



简报

聚焦澳洲房地产

获得外国投资审查委员会批准

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General 概述

The Australian Government encourages foreign investment in Australia in order to promote strong economic growth provided that the investment is in the national interest.

澳大利亚政府鼓励国外投资者在澳大利亚进行的符合澳大利亚国家利益的投资，以便促进强有力的经济增长。

By far the largest number of foreign investment proposals involves the purchase of real estate. The Australian Government has specific policies and rules regarding the purchase of Australian real estate by non-residents. Those policies and rules are embodied in the *Foreign Acquisitions and Takeovers Act 1975 (FATA)* and are administered by the Foreign Investment Review Board (FIRB), a division of the Australian Treasury.

截止目前，数额最大的投资方案涉及房地产购置。关于非居民购置房地产，澳大利亚政府出台了特殊的政策和法规。那些政策法规体现在 *Foreign Acquisitions and Takeovers Act 1975 (FATA)*，并由澳大利亚财政部下属的外国投资审查委员会具体执行。

Non-residents of Australia seeking to purchase real estate in Australia must ensure that they comply with FIRB requirements or that they are exempt from having to comply.

试图在澳大利亚购置房地产的非居民必须确保他们遵从了审查委员会的要求或者他们被豁免遵从。

Acquisitions of Australian Real Estate - Eligibility Criteria

澳大利亚房产并购

As a general rule persons who intend to acquire Australian real estate should notify the FIRB in advance for foreign investment approval. There are some exemptions for “temporary residents” of Australia and there are also certain types of real estate that are exempt from having to obtain FIRB approval. This means that, unless an exemption applies, all contracts to acquire Australian real estate by a foreign person will be conditional upon FIRB approval.

一般来讲，打算在澳大利亚购置房产，必须先向外国投资审查委员会申请外商投资审批，除了已取得澳大利亚临时性居民资格的人或者购买某些特殊的房产享有提前审批的豁免权外，所有外商购置澳大利亚房产的协议都必须先经过外国投资审查委员会的批准许可。



FIRB approval must also be obtained to bid, and buy, at an auction for Australian real estate.

获得外国投资审查委员会审批许可的房产必须是通过竞标、拍卖方式获得的澳大利亚的房产。

Foreign persons who do not comply with those rules are in breach of the FATA and may be subject to significant penalties.

在购置房产中违反 FATA(*Foreign Acquisitions and Takeovers Act 1975*)的外商将会面临巨额的罚款。

Many proposed acquisitions of real estate are normally approved by FIRB if the foreign person meets specific eligibility criteria. These eligible criteria are specific to different categories of real estate being purchased, some of which are referred to in the table below:

如果外商购置房产符合一些特殊的资格标准,外国投资审查委员会通常会易被批准许可。在下面表格中,着重介绍一些容易被审批许可的特殊房产项目。

Use	Real Estate Category & Eligibility Criteria
Residential	<ul style="list-style-type: none"> • <i>Vacant land for residential redevelopment</i> <ul style="list-style-type: none"> - Continuous substantial construction must commence within 24 months; and - If more than single blocks of vacant land for the purpose of building multiple residential dwellings, at least 50% of the acquisition cost or the current market value of the land (whichever is higher) must be spent on development; and - Redeveloped dwellings should be rented out, sold to Australian interests or other eligible purchasers or retained for the foreign persons' own use. • <i>Existing residential dwellings for redevelopment</i> <ul style="list-style-type: none"> - Existing dwelling must be demolished to build new dwellings and continuous substantial construction of the new dwellings must commence within 24 months; and - New dwellings should provide for an increase in the number of dwellings compared to that of existing dwelling; and - Existing dwelling cannot be rented out prior to demolition and redevelopment; and - New dwellings should be rented out or sold to Australian interests or other eligible purchasers or retained for the foreign persons' own use. • <i>Residential real estate in an integrated tourism resort</i> • <i>Existing residential dwelling required by foreign-owned companies operating a business in Australia to accommodate senior executives.</i>



