

**FOREIGN INVESTMENT REVIEW BOARD MINUTE**

Minute No. 13/1055

1 May 2013

File: F2013/03597

Assistant Treasurer and Minister Assisting for  
Deregulation

cc: Deputy Prime Minister and Treasurer

s 45, s 47 – ACQUISITION OF INTERESTS IN THE ABBOT POINT X50 COAL  
TERMINAL s 45, s 47

**Timing:** The statutory deadline is Friday, 10 May 2013. s 47, s 45

**Recommendation:**

- That you raise no objection to:
  - the acquisition by Abbot Point Port Holdings Pte Ltd of interests in the Abbot Point X50 Coal Terminal (**Abbot Point**); and
- s 45, s 47
- that unless you indicate any concerns, the applicant be advised in writing that the Government has raised no objections to the acquisition.

Noted



6/5/2013

**KEY POINTS**

*Overview of the Proposal*

s 45, s 47

s 22

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**From:** s 22  
**Sent:** Wednesday, 8 May 2013 11:31 AM  
**To:** s 45  
**Subject:** FIRB approval F2013/03597: s 47, s 45  
[SEC=UNCLASSIFIED]  
**Attachments:** 20130508110448580.pdf

Dear s 47F

I refer to your correspondence of 10 April 2013.

I have attached your approval letter.

Kind regards,  
s 22

Foreign Investment  
The Treasury – Langton Crescent – Parkes ACT 2600  
s 22



**Australian Government**  
**Foreign Investment Review Board**

Telephone: 02 6263 3795  
 Overseas: +61 2 6263 3795  
 Facsimile: 02 6263 2940  
 Website: [www.firb.gov.au](http://www.firb.gov.au)

8 May 2013  
**File:** F2013/03597

s 47F  
 s 45

Dear s 47F

I refer to correspondence received on 10 April 2013 (your ref: s 45 )  
 concerning the proposal for s 45, s 47

to acquire interests in the Abbot Point Terminal via Abbot  
 Point Port Holdings Pte. Ltd. as described in your application letter.

There are no objections to this proposal in terms of the Government's foreign investment policy.

This statement of no objections stands for 12 months from today to allow this proposal to be  
 undertaken. If s 45, s 47 wish to proceed  
 with the proposal after this date, a new foreign investment application would be required.

Should there be any material change(s) that would alter the proposal outlined in the application  
 submitted on 10 April 2013, those changes may not fall within this statement of no objections and a  
 new application for the revised proposal may be required.

Please note that the Government expects all entities operating in Australia to maintain the highest  
 standards of corporate behaviour, irrespective of whether those entities are Australian or foreign  
 owned. Persons involved in operating these entities are expected to understand Australia's  
 regulatory environment and abide by all the relevant requirements. Some of the obligations of  
 which foreign investors should be aware are outlined in the fact sheets on the Foreign Investment  
 Review Board's website at <http://www.firb.gov.au> under the *Investor Obligations* section. These  
 requirements are ongoing and may change from time to time. Accordingly, investors are expected  
 to keep themselves up-to-date with any changes to their obligations that may occur.

Yours sincerely

s 22

Foreign Investment Review Board Secretariat

**COMMERCIAL-IN-CONFIDENCE**



**Australian Government**  
**Foreign Investment Review Board**

Telephone: 02 6263 3795  
 Overseas: +61 2 6263 3795  
 Facsimile: 02 6263 2940  
 Website: [www.firb.gov.au](http://www.firb.gov.au)

8 May 2013

**File:** F2013/03597

<sup>s47F</sup>  
 s 45

Dear Mr <sup>s47F</sup>

I refer to correspondence received on 10 April 2013 (your ref: <sup>s 45</sup> )  
 concerning the proposal for s 45, s 47

to acquire interests in the Abbot Point Terminal via Abbot  
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This statement of no objections stands for 12 months from today to allow this proposal to be  
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Should there be any material change(s) that would alter the proposal outlined in the application  
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Please note that the Government expects all entities operating in Australia to maintain the highest  
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 owned. Persons involved in operating these entities are expected to understand Australia's  
 regulatory environment and abide by all the relevant requirements. Some of the obligations of  
 which foreign investors should be aware are outlined in the fact sheets on the Foreign Investment  
 Review Board's website at <http://www.firb.gov.au> under the *Investor Obligations* section. These  
 requirements are ongoing and may change from time to time. Accordingly, investors are expected  
 to keep themselves up-to-date with any changes to their obligations that may occur.

