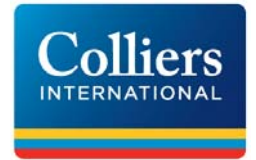




FIRB

Frequently Asked Questions



The questions and answers below provide a brief response to the most commonly asked questions.

For more information, refer to the relevant sections of the FIRB website (www.firb.gov.au) or contact our international sales team.

I AM A FOREIGN PERSON. CAN I INVEST IN AUSTRALIA?

Yes, depending on what you wish to invest in.

Acquisitions of residential real estate require prior foreign investment approval before the purchase can proceed (with certain exemptions).

Certain acquisitions of commercial real estate also require prior foreign investment approval (with certain exemptions).

Acquisitions of shares or other assets of businesses also require prior foreign investment approval in certain instances based on the size and type of investment.

For further information, please refer to the Foreign Investment Policy and the Monetary Thresholds .

DO I NEED TO APPLY FOR FOREIGN INVESTMENT APPROVAL?

The following acquisitions require approval, irrespective of the value or the nationality of the investor (unless you are exempt):

- vacant non-residential land;
- residential real estate;
- shares or units in Australian urban land corporations or trust estates; and
- direct investments by foreign governments or their agencies.

ARE THERE ANY EXEMPTIONS?

Yes. Refer to the exemptions page of the FIRB website.

WHAT DOES IT MEAN IF THE ACQUISITION IS EXEMPT?

If the acquisition is listed on the exemptions page, it means you do not need to notify us or seek our approval for the acquisition. Please note that we do not issue exemption letters.

ARE THERE ANY LIMITS OR MONETARY THRESHOLDS FOR FOREIGN INVESTMENT APPROVALS?

Yes. Refer to the relevant monetary thresholds page – for US investors and other investors.

WHAT FORMS DO I HAVE TO FILL OUT TO APPLY?

It depends on the nature of the proposal. Refer to the relevant page under How to apply.

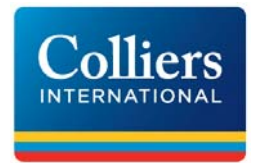
DO I HAVE TO POST THE ORIGINALS OR HARD COPIES OF THE SIGNED FORM(S) AND OTHER DOCUMENTS TO YOU?

No, just email or fax us your application.



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HOW LONG DOES IT NORMALLY TAKE TO GET A DECISION?

Residential real estate applications which meet the eligibility criteria will generally be finalised within a short period of time after we receive the completed application (that is, the relevant statutory notice or retrospective form as well as the relevant Declaration of eligibility), depending on current workloads. However, all other applications are more complex in nature and may take up to 30 days to examine and up to a further 10 days to advise the parties of the decision. In rare cases, that time period may be extended by a further 90 days if necessary.

If you wish to seek urgent consideration of your application, valid supporting reasons must be provided (for example, if the property is scheduled for auction or if you have an urgent commercial deadline).

HOW DO WE CONTACT YOU?

Our contact details are listed in the Contact Us section.

ACCORDING TO THE LIST OF EXEMPTIONS, I DON'T NEED APPROVAL – SHOULD I CONTACT YOU TO CONFIRM THAT THE EXEMPTION APPLIES TO MY PARTICULAR CIRCUMSTANCES?

No, you should determine whether your proposed acquisition is exempt and if in doubt, seek legal advice.

REAL ESTATE

ACCORDING TO THE LIST OF EXEMPTIONS, I DON'T NEED APPROVAL – CAN YOU PROVIDE WRITTEN CONFIRMATION OF THIS FOR MY BANK/MORTGAGE PROVIDER?

No, we do not issue individual exemption letters.

CAN I APPLY BEFORE FINDING A PROPERTY?

No, foreign investment approval is required for a specific property you wish to acquire. You cannot apply for a general or 'in principle' pre-approval.

CAN I APPLY FOR SEVERAL PROPERTIES AT ONCE?

Yes, but you must submit a separate application for each property you wish to purchase.

HOW MANY PROPERTIES CAN I PURCHASE?

There are no restrictions on the number of properties you are permitted to purchase, unless you are a temporary resident and want to acquire more than one established (second-hand) dwelling as your principal place of residence.

CAN I RENT OUT THE PROPERTY?

If you purchase a new dwelling – yes.

