lapse then the zoning would have to be reviewed particularly to ensure no misrepresentation occurs with any subsequent sale. Agricultural - domestic could cover the hobby farms and much larger residential blocks but some sort of primary production may need to be demonstrated although not necessarily a profit making venture. The point here is that we have to protect ourselves against the loss of otherwise proven productive land just so that I can look out over 50 acres of lawn. Domestic is easy - properly zoned and developed residential developments are easy to detect. Similarly, industrial zoning would be straight forward. That sort of zoning may need to enforce no domestic arrangements - every aspect of the property has to have a direct identifiable link to running a commercial business having an ABN and clear profitability. Maybe the Hell's Angels might have to find somewhere else to go but certainly not in residential zones.

20. FTA investor's limits need to be commensurate with how Australians are treated in the host country. The principle of equivalent and proportional treatment needs to be enshrined in our dealings in the global village.