Yours sincerely

s 22

Foreign Investment Review Board Secretariat

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s 22

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**From:** s 22  
**Sent:** Wednesday, 1 May 2013 4:11 PM  
**To:** MG FIRB SDs to Assistant Treasurer  
**Cc:** MG FIRB SDs to Assistant Treasurer (cc's); MG FITPD Investment Review  
**Subject:** FIRB Minute for the Assistant Treasurer: s 45, s 47 Abbot Point Terminal [DLM=For-Official-Use-Only]  
**Attachments:** SD - s 45, s 47 - Abbot Point Terminal.docx; 20130501154235299.pdf

Dear s 22

I have attached a minute regarding a foreign investment application. The details of the application are:

Name of Application: s 45, s 47 **ACQUISITION OF INTERESTS IN THE ABBOT POINT X50 COAL TERMINAL** s 45, s 47

Timing: The statutory deadline is Friday, 10 May 2013. s 45, s 47

If you have any questions or comments please do not hesitate to contact me.

Regards  
s 22

Foreign Investment  
The Treasury – Langton Crescent – Parkes ACT 2600  
s 22

**FOREIGN INVESTMENT REVIEW BOARD MINUTE**

Minute No.

1 May 2013

**File:** F2013/03597Assistant Treasurer and Minister Assisting for  
Deregulation

cc: Deputy Prime Minister and Treasurer

**s 45, s 47 – ACQUISITION OF INTERESTS IN THE ABBOT POINT X50 COAL  
TERMINAL s 45, s 47****Timing:** The statutory deadline is Friday, 10 May 2013. **s 45, s 47****Recommendation:**

- That you raise no objection to:
    - the acquisition by Abbot Point Port Holdings Pte Ltd of interests in the Abbot Point X50 Coal Terminal (**Abbot Point**); and
- s 45, s 47**
- that unless you indicate any concerns, the applicant be advised in writing that the Government has raised no objections to the acquisition.

**Noted****...../...../2013****KEY POINTS***Overview of the Proposal***s 45, s 47**

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s 45, s 47

*Issues*

- No national interest concerns were raised by the proposal, including during consultation.

*Parties*

*Applicants*

s 45, s 47

*Abbot Point X50 Coal Terminal*

- Abbot Point is a coal export terminal approximately 25 kilometres north of Bowen, Queensland, s 45, s 47
- To service increased mining investment in the Galilee basin and surrounding region, Abbot Point is planned to be expanded s 45, s 47
- The net asset value of Abbot Point was s 45, s 47

*Foreign Acquisitions and Takeovers Act 1975 and Foreign Investment Policy*

- The proposal is subject to the *Foreign Acquisitions and Takeovers Act 1975* as a foreign person proposes to acquire a substantial interest in an Australian company with more than \$248 million in total assets.

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3

***Recommendation***

- The proposal does not appear to raise issues that would make it contrary to the national interest and we recommend that you raise no objections to the proposed acquisition.

s 22

**Contact Officer:** s 22

Manager  
Investment Review Unit

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4

**ADDITIONAL INFORMATION****CONSULTATIONS**

Australian Securities and Investments Commission	No objections.
Australian Tax Office	No objections.
Attorney-General's Department	No objections.
Department of Infrastructure and Transport	No objections.
Department of Resources, Energy and Tourism	No objections.
Department of Sustainability, Environment, Water, Population and Communities	No objections.
Queensland Government	No objections.

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**ATTACHMENT A**

s 45, s 47

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**COMMERCIAL-IN-CONFIDENCE**

s45, s47

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**FOREIGN INVESTMENT REVIEW BOARD MINUTE**

Minute No.