If you purchase vacant land – you can rent out the dwelling(s) that you construct on the land.

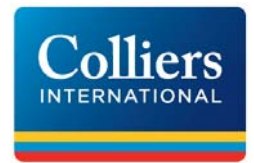
If you purchase an established dwelling for redevelopment purposes – you cannot rent out the existing dwelling, but you can rent out the new dwellings that you construct after demolishing the existing dwelling.

If a company purchases an established dwelling for their Australian-based staff – you may rent out the dwelling if it is expected to remain vacant for more than 6 months and you are unable to sell it.



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Frequently Asked Questions



DO I NEED APPROVAL TO SELL THE PROPERTY?

No, but you should be aware that the foreign investment policy may apply if foreign person(s) want to purchase it from you (that is, you should ensure that the contract of sale is conditional upon the foreign purchaser(s) receiving foreign investment approval).

However, you will need approval if you intend to sell the property without complying with the conditions specified in your approval – for example, if you purchased vacant land and you wish to sell the land without constructing any dwelling(s); or if you purchased property for redevelopment and you wish to sell it without demolishing the existing dwelling and building new dwellings.

WILL YOU CONTACT ME ABOUT MY APPLICATION?

We will contact you or the nominated contact person (preferably by email) if we require more information.

The decision advice will normally be sent to the nominated contact person via email.

I HAVE RECEIVED AN 'APPROVAL' EMAIL – WILL YOU ALSO SEND ME AN 'APPROVAL' LETTER IN THE POST?

No, the email represents official 'approval' under the FATA.

WHAT IF I CHANGE MY MIND ABOUT PURCHASING THE PROPERTY?

If you no longer intend to purchase the property and wish to withdraw your application before receiving approval, please notify us in writing (preferably by email or fax).

WHAT IF I WANT TO CHANGE OR ADD PURCHASER(S)?

Approval is granted for specific person(s) – the approval will not apply to any other person(s). If you wish to change the person(s) who will be acquiring the property, you must submit separate application(s).

WHAT IF I WANT TO CHANGE THE PROPERTY?

Approval is granted for a specific property – the approval will not apply to any other property. If you wish to purchase a different property (or additional properties), you must submit separate application(s).

WHAT IF I BECOME A PERMANENT RESIDENT?

You are not required to inform us if you become a permanent resident (unless this is specifically listed as a condition of your approval). You are still required to comply with any development conditions (for example, if you purchase vacant land or property for redevelopment).

DO I NEED APPROVAL TO INHERIT PROPERTY WHICH SOMEONE LEFT ME IN THEIR WILL?

No, you are not required to apply for foreign investment approval. Any acquisition of residential property by way of an inheritance (settlement of a legal will) or by a court ruling is exempt from the requirement to seek foreign investment approval.

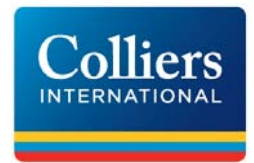
I AM IN A SAME-SEX RELATIONSHIP WITH AN AUSTRALIAN CITIZEN. AM I EXEMPT IF WE PURCHASE RESIDENTIAL PROPERTY TOGETHER AS JOINT TENANTS?

Yes, the spouse exemption applies to you if you 'have a relationship as a couple living together on a genuine domestic basis' (as defined in the Acts Interpretation Act 1901).



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Frequently Asked Questions



I BOUGHT A PROPERTY AS JOINT TENANTS WITH MY AUSTRALIAN CITIZEN SPOUSE (I DIDN'T NEED APPROVAL AT THAT TIME). OUR RELATIONSHIP HAS ENDED, BUT WE WISH TO RETAIN THE HOUSE IN JOINT NAMES. DO I NEED APPROVAL NOW?

No, the FATA only applies at the time of acquisition – if you were exempt at that time and you are not going to acquire any additional interest in the property, you do not need to seek approval.

I BOUGHT A PROPERTY AS JOINT TENANTS WITH MY AUSTRALIAN CITIZEN SPOUSE (I DIDN'T NEED APPROVAL AT THAT TIME). OUR RELATIONSHIP HAS ENDED AND I WISH TO TRANSFER THE HOUSE SOLELY INTO MY NAME AS PART OF THE PROPERTY SETTLEMENT. DO I NEED APPROVAL?

