



## Alert | Live Property Deals Do you risk missing out?

31 March 2020

It is clear that we are facing unprecedented and challenging times and for most, the outlook for the remainder of FY20 and beyond appears uncertain. This uncertainty has instilled caution in most and indeed during this period, we have seen many deals cease or be delayed indefinitely.

Nonetheless, we have observed a small group of investors and developers who have not been frozen or derailed by fear. Instead, these groups have identified opportunity and through decisive leadership, have asked:

- How can we de-risk or consolidate our otherwise healthy portfolio to ensure we come out of this period in a position of strength? (Vendor)

or

- Given our strong capital position, how do we keep our pipeline flowing and our staff utilised when the economy appears to have stalled? (Purchaser)

### A time to think innovatively and take a step ahead of the rest

Our senior experts are currently working closely with Vendors and Purchasers to ensure that existing deals do not disintegrate, and new deals continue to flow.

Through our specialist knowledge of tax as well as structuring and financing, we are devising strategies to **ensure existing deals remain alive** and that **new deals** are structured in a robust manner. This means all parties can be confident that their deals will **withstand an uncertain economic climate**. Examples of how we are currently assisting our clients include:

- Acting on several transactions in connection with the acquisition of developers' entitlements under existing Project Delivery Agreements, which we have advised on a case by case basis taking into consideration each of the parties' particular circumstances and proposing alternative structures to optimise commercial, legal and tax outcomes;
- Arranging for the payment of the settlement amount for a development in separate tranches staged over months or years in a manner that does not require the Purchaser to grant a first registered mortgage to the Vendor but still sufficiently protects the Vendor's interests;
- Structuring payments of the settlement sum to be contingent upon certain revenue milestones of a development across a number of years in a tax efficient manner to the Vendor; and
- Facilitation of substantial "off-market" transactions involving motivated Vendors and Purchasers in a commercial-in-confidence manner through our close network of professionals and contacts.

### Others are acting now. What about you?

Transactions are still progressing, and the above examples are but a few examples of live deals we are actively assisting clients with.

We note, however, that the Government is constantly changing the rules and regulations affecting property transactions, including the Morrison Government's recent announcement on temporary changes to the foreign investment review framework.

The latest announcement reduces the threshold amount to \$0 in determining whether particular foreign investments are subject to approval by the Foreign Investment and Review Board (FIRB) from 29 March 2020. As a result, FIRB approval will be required in situations where they were previously not required.

Rest assured that we are constantly monitoring all government announcements to ensure that the advice we provide is up to date in this volatile period.

We note that we are well equipped for current social distancing and self-isolation requirements with all communications able to be conducted virtually (via WebEx) as well as the ability to execute or exchange contracts electronically (e.g. through the use of DocuSign and/or PEXA).

If you would like to learn more, we would be delighted to hold virtual meetings with you to understand your business needs and to share our experiences so we can help you navigate through during this difficult period.

### Further information

If you need help contact us via email or our phone numbers below. We can support you virtually without the need to visit your premises.



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