1 May 2013

**File:** F2013/03597

Assistant Treasurer and Minister Assisting for  
Deregulation

cc: Deputy Prime Minister and Treasurer

s 45, s 47 – **ACQUISITION OF INTERESTS IN THE ABBOT POINT X50 COAL  
TERMINAL** s 45, s 47

**Timing:** The statutory deadline is Friday, 10 May 2013. s 47, s 45

**Recommendation:**

- That you raise no objection to:
    - the acquisition by Abbot Point Port Holdings Pte Ltd of interests in the Abbot Point X50 Coal Terminal (**Abbot Point**); and
- s 45, s 47
- that unless you indicate any concerns, the applicant be advised in writing that the Government has raised no objections to the acquisition.

**Noted**

...../...../2013

**KEY POINTS**

*Overview of the Proposal*

s 47, s 45

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2

s 45, s 47

*Issues*

- No national interest concerns were raised by the proposal, including during consultation.

*Parties*

*Applicants*

s 45, s 47

*Abbot Point X50 Coal Terminal*

- Abbot Point is a coal export terminal approximately 25 kilometres north of Bowen, Queensland, and is s 45, s 47
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3

***Recommendation***

- The proposal does not appear to raise issues that would make it contrary to the national interest and we recommend that you raise no objections to the proposed acquisition.

s 22

**Contact Officer:** s 22

Manager  
Investment Review Unit

**COMMERCIAL-IN-CONFIDENCE**

4

**ADDITIONAL INFORMATION****CONSULTATIONS**

Australian Securities and Investments Commission	No objections.
Australian Tax Office	No objections.
Attorney-General's Department	No objections.
Department of Infrastructure and Transport	No objections.
Department of Resources, Energy and Tourism	No objections.
Department of Sustainability, Environment, Water, Population and Communities	No objections.
Queensland Government	No objections.

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5

**ATTACHMENT A**

s 45, s 47

**COMMERCIAL-IN-CONFIDENCE**



**COMMERCIAL-IN-CONFIDENCE**

6

s 45, s 47

**COMMERCIAL-IN-CONFIDENCE**

(

s45, s47















s 22

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**From:** s 22  
**Sent:** Tuesday, 30 April 2013 4:16 PM  
**To:** 'Coord PCD'  
**Subject:** RE: TRIM: FIRB Consult request F2013/03597: s 45, s 47  
[DLM=Sensitive:Personal]

Thanks for the speedy response. This is really appreciated.

---

**From:** Coord PCD [<mailto:CoordPCD@environment.gov.au>]  
**Sent:** Tuesday, 30 April 2013 4:15 PM  
**To:** s 22  
**Cc:** s 22 s 22  
**Subject:** RE: TRIM: FIRB Consult request F2013/03597: s 45, s 47  
[DLM=For-Official-Use-Only]

Dear s 22

DSEWPaC offers a NIL response in relation to this proposal.

Regards

For s 22

s 22

Strategic Advice Branch  
Policy and Communications Division  
Department of Sustainability, Environment, Water, Population and Communities  
GPO Box 787 Canberra ACT 2601  
p: s 22  
e: s 22 @environment.gov.au

---

**From:** s 22 @TREASURY.GOV.AU]  
**Sent:** Tuesday, 30 April 2013 12:02 PM  
**To:** Coord PCD  
**Subject:** FW: TRIM: FIRB Consult request F2013/03597: s 45, s 47  
[DLM=For-Official-Use-Only]

Hello s 22

It has come to my attention that Sustainability may wish to provide comment on this proposal. I would greatly appreciate if you could have a look at the attached proposal by **Friday, 3 May 2013** as our advice to the Minister will need to be provided on that date. Please let me know if this timing is not possible and I apologise for the late notice.

Happy to discuss.