You are acquiring an additional interest in the property, therefore the FATA applies. However, whether approval is required or not depends on the nature of the property settlement:

- If you acquire the property by way of a court order, approval is not required.
- If the parties agree to the property settlement without court intervention, approval is required (unless you qualify for a separate exemption under the FATA – for example, if you qualify for the temporary resident exemption).

I AM A TEMPORARY RESIDENT AND I WISH TO PURCHASE A PROPERTY TO LIVE IN WHILE I AM IN AUSTRALIA, BUT I CANNOT AFFORD TO BUY A PROPERTY BY MYSELF. CAN MY PARENTS (WHO LIVE OVERSEAS) PURCHASE A PROPERTY WITH ME?

Yes. As foreign non-residents, they will need approval if they wish to purchase any property (even if they are purchasing it together with other person(s) who are exempt). Approval will be granted according to the eligibility criteria – that is, they can purchase vacant land (subject to the relevant development conditions) or new dwellings, but they will not be permitted to purchase established property.

DEVELOPER PRE-APPROVAL FOR NEW DWELLINGS

THE DEVELOPER HAS GIVEN ME A COPY OF A PRE-APPROVAL LETTER DATED SEVERAL YEARS AGO, AND TOLD ME I DON'T NEED TO SUBMIT AN APPLICATION FOR APPROVAL. IS THIS CORRECT?

If the developer has been granted pre-approval to sell new dwellings to foreign persons, this means that the individual foreign purchaser doesn't need to submit an application for approval. The pre-approval does not expire – it remains valid as long as you are buying a new dwelling in the development identified in the pre-approval letter from the developer named in the pre-approval letter.

I HAVE BEEN TOLD THAT THE DEVELOPER HAS PRE-APPROVAL. CAN I STILL SUBMIT AN APPLICATION FOR INDIVIDUAL APPROVAL?

No. We do not issue individual exemption or approval letters if approval is not required. The developer must provide you with a copy of the pre-approval letter, which you should keep with your records. You should only apply for individual approval if the developer's pre-approval is not valid – for example, if the dwelling is no longer new, or if you are not purchasing it from the developer named in the pre-approval letter.

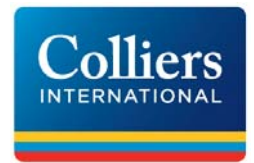
I AM A DEVELOPER. IF I DON'T HAVE PRE-APPROVAL FOR A RESIDENTIAL DEVELOPMENT, CAN I STILL SELL THE DWELLINGS TO FOREIGN PERSONS?

Yes, but you should ensure that the contracts are conditional (unless the purchaser is exempt), and that they remain conditional until approval is granted to the purchasers.



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I AM A DEVELOPER. IF I DON'T HAVE PRE-APPROVAL FOR A RESIDENTIAL DEVELOPMENT, CAN I SUBMIT THE APPLICATIONS ON BEHALF OF THE INDIVIDUAL FOREIGN PURCHASERS?

Yes. You can email or fax us the completed forms (including the new dwelling Declaration signed by the purchasers). Under the new streamlined arrangements, we expect such applications to be routinely approved in a short period of time.

FOREIGN NON-RESIDENTS

I DO NOT HOLD A TEMPORARY RESIDENCY VISA BUT I WISH TO PURCHASE RESIDENTIAL PROPERTY, DO I NEED TO SEEK APPROVAL?

Yes. Applications by foreign persons to acquire residential real estate will be approved if they meet the eligibility criteria. If you are not eligible for approval under the policy, then the acquisition is generally considered to be contrary to the national interest and will not normally be approved.

I AM A PERMANENT RESIDENT AND MY MOTHER IS A RETIRED FOREIGN PERSON WHO WISHES TO COME TO AUSTRALIA TO BE NEAR HER FAMILY. DOES SHE REQUIRE FOREIGN INVESTMENT APPROVAL TO PURCHASE A PROPERTY?

Yes. As a foreign non-resident, your mother is required to apply for foreign investment approval to purchase any real estate. Approval will be granted according to the relevant eligibility criteria.

I AM A FOREIGN NON-RESIDENT – DO I NEED APPROVAL IF I BUY PROPERTY THROUGH AN AUSTRALIAN COMPANY OR TRUST ARRANGEMENT?