Commercial	<ul style="list-style-type: none"> • Commercial real estate for development <ul style="list-style-type: none"> - Newly developed real estate must not be used for residential purposes; and - Continuous construction commencing within 5 years; and - A minimum amount equivalent to 50% of the acquisition cost or current market value of the land (whichever is higher) being spent on development. • Developed commercial real estate <ul style="list-style-type: none"> - Eg. hotels, motels, hostels and guesthouse or part therein where its value exceeds certain monetary thresholds. - Strata-titled hostel rooms in designated hotels. - Accommodation businesses operating under one title where the properties are occupied on a short-term commercial basis.
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用途	房产种类&特殊资质
民用住宅	<p>1, 投资闲置土地进行住宅开发:</p> <p>-必须在两年内动工进行持续实质性的建设;</p> <p>-如果使用的土地是用来建造成片居民住宅的, 将用不少于土地购置成本或市场价格50%的资金用于房地产的开发;</p> <p>-建成的住宅必须出租或者出卖给澳大利亚居民, 或者其他有资格的购买者, 也可以保留给外商自用。</p> <p>2, 投资现有居民住宅进行重建开发:</p> <p>-现有住宅必须拆除建设新的住宅, 并且在两年内着手进行持续实质性的建设;</p> <p>-新的住宅区必须提供比原住宅区更多的住宅房屋;</p> <p>-现有住宅不得在拆除和重建前进行出租;</p> <p>--建成的住宅必须出租或者出卖给澳大利亚居民, 或者其他有资格的购买者, 也可以保留给外商自用。</p> <p>3, 建设旅游观光地带的居民住宅。</p> <p>4, 在澳大利亚境内经营的外国企业为高管提供住宿而购买的居民住宅。</p>
商业房产	<p>1, 投资开发新的商业用房:</p> <p>-新开发完成的商业用房不得用于个人居住;</p> <p>-必须在五年内着手进行持续实质性的建设;</p> <p>-必须用不得低于土地购置成本或市场价值的 50%的的资金用于房产开发;</p> <p>2, 投资已经开发的商业用房:</p> <p>-包括宾馆、汽车旅馆、旅社、招待所之类的房产, 或者是它们其中的一部分且价值超过一定标准;</p>

更多信息

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本文由我们在澳大利亚悉尼
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为华税准备。

Bartier Perry 是一家专注于提供财产、税务、商业、劳动雇佣、房地产和争议解决领域法律服务的中等规模律师事务所。本文为一个系列出版物的第一部分, 该出版物涵盖在澳大利亚经营或投资所涉及问题。

-指定酒店中的分层所有权式的房产;
-为了经营旅店业务占用的房产.

Exemptions

In contrast to the restrictive measures taken in relation to the residential real estate sectors, the Australian Government's approach in relation to commercial property is relatively liberal in that foreign persons are exempted from notifying the FIRB if they acquire an interest in developed commercial property:

- valued at less than \$50 million (or \$5 million for heritage listed properties); or
- where the property is to be used immediately and in its present state for industrial or non-residential commercial purposes, provided that such acquisition must be wholly, incidental to the purchaser's proposed or existing business activities.

审批豁免:

与对民用住宅房产采取的严格措施相反, 澳大利亚政府对商业房产则采取的是相对宽松的政策, 如果外商投资的是已开发的商业房产, 符合以下条件的, 则可不必经过外国投资审查委员会的前置许可审批:

- 1, 购买的房产价值不少于 5 千万美元, 或者继承的房产价值不少于 5 百万美元;
- 2, 计划购买的房产目前由工业企业或者外资商业企业所有并使用, 购买该房产是实现整个经营计划的一个必要环节, 且购买房产后立即投入使用。

Concluding Tip

Foreign persons who are interested in acquiring real estate assets in Australia should seek advice as to their FIRB obligations before spending any money in searching for the suitable real estate. FIRB approval is specific to the applicant and cannot be used by other family members associated entities. A separate application has be made if the purchaser entity changes. For this reason, when notifying FIRB for approval, foreign persons should decide on the most suitable entity to be used for the real estate acquisition and then apply to FIRB in the name of that entity.

小结:

对于那些打算在澳大利亚购置房产的外商投资者而言, 在进行实质性投资之前务必要先准备好向外国投资审查委员会提交许可申请。外国投资审查委员会的许可只对具体的申请者有效而不包括与申请者的其他关联方, 而且当被许可者发生实体变化时必须重新作出一次新的许可申请, 所以投资者在向外国投资审查委员会申请许可审批时要选择好最适合进行房产投资的经济实体并以该经济实体的名义进行许可申请, 以便于日后的房产投资。