Regards,  
s 22

Foreign Investment  
The Treasury – Langton Crescent – Parkes ACT 2600

s 22

---

**From:** Consultation Responses  
**Sent:** Thursday, 11 April 2013 3:17 PM  
**To:** Australian Taxation Office (ATO) ([ATO-FIRBS@ato.gov.au](mailto:ATO-FIRBS@ato.gov.au)); Australian Securities & Investments Commission (ASIC) ([ASIC.FIRB.Applications@asic.gov.au](mailto:ASIC.FIRB.Applications@asic.gov.au)); Department of Infrastructure and Transport ([coordination@infrastructure.gov.au](mailto:coordination@infrastructure.gov.au)); DRET ([ResourcesStratCo@ret.gov.au](mailto:ResourcesStratCo@ret.gov.au)); DRET cc (s 22 [@ret.gov.au](mailto:@ret.gov.au)); Attorney-General's Department CC (s 22 [@ag.gov.au](mailto:@ag.gov.au)); Attorney-General's Department (s 22 [@ag.gov.au](mailto:@ag.gov.au)); QLD Govt  
**Subject:** TRIM: FIRB Consult request F2013/03597: s 45, s 47  
[DLM=For-Official-Use-Only]

**FOREIGN INVESTMENT PROPOSAL FOR COMMENT**

Please see the attached documents from the Foreign Investment Review Board  
We seek any comments your organisation may wish to provide by **25 April 2013** please.

---

Foreign Investment Review Board  
c/- Foreign Investment & Trade Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
Phone: (02) 6263 3795  
Fax: (02) 6263 2940  
Email: [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au)  
Web: <http://www.firb.gov.au>

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**FOREIGN INVESTMENT REVIEW BOARD MINUTE**

Minute No.

1 May 2013

**File:** F2013/03597Assistant Treasurer and Minister Assisting for  
Deregulation

cc: Deputy Prime Minister and Treasurer

**s 45 – ACQUISITION OF INTERESTS IN THE ABBOT POINT X50 COAL  
TERMINAL AND RELATED RE-ORGANISATION****Timing:** The statutory deadline is Friday, 10 May 2013. s 45, s 47**Recommendation:**

- That you raise no objection to:
  - the acquisition by Abbot Point Port Holdings Pte Ltd of interests in the Abbot Point X50 Coal Terminal (**Abbot Point**); and
- s 45, s 47
- that unless you indicate any concerns, the applicant be advised in writing that the Government has raised no objections to the acquisition.

**Noted**

...../...../2013

**KEY POINTS***Overview of the Proposal*

s 45, s 47



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s 45, s 47

*Issues*

- No national interest concerns were raised by the proposal, including during consultation.

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*Applicants*

s 45, s 47

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3

***Recommendation***

- The proposal does not appear to raise issues that would make it contrary to the national interest and we recommend that you raise no objections to the proposed acquisition.

s 22

**Contact Officer:** s 22

Manager  
Investment Review Unit

**COMMERCIAL-IN-CONFIDENCE**

4

**ADDITIONAL INFORMATION****CONSULTATIONS**

Australian Securities and Investments Commission	No objections.
Australian Tax Office	No objections.
Attorney-General's Department	No objections.
Department of Infrastructure and Transport	No objections.
Department of Resources, Energy and Tourism	No objections.
Department of Sustainability, Environment, Water, Population and Communities	No objections.
Queensland Government	No objections.

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5

**ATTACHMENT A**

s 45, s 47

**COMMERCIAL-IN-CONFIDENCE**

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s 45, s 47

6

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s 22

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**From:** s 22  
**Sent:** Wednesday, 24 April 2013 3:51 PM  
**To:** s 22  
**Subject:** F2013/03536 [DLM=For-Official-Use-Only]

**For Official Use Only**

s 22  
Dear

Please pass the below message to s 22 and cc in [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au)

Regards,  
s 22

---

s 22  
Dear

Below are RET's comments and background information on F2013/03536 s 45, s 47

Acquisition of Interest.

If you have any further questions, please contact me on my normal office phone number s 22

After review and consideration, RET does not object to F2013/03536.