Yes. If you are a foreign non-resident you require approval regardless of the way you buy the property.

I AM A FOREIGN NATIONAL AND WAS RECENTLY TOLD THAT I WOULD NOT NEED APPROVAL IF I BOUGHT REAL ESTATE THROUGH AN AUSTRALIAN INCORPORATED COMPANY OR UNIT TRUST WHICH HAS AT LEAST ONE AUSTRALIAN DIRECTOR OR SHAREHOLDER/UNITHOLDER. IS THIS TRUE?

No, and moreover, we would like to know the source of such advice so that we can advise them accordingly. Australian incorporated companies or trusts where 15 per cent or more of the shares or units are beneficially held by foreign persons are themselves considered to be "foreign" under the Act and policy. It is wise to talk to us about particular structures before making any offers on property.

I AM A FOREIGN PERSON WHO REGULARLY VISITS FAMILY IN AUSTRALIA. CAN I BUY A SECOND-HAND PROPERTY WITH A FAMILY MEMBER WHO IS AN AUSTRALIAN CITIZEN/PERMANENT RESIDENT?

No. As a foreign non-resident, you are not permitted to acquire any interest in second-hand residential property, irrespective of whether you purchase it solely in your name or jointly with eligible persons (Australian citizens, permanent or temporary residents).

I AM A FOREIGN PERSON AND I WANT TO BUY A TRANSPORTABLE HOME IN A CARAVAN PARK. EVEN THOUGH I WON'T BE ACQUIRING ANY LAND WITH THIS PROPOSAL, DO I NEED APPROVAL?

You will need approval if you enter a lease for the site in the caravan park for a period in excess of five years.

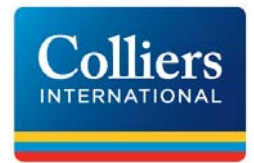
I'M A FOREIGN NON-RESIDENT AND MY SPOUSE IS AN AUSTRALIAN PERMANENT RESIDENT. IF WE'RE BUYING A HOUSE TOGETHER, DO I REQUIRE APPROVAL?

Yes. Even though your spouse doesn't require approval, you are still required to seek foreign investment approval and submit an application. Approval will be granted according to the relevant eligibility criteria.



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I'M A FOREIGN NON-RESIDENT AND MY SPOUSE IS A NEW ZEALAND CITIZEN. IF WE'RE BUYING A HOUSE TOGETHER, DO I REQUIRE APPROVAL?

Yes. Even though your spouse doesn't require approval, you are still required to seek foreign investment approval and submit an application. Approval will be granted according to the relevant eligibility criteria.

WE ARE BRITISH CITIZENS AND WE OFTEN VISIT FAMILY HERE. WE WANT TO RETIRE NEXT YEAR AND LIVE IN AUSTRALIA. DO WE NEED TO GET FIRB APPROVAL TO BUY A HOUSE NOW? WHAT IF WE BUY JOINTLY WITH OUR SON AND DAUGHTER-IN-LAW WHO ARE AUSTRALIANS?

Yes, you will need to seek approval to purchase property before you move to Australia. Approval will be granted depending on whether you meet the eligibility criteria for the type of property you wish to buy. The fact that you may buy jointly with family members does not affect how your proposal will be viewed under policy.

I AM A TEMPORARY RESIDENT, BUT MY PARENTS ARE NOT. CAN THEY BUY A PROPERTY FOR ME TO LIVE IN WHILE I AM IN AUSTRALIA?

Yes. As foreign non-residents, they will need approval if they wish to purchase any property, and approval will be granted according to the eligibility criteria (that is, they will not be permitted to acquire established property).

MY FOREIGN CITIZEN PARENTS WANT TO MOVE INTO A UNIT IN A RETIREMENT VILLAGE HERE IN AUSTRALIA TO BE NEAR OUR FAMILY. THEY WON'T ACTUALLY OWN THE UNIT – THEY WILL HAVE A 'LIFETIME' LEASE PERMITTING THEM TO LIVE IN THE UNIT. WILL THEY NEED APPROVAL?

Yes, they will need approval for the acquisition of the lease (because the term of the lease is more than 5 years).