We note:

s 45, s 47

- This proposal does not materially depart from the existing foreign ownership arrangement expressed in previous FIRB proposals regarding the X50 Terminal (F2011/00980 and F2012/00012) to which the Commonwealth Treasurer did not object.

s 45, s 47

**ATTACHMENT A - PARTIES TO THE PROPOSAL**

s 45, s 47

s 45, s 47

s 45, s 47

## ATTACHMENT B - Coal

Company – s 45, s 47  
s 45, s 47

### Commodity – Australian Coal Industry

- Australia provides around 30% of the world coal trade. In 2011, Australia was the world's largest exporter of metallurgical coal and the second largest exporter of thermal coal. Australia is also the fourth largest producer, and has the fifth largest resources of black coal in the world. Australia's accessible economic demonstrated resources are sufficient to sustain current black coal production rates for nearly 100 years.\* Brown coal accessible economic resources are estimated to be able to sustain current brown coal production for over 500 years.\*
- Coal is Australia's largest energy export earner. In 2011-12, Australia exported 300 million tonnes (Mt) of metallurgical and thermal coal to world markets worth A\$47.9 billion.# Total coal (black, saleable) production in Australia in 2011-12 is estimated to have been 347Mt.
- In 2011, Australia's top four export markets for metallurgical coal were: Japan (40.8 Mt); India (28.9 Mt); Republic of Korea (16.5 Mt) and China (13.7 Mt). Australia's top four export markets for thermal coal were: Japan (65.4 Mt); the Republic of Korea (29.5 Mt); China (19.9) and Taiwan (19.1 Mt).

\*Based on 2010 rate of production.

#Nominal value.

Regards,  
s 22

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**From:** s 22 @ag.gov.au>  
**Sent:** Wednesday, 24 April 2013 4:37 PM  
**To:** Consultation Responses  
**Cc:** s 22  
**Subject:** RE: FIRB Consult request F2013/03597: s 45, s 47  
 [DLM=For-Official-Use-Only]

### For Official Use Only

Good afternoon,

I have considered the Foreign Investment Proposal below on behalf of the Attorney-General's Department from a critical infrastructure perspective. We do not currently possess any information that would give us reason to object to this proposal.

Kind Regards,

s 22

#### Critical Infrastructure Policy

Critical Infrastructure & Protective Security Policy Branch | National Security Resilience Policy Division  
 Attorney-General's Department | 3-5 National Circuit, Barton, Canberra, ACT 2600

s 22

| <http://www.ag.gov.au>

---

**From:** Consultation Responses [<mailto:firbconsultations@treasury.gov.au>]  
**Sent:** Thursday, 11 April 2013 3:17 PM  
**To:** Australian Taxation Office (ATO) ([ATO-FIRBS@ato.gov.au](mailto:ATO-FIRBS@ato.gov.au)); Australian Securities & Investments Commission (ASIC) ([ASIC.FIRB.Applications@asic.gov.au](mailto:ASIC.FIRB.Applications@asic.gov.au)); Department of Infrastructure and Transport ([coordination@infrastructure.gov.au](mailto:coordination@infrastructure.gov.au)); DRET ([ResourcesStratCo@ret.gov.au](mailto:ResourcesStratCo@ret.gov.au)); DRET cc (s 22 [@ret.gov.au](mailto:@ret.gov.au)); QLD Govt  
**Subject:** FIRB Consult request F2013/03597: s 45, s 47  
 [DLM=For-Official-Use-Only]

#### FOREIGN INVESTMENT PROPOSAL FOR COMMENT

Please see the attached documents from the Foreign Investment Review Board  
 We seek any comments your organisation may wish to provide by **25 April 2013** please.

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Foreign Investment Review Board  
 c/- Foreign Investment & Trade Policy Division  
 The Treasury  
 Langton Crescent  
 PARKES ACT 2600  
 Phone: (02) 6263 3795  
 Fax: (02) 6263 2940  
 Email: [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au)  
 Web: <http://www.firb.gov.au>

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s 45, s 47

s 45, s 47

s 22

**From:** s 22 @dsdip.qld.gov.au>  
**Sent:** Wednesday, 24 April 2013 1:35 PM  
**To:** s 22 Consultation Responses: FIRB QLD  
**Cc:** s 22  
**Subject:** Resposne to FIRB Consult request F2013/03597: s 45, s 47

Hi<sup>s 22</sup>

Please be advised that we have considered and reviewed the submission (as outlined in your email of 11 April 2013) and the Queensland Government has no objection to the proposal by s 47, s 45

outlined in the proposal.