TEMPORARY RESIDENTS

I WAS TOLD THAT, AS A TEMPORARY RESIDENT, FROM 24 APRIL I NEED APPROVAL TO PURCHASE PROPERTY. I SIGNED AN UNCONDITIONAL CONTRACT BEFORE 24 APRIL 2010. SHOULD I APPLY FOR APPROVAL?

No, temporary residents only need to apply if the contract was entered into on or after 24 April 2010 (the date that the Assistant Treasurer announced the policy changes).

I HAVE SUBMITTED AN APPLICATION FOR A TEMPORARY RESIDENT VISA. IN THE MEANTIME, I HAVE BEEN GRANTED A BRIDGING VISA. AM I ELIGIBLE TO BUY AN ESTABLISHED (SECOND HAND) DWELLING?

No, not until you receive your temporary resident visa (temporary residents include bridging visa holders only if they are awaiting the outcome of an application for permanent residency). Once you receive your visa, you may apply to buy an established dwelling to use as your principal place or residence.

I HAVE JUST BEEN GRANTED A TEMPORARY RESIDENT VISA AND INTEND TO MOVE TO AUSTRALIA WITHIN A FEW MONTHS. AM I ELIGIBLE TO BUY AN ESTABLISHED (SECOND HAND) DWELLING?

No. You are not a temporary resident if you are not living in Australia.

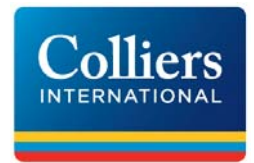
I HAVE A TOURIST VISA VALID FOR 12 MONTHS. AM I ELIGIBLE TO BUY AN ESTABLISHED (SECOND HAND) DWELLING?

No. You must be living in Australia (not just visiting or holidaying for an extended period of time), and your temporary visa must allow you to stay in Australia for a continuous period of more than 12 months.



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I HAVE A BUSINESS VISA VALID FOR 3 YEARS, BUT IT ONLY ALLOWS ME TO STAY FOR PERIODS UP TO 3 MONTHS AT A TIME. AM I ELIGIBLE TO BUY AN ESTABLISHED (SECOND HAND) DWELLING?

No. You must be living in Australia (not just visiting or staying for short periods of time), and your temporary visa must allow you to stay in Australia for a continuous period of more than 12 months.

I HAVE BEEN LIVING IN AUSTRALIA ON A TEMPORARY RESIDENT VISA FOR SEVERAL YEARS, BUT MY CURRENT VISA EXPIRES IN LESS THAN 12 MONTHS. AM I ELIGIBLE TO BUY AN ESTABLISHED (SECOND HAND) DWELLING?

Yes, it does not matter how much time is remaining on your current visa, as long as it was valid for more than 12 months when it was issued. However, please note that approvals are subject to a condition that you must sell the dwelling when it ceases to be your principal place of residence.

MY SPOUSE AND I ARE TEMPORARY RESIDENTS AND ALREADY OWN A HOME PURCHASED WITH GOVERNMENT APPROVAL. CAN WE BUY ANOTHER PROPERTY FOR INVESTMENT PURPOSES?

Yes, provided it is not a second-hand residential property. You may buy new dwellings or single blocks of vacant land (that is, a block of land suitable for building one residential dwelling), subject to approval. Approval is also required if you wish to purchase other vacant land for development or property for redevelopment.

I AM A TEMPORARY RESIDENT. IF I RECEIVE APPROVAL TO BUY A SECOND-HAND DWELLING TO LIVE IN WHILE IN AUSTRALIA, CAN I KEEP IT AND RENT IT OUT WHEN I RETURN OVERSEAS?

No. Approval will be granted on condition that you sell the property when it is no longer your principal place or residence.

I WISH TO RENT A PROPERTY TO LIVE IN WHILE I AM WORKING/STUDYING IN AUSTRALIA. DO I NEED FOREIGN INVESTMENT APPROVAL TO ENTER A LEASE?

Only if the lease (and any options) is for a period longer than five years (this is uncommon for residential real estate).

CONTRACTS

CAN I SIGN (OR EXCHANGE) A CONTRACT BEFORE RECEIVING APPROVAL?

Yes, but you should ensure that the contract remains conditional until after you receive foreign investment approval – if it becomes unconditional before you receive approval, you will be in breach of the FATA.

CAN YOU GIVE ME AN EXAMPLE OF A 'CONDITION' TO INCLUDE IN THE CONTRACT?