The following Queensland Government departments were consulted in the review process and did not have any objection with the proposal.

- Premier and Cabinet: **No objection**
- Queensland Treasury and Trade: **No issues**
- Natural Resources and Mines: **No objection**
- Environment and Heritage Protection: **No objection with below comments:**

“Searches on departmental databases identified s 45, s 47

A complaint received by the department during May 2012 regarding an effluent spill for s 45, s 47 no further action required determined by the Department. No other adverse holdings have been identified also for its s 45, s 47.”

Thank you for the opportunity to provide comment on this proposal.

s 22

Foreign Investment Secretariat  
 Economic and Commercial Analysis  
 Economic and Regional Development  
**Department of State Development,  
 Infrastructure and Planning  
 Queensland Government**

s 22

**Tel:**  
**Fax:**  
**Post:** PO Box 15009 City East Qld 4002  
**Visit:** Level 3, 63 George Street, Brisbane  
 s 22 @deedi.qld.gov.au

[www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au)

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Unless stated otherwise, this email represents only the views of the sender and not the views of the Queensland Government.

s 47, s 45



s 22

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**From:** s 22 @asic.gov.au>  
**Sent:** Tuesday, 23 April 2013 4:38 PM  
**To:** Consultation Responses; s 22  
**Cc:** s 22  
**Subject:** Re: FIRB Application for comment: s 45, s 47  
[DLM=Sensitive]

Dear s 22

ASIC has no comments to make on the proposal, subject to the applicant being made aware of the requirements of the *Corporations Act 2001*.

Regards,

s 22

s 22 | Corporations | Australian Securities and Investments Commission | s 22  
s 22

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s 22

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**From:** s 22 @ato.gov.au> on behalf of ATO - FIRBS <ATO-FIRBS@ato.gov.au>  
**Sent:** Wednesday, 17 April 2013 3:16 PM  
**To:** Consultation Responses  
**Subject:** F2013/03597 FIRB Consult request : s 45, s 47  
 [DLM=For-Official-Use-Only] [DLM=SENSITIVE]

To s 22

Hi s 22

The ATO has no concerns with this Proposal s 45, s 47

Regards,

s 22

Internationals LB&I  
 Australian Taxation Office  
 Phone: s 22

*ATO | Working for all Australians*

---

**From:** Consultation Responses [<mailto:firbconsultations@treasury.gov.au>]  
**Sent:** Thursday, 11 April 2013 15:17  
**To:** ATO - FIRBS; Australian Securities & Investments Commission (ASIC) ([ASIC.FIRB.Applications@asic.gov.au](mailto:ASIC.FIRB.Applications@asic.gov.au)); Department of Infrastructure and Transport ([coordination@infrastructure.gov.au](mailto:coordination@infrastructure.gov.au)); DRET ([ResourcesStratCo@ret.gov.au](mailto:ResourcesStratCo@ret.gov.au)); DRET cc (s 22 @ret.gov.au); Attorney-General's Department CC (s 22 @ag.gov.au); Attorney-General's Department s 22 @ag.gov.au); QLD Govt  
**Subject:** FIRB Consult request F2013/03597: s 47, s 45  
 [DLM=For-Official-Use-Only]

#### FOREIGN INVESTMENT PROPOSAL FOR COMMENT

Please see the attached documents from the Foreign Investment Review Board  
 We seek any comments your organisation may wish to provide by **25 April 2013** please.

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Foreign Investment Review Board  
 c/- Foreign Investment & Trade Policy Division  
 The Treasury  
 Langton Crescent  
 PARKES ACT 2600  
 Phone: (02) 6263 3795  
 Fax: (02) 6263 2940  
 Email: [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au)  
 Web: <http://www.firb.gov.au>

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\*\*\*\*\*

s 22

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**From:** s 22 @infrastructure.gov.au>  
**Sent:** Monday, 15 April 2013 9:10 AM  
**To:** Consultation Responses  
**Cc:** Coordination  
**Subject:** RE: FIRB Consult request F2013/03597: s 45, s 47  
 [DLM=For-Official-Use-Only]

Good Morning,  
 Please be advised that it is a NIL response from Surface Transport Policy Division.