'This contract is subject to foreign investment approval. If such approval is not obtained within 40 days, this contract is terminated and all monies deposited will be refunded.'

AUCTIONS

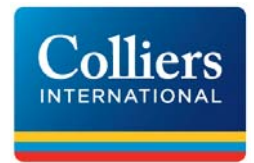
CAN I PURCHASE A PROPERTY AT AUCTION?

Yes, but you should obtain foreign investment approval before the auction (auctions generally require bids and contracts to be unconditional).



FIRB

Frequently Asked Questions



I WANT TO PURCHASE A HOUSE AT AUCTION, BUT I CAN'T MAKE THE CONTRACT CONDITIONAL, WHAT SHOULD I DO?

If you submit your application before the auction and give us reasonable time (approximately 5 working days before the auction), we try to ensure that you have the decision before the auction.

I RECEIVED FOREIGN INVESTMENT APPROVAL TO PURCHASE A PROPERTY AT AUCTION BUT MY FINAL BID WAS UNSUCCESSFUL. DO I HAVE TO SEEK ANOTHER APPROVAL TO ATTEND AN ALTERNATIVE AUCTION?

Yes. The approval only applies to the property identified in the approval advice – you must seek further approval if you wish to purchase a different property (unless you are exempt).

COMPLIANCE AND MONITORING

I BOUGHT VACANT LAND WITH FIRB APPROVAL BUT AM UNABLE TO START CONSTRUCTION ON MY PROPERTY BY THE REQUIRED COMMENCEMENT DATE – WHO SHOULD I CONTACT?

You or your representative should contact us as soon as possible with an explanation of your circumstances and request a formal extension of time before the original timeframe expires. The matter will be looked at on a case-by-case basis. Extensions may be given where good cause is shown.

DUE TO UNFORESEEN CIRCUMSTANCES, WE ARE UNABLE TO BUILD THE HOUSE ON THE LAND WE BOUGHT. HOW WILL THE GOVERNMENT VIEW US SELLING WITHOUT UNDERTAKING DEVELOPMENT?

The Government is most concerned about foreign interests acquiring residential real estate in Australia without complying with the development conditions. You must contact us to explain your circumstances. Your claims will be considered and a decision given to you on what action you should take.

CAN A BREACH OF THE FOREIGN ACQUISITIONS AND TAKEOVERS ACT 1975 (FATA) GET ME INTO TROUBLE WITH ANY OTHER GOVERNMENT AGENCY?

Yes. Breaches of the FATA are treated seriously and other Government Agencies may be advised of such breaches (including the Department of Immigration and Citizenship, the Australian Federal Police and the Australian Taxation Office). This may result in delays in visas being issued, further character assessment and an assessment of any tax payable.

OUR COMPANY PURCHASED A HOUSE WITH YOUR APPROVAL WHICH WE INTEND TO DEMOLISH AND BUILD THREE UNITS ON THE LAND. HOWEVER, WE HAVE EXPERIENCED A DELAY IN THE PLANNING PROCESS AND WONDERED WHETHER THE PROPERTY CAN BE OCCUPIED BEFORE DEMOLITION BEGINS?

No. The conditions of your approval state clearly that the property must remain vacant until demolition begins.

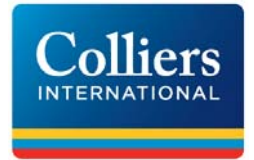
I THINK A NON-RESIDENT PERSON MAY HAVE PURCHASED A PARTICULAR PROPERTY WITHOUT GETTING APPROVAL FROM THE GOVERNMENT - WHO SHOULD I INFORM?

You should contact us providing all details known to you. We will look into the matter thoroughly and treat in confidence your identity and all information given. Quite often though, such reports do not require further action as the purchase meets the policy requirements, or foreign investment approval was not required.



FIRB

Frequently Asked Questions



DO I STILL HAVE TO BUILD ON VACANT LAND I ACQUIRED WITH FOREIGN INVESTMENT APPROVAL NOW THAT MY VISA STATUS HAS CHANGED AND I HAVE BECOME AN AUSTRALIAN PERMANENT RESIDENT?

Yes, you are still required to comply with the condition(s) specified in your approval advice. If you are having problems meeting the requirement(s) you should contact us.

Disclaimer

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