Kind Regards,

s 22

Executive Assistant to Judith Zielke | *Executive Director, Surface Transport Policy*  
 Executive Assistant to Philippa Power | *Maritime and Shipping Branch*  
 Executive Assistant to Marcus James | *Road Safety and Transport Access*

Department of Infrastructure and Transport | *Surface Transport Policy Division*  
 Phone: s 22 Email: s 22



Please think before you print

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**From:** Coordination  
**Sent:** Friday, 12 April 2013 2:42 PM  
**To:** s 22  
**Subject:** FIRB Consult request F2013/03597: s 45, s 47  
 [DLM=For-Official-Use-Only]  
**Importance:** High

s 22 - Executive Director, Nation Building – Infrastructure Investment Division  
 s 22 – Executive Director, Surface Transport Policy Division

Good morning,

Please find attached confidential advice of a foreign investment proposal. The Department has been given the opportunity to provide comment. I believe that this issue may be of interest and relevance to your division. Please let me know if you feel this information should be forwarded to another area within the Department.

The following is an extract from Treasury's request for comments on the proposal:

s 45, s 47

Please provide all comments, including nil responses, directly to [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au) and Cc [coordination@infrastructure.gov.au](mailto:coordination@infrastructure.gov.au) by no later than **Thursday 25 April 2013**.

If you have any further questions on this please contact <sup>s 22</sup> [@treasury.gov.au](mailto: @treasury.gov.au) or

Kind regards,  
s 22

Business Manager  
Corporate Services  
Department of Infrastructure and Transport  
Ph: <sup>s 22</sup>  
s 22 [@infrastructure.gov.au](mailto: @infrastructure.gov.au)

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If you have received this e-mail in error, please notify the Department on (02) 6274-7111 and delete all copies of this transmission together with any attachments.

s 22

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**From:** Consultation Responses  
**Sent:** Thursday, 11 April 2013 3:17 PM  
**To:** Australian Taxation Office (ATO) (ATO-FIRBS@ato.gov.au); Australian Securities & Investments Commission (ASIC) (ASIC.FIRB.Applications@asic.gov.au); Department of Infrastructure and Transport (coordination@infrastructure.gov.au); DRET (ResourcesStratCo@ret.gov.au); DRET cc<sup>s 22</sup> @ret.gov.au); Attorney-General's Department CC (s 22 @ag.gov.au); Attorney-General's Department (s 22 @ag.gov.au); QLD Govt  
**Subject:** FIRB Consult request F2013/03597: s 45, s 47  
[DLM=For-Official-Use-Only]  
**Attachments:** LTR consult request.docx; s 47, s 45

**FOREIGN INVESTMENT PROPOSAL FOR COMMENT**

Please see the attached documents from the Foreign Investment Review Board  
We seek any comments your organisation may wish to provide by **25 April 2013** please.

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Foreign Investment Review Board  
c/- Foreign Investment & Trade Policy Division  
The Treasury  
Langton Crescent  
PARKES ACT 2600  
Phone: (02) 6263 3795  
Fax: (02) 6263 2940  
Email: [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au)  
Web: <http://www.firb.gov.au>



**Australian Government**  
**Foreign Investment Review Board**

Telephone: 02 6263 3795  
 Overseas: +61 2 6263 3795  
 Facsimile: 02 6263 2940  
 Website: [www.firb.gov.au](http://www.firb.gov.au)

11 April 2013  
**File:** F2013/03536

**FOREIGN INVESTMENT PROPOSAL: s 45, s 47**

**ACQUISITION OF INTEREST**

Please find enclosed a copy of an application for foreign investment approval received by Treasury under the *Foreign Acquisitions and Takeovers Act 1975* (the FATA) or the Government's Foreign Investment Policy (the Policy). These papers contain information provided in-confidence to the Government for the purposes of determining whether national interest objections arise in relation to the application. They should not be disclosed outside your agency without the prior agreement in writing of Treasury. The attached material also should not be used for any purpose other than that for which it has been provided.

**The purpose of consulting your organisation is to seek comment or information on the investment proposal so that the Treasurer receives whole-of-government advice on the application. While proposals are examined individually, any advice to the Treasurer can also incorporate broader information and comment on the industry sector or the investing entity. Any comments should address potential national interest issues arising from the proposed investment.**

We invite your organisation to provide any such comments, information or advice that it wishes to make. We also seek your assistance in passing this material to relevant officers within your agency and in coordinating your agency's response. Attached is an outline of Australia's foreign investment review framework as context for your officers in providing comments or information. Further information is available online at [www.firb.gov.au](http://www.firb.gov.au).

**Summary of the foreign investment proposal**

s 45, s 47

**Timing and contact details**

Your organisation's response, including a nil response, should be provided to [firbconsultations@treasury.gov.au](mailto:firbconsultations@treasury.gov.au) as early as practicable and by no later than **25 April 2013**.

The action officer in your organisation may wish to contact <sup>s 22</sup> and <sup>s 22</sup> [@treasury.gov.au](mailto:@treasury.gov.au) to discuss the material and any issues prior to your formal response.

Jonathan Rollings  
 Executive Member  
 Foreign Investment Review Board

**COMMERCIAL-IN-CONFIDENCE**

## ATTACHMENT

**AUSTRALIA'S FOREIGN INVESTMENT REVIEW FRAMEWORK**

Australia's foreign investment review framework comprises the *Foreign Acquisitions and Takeovers Act 1975* (the FATA), the Regulations and the Policy.

The Foreign Investment Review Board (FIRB) is a non-statutory body responsible for examining foreign investment applications and advising the Treasurer, on a case-by-case basis, of potential national interest concerns.

Under the Act, the Treasurer can block foreign investment proposals or apply conditions to the way proposals are implemented to ensure they are not contrary to the national interest (a change of control is required for powers to be enlivened, except for urban land related acquisitions). If not used, the prohibition and condition making powers are extinguished 30 days after a notification is received. An interim order can extend this period for up to another 90 days (and prohibits the proposal proceeding in the interim).

The national interest is not defined in the FATA, but the Policy provides guidance on what factors are typically considered in assessing whether a proposal is contrary to the national interest (national security; competition; other Australian Government policies (including tax); the impact on the economy and the community; and the character of the investor. In the case of foreign government investors, the Government also considers if the investment is commercial in nature or if the investor may be pursuing broader political or strategic objectives that may be contrary to Australia's national interest.

The types of foreign investment proposals that generally need to be notified and require approval include:

- acquisitions of an interest of 15 per cent or more in an Australian business or corporation that is valued above \$244 million (indexed annually);
- acquisitions of an interest in an offshore company whose Australian subsidiaries or gross assets are valued above \$244 million;
  - For US investors in non-sensitive sectors, the above monetary thresholds are \$1,062 million (indexed annually);
- all direct investments, new businesses and land acquisitions by foreign governments and their related entities, regardless of the value;
- investments of 5 per cent or more in the media sector, regardless of the value;
- acquisitions of developed commercial property valued above \$53 million (indexed annually) or \$5 million if heritage listed;
- acquisitions of vacant commercial land; and
- all foreign persons, including temporary residents, require approval for all residential real estate purchases.

## **THE CONSULTATION PROCESS**

Consultation with Commonwealth/State/Territory organisations is intended to identify any potential national interest issues and assist Treasury formulate whole of government advice to the Treasurer.

Organisations are requested to provide any comments, information or advice they consider will assist in evaluating the proposed investment and any potential national interest issues. This can include material on the investing entity, the target entity or on the industry sector involved. It can also include information or comment that provides a broader perspective on the industry or sector. Organisations are invited to include in responses material received by them from portfolio agencies.

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s 45, s 47